

立法會  
*Legislative Council*

LC Paper No. CB(2) 737/09-10

Ref : CB2/H/5/09

**House Committee of the Legislative Council**

**Minutes of the 10th meeting  
held in the Legislative Council Chamber  
at 2:30 pm on Friday, 8 January 2010**

**Members present :**

Hon Miriam LAU Kin-yee, GBS, JP (Chairman)  
Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon LEE Cheuk-yan  
Dr Hon David LI Kwok-po, GBM, GBS, JP  
Dr Hon Margaret NG  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon CHAN Kam-lam, SBS, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP  
Hon LEUNG Yiu-chung  
Dr Hon Philip WONG Yu-hong, GBS  
Hon WONG Yung-kan, SBS, JP  
Hon LAU Kong-wah, JP  
Hon LAU Wong-fat, GBM, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon Andrew CHENG Kar-foo  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon LI Fung-ying, BBS, JP  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon Albert CHAN Wai-yip  
Hon Frederick FUNG Kin-kee, SBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon Vincent FANG Kang, SBS, JP  
Hon WONG Kwok-hing, MH  
Hon LEE Wing-tat  
Dr Hon Joseph LEE Kok-long, SBS, JP  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon Alan LEONG Kah-kit, SC

Hon LEUNG Kwok-hung  
Hon CHEUNG Hok-ming, GBS, JP  
Hon WONG Ting-kwong, BBS, JP  
Hon CHIM Pui-chung  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon KAM Nai-wai, MH  
Hon Cyd HO Sau-lan  
Hon Starry LEE Wai-king  
Dr Hon LAM Tai-fai, BBS, JP  
Hon CHAN Hak-kan  
Hon CHAN Kin-por, JP  
Hon Tanya CHAN  
Dr Hon Priscilla LEUNG Mei-fun  
Hon CHEUNG Kwok-che  
Hon WONG Sing-chi  
Hon WONG Kwok-kin, BBS  
Hon IP Wai-ming, MH  
Hon IP Kwok-him, GBS, JP  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Dr Hon PAN Pey-chyou  
Hon Paul TSE Wai-chun  
Dr Hon Samson TAM Wai-ho, JP

**Members absent :**

Hon Ronny TONG Ka-wah, SC  
Hon Paul CHAN Mo-po, MH, JP  
Dr Hon LEUNG Ka-lau  
Hon WONG Yuk-man

**Clerk in attendance :**

Mrs Vivian KAM Clerk to the House Committee

**Staff in attendance :**

Ms Pauline NG	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Mrs Constance LI	Assistant Secretary General 1
Mrs Justina LAM	Assistant Secretary General 3
Mrs Percy MA	Assistant Secretary General (Special Duty)
Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Sharon TONG	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Miss Odelia LEUNG	Chief Council Secretary (2)6

Mr Arthur LEUNG	Chief Council Secretary (3)1
Mr Bonny LO	Assistant Legal Adviser 3
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss Winnie LO	Assistant Legal Adviser 7
Ms Clara TAM	Assistant Legal Adviser 9
Ms Amy YU	Senior Council Secretary (2)3
Miss Constance MAN	Senior Council Secretary (3)5
Mr Ringo LEE	Senior Legislative Assistant (2)1
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)8

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**I. Confirmation of the minutes of the 9th meeting held on 18 December 2009**  
*(LC Paper No. CB(2) 675/09-10)*

The minutes were confirmed.

**II. Matters arising**

**Report by the Chairman on her meeting with the Chief Secretary for Administration (CS)**

Attendance of Government officials at debates on Members' motions without legislative effect

2. The Chairman said that at the last House Committee meeting, Mrs Regina IP had expressed dissatisfaction that only the Secretary for Financial Services and the Treasury (SFST) had attended the debate on the motion on "Formulating operational standards for public organizations" at the Council meeting on 16 December 2009. Mrs IP was of the view that the motion debate should have been attended by all the relevant Directors of Bureau or a Secretary of Department. Mrs IP's views had been conveyed to CS, and CS had responded that the Administration considered it most appropriate to field SFST to attend the debate, given that one of the responsibilities of the Financial Services and the Treasury Bureau was to handle matters relating to corporate governance.

**III. Business arising from previous Council meetings**

**(a) Legal Service Division report on subsidiary legislation gazetted on 18 December 2009 and tabled in Council on 6 January 2010**  
*(LC Paper No. LS 30/09-10)*

3. The Chairman said that five items of subsidiary legislation were gazetted on 18 December 2009 and tabled in the Council on 6 January 2010.

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4. Members did not raise any queries on these items of subsidiary legislation.

(b) **Legal Service Division report on subsidiary legislation gazetted on 24 December 2009 and tabled in Council on 6 January 2010**  
(*LC Paper No. LS 31/09-10*)

5. The Chairman said that only one Commencement Notice, i.e. Import and Export (Strategic Commodities) Regulations (Amendment of Schedule 1) Order 2009 (Commencement) Notice, was gazetted on 24 December 2009 and tabled in the Council on 6 January 2010.

6. Members did not raise any queries on the Commencement Notice.

(c) **Legal Service Division report on subsidiary legislation gazetted on 31 December 2009 and tabled in Council on 6 January 2010**  
(*LC Paper No. LS 34/09-10*)

7. The Chairman said that five items of subsidiary legislation, including one Commencement Notice, were gazetted on 31 December 2009 and tabled in the Council on 6 January 2010.

8. Members did not raise any queries on these items of subsidiary legislation.

9. The Chairman reminded Members that the deadline for amending the items of subsidiary legislation referred to under agenda item III (a) to (c) above was 3 February 2010.

**IV. Business for the Council meeting on 13 January 2010**

(a) **Tabling of papers**

**Report No. 3/09-10 of the House Committee on Consideration of  
Subsidiary Legislation and Other Instruments**  
(*LC Paper No. CB(2) 686/09-10 issued vide LC Paper No. CB(3)  
317/09-10 dated 6 January 2010*)

10. The Chairman said that the report covered five items of subsidiary legislation the period for amendment of which would expire on 13 January 2010. No Members had requested to speak on the subsidiary legislation covered in the report.

11. Members noted the report.

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(b) **Questions**

*(LC Paper No. CB(3) 308/09-10)*

12. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the meeting.

(c) **Bills - First Reading and moving of Second Reading**

13. The Chairman said that no notice had been received yet.

(d) **Government motion**

14. The Chairman said that no notice had been received yet.

(e) **Members' motions**

(i) **Motion on "Releasing LIU Xiaobo"**

*(Wording of the motion issued vide LC Paper No. CB(3) 293/09-10 dated 4 January 2010.)*

(ii) **Motion on "Promoting the philosophical thinking of Confucianism"**

*(Wording of the motion issued vide LC Paper No. CB(3) 295/09-10 dated 4 January 2010.)*

15. The Chairman said that the deadline for giving notice of amendments to the motions had expired on 6 January 2010.

**V. The Chief Executive's Question and Answer Session on 14 January 2010**

16. The Chairman said that the Chief Executive (CE)'s Question and Answer (Q & A) Session would be held from 3:00 pm to 4:30 pm.

17. The Chairman invited Members' views on issues which they would like CE to cover at the Q & A Session.

18. Ms Emily LAU said that she would like CE to cover the issue of constitutional development.

19. The Chairman said that the topic suggested by Ms Emily LAU would be conveyed to CS.

**VI. Business for the Council meeting on 20 January 2010**

**(a) Questions**

*(LC Paper No. CB(3) 309/09-10)*

20. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the meeting.

**(b) Bills - First Reading and moving of Second Reading**

21. The Chairman said that no notice had been received yet.

**(c) Government motion**

**Proposed resolution to be moved by the Secretary for Food and Health under the Pharmacy and Poisons Ordinance relating to:**

**(i) the Pharmacy and Poisons (Amendment) (No. 5) Regulation 2009; and**

**(ii) the Poisons List (Amendment) (No. 5) Regulation 2009**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 296/09-10 dated 4 January 2010.)*

*(LC Paper No. LS 33/09-10)*

22. The Chairman said that the proposed resolution was for seeking the Legislative Council (LegCo)'s approval to amend the Pharmacy and Poisons Regulations (the principal Regulations) and Poisons List Regulations to add four substances to Division A of the First and Third Schedules to the principal Regulations and Division A of Part I of the Schedule to the Poisons List, so that pharmaceutical products containing any of these substances could only be sold on registered premises of an authorized seller of poisons by a registered pharmacist or in his presence and under his supervision.

23. Members did not raise objection to the Administration moving the proposed resolution at the Council meeting.

**(d) Members' motions**

**(i) Motion to be moved by Hon Paul TSE Wai-chun**

24. The Chairman said that the subject of the motion to be moved by Mr Paul TSE was "Suspending the construction of the Government Headquarters at Tamar".

(ii) **Motion to be moved by Hon WONG Ting-kwong**

25. The Chairman said that the subject of the motion to be moved by Mr WONG Ting-kwong was "Actively participating in the 'National Twelfth Five-Year Plan'".

26. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 13 January 2010.

**VII. Report of Bills Committees and subcommittees**

(a) **Report of the Bills Committee on Legal Practitioners (Amendment)  
Bill 2009**

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*(LC Paper No. CB(2) 666/09-10)*

27. Dr Margaret NG, Chairman of the Bills Committee, reported on the deliberations of the Bills Committee as detailed in its report. She said that the Bill sought to grant higher rights of audience to suitably qualified solicitors before the High Court and the Court of Final Appeal in civil and criminal proceedings. The Bills Committee had held four meetings with the Administration. Representatives from the Hong Kong Bar Association, the Law Society of Hong Kong and the Consumer Council had participated in the deliberations of the Bills Committee.

28. Dr NG further reported that the issue of extending higher rights of audience to suitably qualified solicitors, which had been discussed for years, was not controversial. The deliberations of the Bills Committee had focused on the legal framework and mechanism for dealing with the grant of extended rights of audience to solicitors proposed in the Bill, including the appointment of members of the Higher Rights Assessment Board (the Assessment Board), the operation of the Assessment Board and the arrangements for assessing applications.

29. Dr NG added that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 20 January 2010 and the Committee Stage amendments (CSAs) to be moved by the Administration. The Administration expected that the Assessment Board would be in a position to invite applications about 12 months after the enactment of the Bill.

30. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 11 January 2010.

**(b) Report of the Bills Committee on Telecommunications  
(Amendment) Bill 2009**

*(LC Paper No. CB(1) 822/09-10)*

31. Mr Andrew LEUNG, Chairman of the Bills Committee, reported that the Bills Committee had held four meetings and had received views from the stakeholders, including the sound broadcasting industry.

32. Mr LEUNG elaborated that the majority of members of the Bills Committee generally supported the legislative intent of the Bill, i.e. to set out the condition precedent for an application for a sound broadcasting licence and the licensing criteria to which the CE in Council, as the licensing authority, was to have regard when deciding whether or not to grant a sound broadcasting licence. He referred Members to the Bills Committee's report for details of its deliberations.

33. Mr LEUNG further reported that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting on 20 January 2010. Ms Emily LAU and Mr LEE Wing-tat had indicated that they might propose CSAs in relation to the transfer of power from CE in Council to the Broadcasting Authority for granting sound broadcasting licence, a requirement for the Broadcasting Authority to hold a public hearing in connection with licensing for sound broadcasting services, the licensing criteria for community broadcasting and the making of appeals to the Court of First Instance regarding licensing decisions.

34. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 11 January 2010.

**VIII. Position on Bills Committees and subcommittees**

*(LC Paper No. CB(2) 676/09-10)*

35. The Chairman said that there were eight Bills Committees, three subcommittees on policy issues under the House Committee and seven subcommittees under Panels in action.

**IX. Proposal of the Panel on Welfare Services for a select committee to be appointed to inquire into issues relating to the professional autonomy of social workers in the Tai O Neighbourhood Level Community Development Project in serving the community**

*(LC Paper No. CB(2) 662/09-10)*

36. The Chairman drew to Members' attention the two submissions from the Anti "False Harmony" Alliance and Mr TSE Sai-kit respectively which were tabled at the meeting.

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37. At the invitation of the Chairman, Mr WONG Sing-chi, Chairman of the Panel on Welfare Services (the WS Panel), explained the proposal of the WS Panel for a select committee to be appointed to inquire into issues relating to the professional autonomy of social workers in the Tai O Neighbourhood Level Community Development Project in serving the community. Mr WONG said that the WS Panel discussed the incident at its meeting on 14 December 2009 and considered it necessary for LegCo to appoint a select committee to investigate the alleged interference by the Home Affairs Bureau (HAB) on the provision of community service by social workers. The motion moved by Mr CHEUNG Kwok-che, Deputy Chairman of the WS Panel, on the appointment of a select committee had been put to vote at the WS Panel meeting. Eight members voted for the motion, two members against the motion and one member abstained. As the motion was passed by the WS Panel, the House Committee's support was sought for its proposal for the appointment of a select committee.

38. The Chairman invited Members' views on the proposal.

39. Mr TAM Yiu-chung said that he was a member of the WS Panel and had expressed objection to the proposal. He explained that the Tai O case had been studied by the Duty Roster Members under the LegCo Redress System following the receipt of a complaint. He was one of the Duty Roster Members attending the case conference on the complaint, which was attended by representatives of the parties concerned. After the case conference, the WS Panel had discussed the case at its special meeting on 28 September 2009. CS had also made known the Administration's position in his reply to the relevant oral question at the Council meeting on 21 October 2009. Mr TAM said that in his view, the case had been clarified and there was no need to appoint a select committee to investigate into it. He reiterated his objection to the proposed appointment of a select committee.

40. Mr CHEUNG Kwok-che said that the alleged interference of the professional autonomy of social workers by the Secretary for Home Affairs (SHA) and District Officer (Islands) (DO(Is)) was a matter of grave concern to the social work profession. There was a worry that such interference would become rampant in future. He had attended the case conference and had grounds to believe that some Government officials had withheld certain information on the case. He therefore considered it necessary for LegCo to appoint a select committee to inquire into the case.

41. Ms Audrey EU said that she had also attended the case conference. She recalled that during the case conference, representatives of the Tai O Rural Committee had indicated that there was insufficient time for them to express their views fully. Some key members of the Hong Kong Young Women's Christian Association (YWCA) involved in the case had not attended the case conference. As Duty Roster Members did not have the power to summon witnesses to attend a case conference, convening a case conference and appointing a select committee for the purpose of conducting an inquiry into the case were thus very different. Ms EU stressed that Members belonging to the

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Civic Party would not come to a conclusion without first conducting any investigation into the allegation that some Government officials had been hiding the truth. Moreover, the case was of grave concern to the social work profession as many community service projects were funded by the Administration through the Home Affairs Bureau. In her view, LegCo Members had a duty to conduct an investigation into the case to dispel the doubts and concerns and to do justice to the parties concerned. Having regard to all these factors, Members belonging to the Civic Party considered it necessary to conduct an in-depth investigation into the case through the exercise of the powers conferred by section 9(1) of the LegCo (Powers and Privileges) Ordinance (Cap. 382). They did not have strong views on whether a select committee should be appointed for the purpose or whether the WS Panel should be tasked to investigate into the case and authorized with such powers.

42. Mr Albert CHAN said that SHA had turned down the invitation of the WS Panel to attend its special meeting on 28 September 2009 to explain the case. He considered this disrespectful to LegCo. He opined that the allegations, if substantiated, had set a bad precedent. Never before had a senior Government Official appointed under the Political Accountability System used his/her power to exert pressure on an organization. In his view, SHA had selectively made his remarks to YWCA in a calculated manner, resulting in the social worker concerned losing his job. It amounted to violence on the part of the Executive. The case was serious and shocking and of grave concern to the public and the social work profession. Given that there was prima facie evidence on abuse of power by SHA, he considered it appropriate for LegCo to appoint a select committee to investigate the case. An open and impartial investigation, with the hearings attended by all the relevant parties, would unveil the truth. He pointed out that had there not been any misconduct on the part of SHA, the investigation would clear his name. LegCo should be condemned should Members veto the proposal for the setting up of a select committee, as this would be tantamount to the Legislature colluding with the Executive to exert pressure on a social worker. Such a form of violence was unacceptable and would be a stain on LegCo's reputation.

43. Mrs Sophie LEUNG considered the case "a storm in a teacup". She noted that YWCA had already made it clear that the remarks made by SHA had not put any pressure on it. The allegation came about as a result of reports in the press that during a meeting with YWCA, SHA had expressed his wish that YWCA and the Tai O Rural Committee could work together to promote a harmonious community. In her view, every member of the public should work together to foster a harmonious community, and SHA undoubtedly had such a responsibility. Should Mr CHEUNG Kwok-che have evidence to substantiate his claim that some Government officials had been hiding some facts, he should put it in writing for Members' consideration. She called on Members to consider the proposal for the appointment of a select committee prudently. She pointed out that with the investigations already being undertaken by LegCo, there was concern about the capacity of Members to

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cope with more investigations apart from the one concerning Mr KAM Nai-wai. She considered that Members should focus their attention on important matters.

44. Dr PAN Pey-chyou said that he had expressed his views on the case during the discussions at the WS Panel meeting. He considered that upon the receipt of views from an organization expressing concern about its difficulties in working with another organization in the district, SHA had the responsibility to relay such views to the latter organization with a view to fostering harmonious working relationship between these organizations. In his view, SHA had fulfilled his responsibilities and handled the case in an appropriate manner. It would be irrational on the part of LegCo to appoint a select committee to conduct an investigation into the case.

45. The Chairman reminded Members to focus their discussions on the proposal for the appointment of a select committee to investigate the case and not the details of the case.

46. Mr LEE Cheuk-yan opined that SHA would be overloaded with work if he had to follow up personally each and every complaint case. He considered it inappropriate for SHA to convey the complaint he had received from the Tai O Rural Committee to YWCA without conducting any investigation. He disagreed with the view that no pressure had been exerted on YWCA. In the warning letter issued by YWCA to the social workers concerned, it was clearly stated that one of the reasons for transferring them out of Tai O was the dissatisfaction expressed by DO(Is) over disaster relief work. It was clear that YWCA had been put to pressure not only from SHA but also DO(Is). He reiterated that SHA had made the remarks to YWCA without conducting any investigation, causing one of the social workers concerned to lose his job. In his view, this had amounted to interference with the professional autonomy of social workers. He further pointed out that SHA had only attended the case conference for around 10 minutes, and there was insufficient time for the Duty Roster Members to enquire with him about the case. He stressed that the truth would never be unveiled if no investigation was conducted. He appealed to Members to support the proposal for appointing a select committee.

47. Mr CHAN Kam-lam said that he was the convenor of the Duty Roster Members handling the complaint. He had examined the case and held a case conference which was attended by SHA and representatives of YWCA and Tai O Rural Committee. SHA had clarified that he had not put any pressure on YWCA. SHA had said that he had only made some remarks at a meeting with the President and the Chief Executive of YWCA that YWCA and the Tai O Rural Committee could work together to promote a harmonious community. The representatives of YWCA had confirmed that YWCA had not been put to pressure. The representatives of Tai O Rural Committee had indicated that they would hope for enhanced communication with local organizations on district matters but the social worker concerned had adopted a hostile attitude. Mr CHAN pointed out that the social worker concerned was transferred out of Tai O and not dismissed. In his view, the matter had been clarified. While he respected the concern of social workers for professional autonomy, he

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considered it inappropriate for LegCo to embark on an investigation which involved one individual. He hoped that Members would handle matters in a rational way. He stressed that the case should not be used as a means to attack the credibility of SHA. Nor should LegCo be used as a political tool to discredit the Government.

48. Mr Albert HO said that as the truth about the case had yet to be ascertained, Members should not accept merely the explanations of the relevant persons. Many issues had yet to be clarified, such as whether DO(Is) had made any comments on the social worker concerned and the reason why SHA had selectively made some remarks to YWCA when YWCA was bidding for funding. All these called for an investigation into the case. He therefore considered it necessary to find out the truth of the case by conducting an investigation in order to discharge the duties of LegCo. He appealed to Members to support the proposal.

49. Mr LEUNG Yiu-chung said that he had attended the case conference and the meeting of the WS Panel. The representatives of the Tai O Rural Committee had indicated that there was inadequate time to clarify the matter in the case conference. He considered that there were many doubtful points which needed to be clarified. For example, SHA personally opened a complaint letter from the Tai O Rural Committee to YWCA which was not in line with the usual practice. He added that the conduct of investigation by LegCo into the case should not be taken as an attack on Government's credibility. Given the many dubious points about the case, he considered it appropriate for LegCo to provide a platform to find out the truth of the case.

50. Mr LEUNG Kwok-hung said that Members had decided to investigate into the allegations against Mr KAM Nai-wai even though the former personal assistant concerned had indicated that she would not participate in the investigation and there was no plaintiff in that case. It would be illogical for Members not to support the proposal for the appointment of a select committee to investigate the Tai O case as there were both the plaintiff and the accused. He considered it unusual for SHA to have followed up personally the complaint letter concerning YWCA. He expressed support for the proposal for appointing a select committee to investigate the case. It was his understanding that SHA had not indicated any objection to the proposal.

51. Mr Paul TSE said that the plaintiff in the case should be YWCA, and not the social workers concerned. The crux of the matter was whether YWCA had been subject to any pressure from the Administration; the social workers concerned were only the affected parties. Like the case concerning Mr KAM Nai-wai, there was no plaintiff in the Tai O case as YWCA had stated that the remarks made by SHA had not put any influence on it. He pointed out that Members had all along stressed that the Administration should maintain close contact with community organizations. It should not be the work of LegCo to conduct an investigation into some remarks made by a Government official concerning district affairs. The main function of LegCo was to enact legislation, and LegCo should consider exercising its powers to investigate

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only matters where significant public interest was involved. He stressed that Members should focus on matters of great public importance in their work. He objected to the proposal for appointing a select committee to investigate the Tai O case.

52. The Chairman put to vote the proposal that a select committee be appointed by LegCo to inquire into issues relating to the professional autonomy of social workers in the Tai O Neighbourhood Level Community Development Project in serving the community. Ms Emily LAU requested to claim a division.

The following Members voted in favour of the proposal:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, 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 CHEUNG Kwok-che and Mr WONG Sing-chi.

(20 Members)

The following Members voted against the proposal:

Ir Dr Raymond HO, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM.

(31 Members)

53. The Chairman declared that 20 Members voted for and 31 Members voted against the proposal, and no Member abstained. The proposal was not supported.

**X. Report on the visit of the delegation of the Legislative Council to Prague, Zagreb, Rijeka and Budapest**  
(*LC Paper No. CB(3) 316/09-10*)

54. Ms Emily LAU, leader of the delegation, made a report on the visit of the delegation of LegCo to Prague, Zagreb, Rijeka and Budapest as detailed in its report.

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55. Ms LAU reported that the visit had enabled members to obtain first-hand information on the constitutional and political development in Czech, Croatia and Hungary, as well as their electoral systems, the operation of their legislatures and their parliamentary services. The visit had also strengthened the links of LegCo with the three legislatures.

56. Ms LAU further said that the delegation was of the view that for visits organized by the Parliamentary Liaison Subcommittee in future, consideration should be given to requiring delegation members to participate in all the visit programmes. The delegation would make recommendations in this regard to the Parliamentary Liaison Subcommittee for consideration. She also thanked members of the delegation for their participation and the LegCo Secretariat for its support to the delegation.

57. Members did not raise any queries on the report.

**XI. Election of Members for appointment to the Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai**  
*(LC Paper No. CB(3) 314/09-10)*

58. The Chairman said that under Rule 73A(1) of the Rules of Procedure (RoP), the Investigation Committee established under RoP 49B(2A) should consist of a chairman, a deputy chairman and five members who should be appointed by the President in accordance with an election procedure determined by the House Committee. The mover of the censure motion, the three Members jointly signing the notice of the motion, as well as the Member who was the subject of the motion should not be appointed to the Investigation Committee.

59. The Chairman further said that at its meeting on 11 December 2009, the House Committee endorsed the election procedure as set out in Appendix II to LC Paper No. CB(3) 122/09-10. The House Committee also agreed that the election of Members for appointment to the Investigation Committee be held at the House Committee meeting.

60. The Chairman added that after the election of seven Members for appointment to the Investigation Committee, the meeting of the House Committee would be suspended for several minutes to enable the elected Members to elect among themselves the Chairman and Deputy Chairman of the Investigation Committee. The meeting of the House Committee would then be resumed and the House Committee would be requested to endorse the results of the election of the Chairman and Deputy Chairman of the Investigation Committee for appointment by the President.

61. The Chairman further said that four valid nominations had been received by the deadline of 4 January 2010. The four nominees were Mrs Sophie LEUNG, Mr LAU Kong-wah, Dr LAM Tai-fai and Dr Priscilla

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LEUNG. As the number of nominations received was less than seven, i.e. the number of seats for the Investigation Committee, further nominations should be made at the House Committee meeting.

62. Mr IP Kwok-him said that the decision to invoke the mechanism under RoP 49B(1A) to follow up the allegations against Mr KAM Nai-wai was made unanimously by Members at the relevant House Committee meeting. According to the established practice, Members from different political parties or groupings should be represented on LegCo committees. He noted that the four nominations received did not include Members belonging to certain political parties and groupings. He sought clarification on whether the Investigation Committee must consist of seven members.

63. The Chairman pointed out that according to RoP 73A(1), the Investigation Committee must consist of seven members, i.e. a chairman, a deputy chairman and five members. In other words, the Investigation Committee could not be formed with less than seven members.

64. The Chairman invited Members to make further nominations for appointment to the Investigation Committee.

65. Mr LAM Tai-fai nominated Mr CHAN Kin-por and the nomination was seconded by Mr IP Kwok-him. Mr CHAN Kin-por accepted the nomination.

66. Dr Philip WONG nominated Mr Vincent FANG and the nomination was seconded by Mr Andrew LEUNG. Mr Vincent FANG accepted the nomination.

67. Mr WONG Kwok-kin nominated Dr PAN Pey-chyou and the nomination was seconded by Mr WONG Yung-kan. Dr PAN Pey-chyou accepted the nomination.

68. After ascertaining that there was no further nomination, the Chairman declared the following seven nominees elected as members of the Investigation Committee -

Mrs Sophie LEUNG  
Mr LAU Kong-wah  
Mr Vincent FANG  
Mr LAM Tai-fai  
Mr CHAN Kin-por  
Dr Priscilla LEUNG  
Dr PAN Pey-chyou

69. The Chairman suspended the meeting to allow the members of the Investigation Committee to elect among themselves the Chairman and Deputy Chairman of the Investigation committee.

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*(The meeting was suspended at 3:25 pm and resumed at 3:32 pm.)*

70. The Chairman informed Members that Mrs Sophie LEUNG and Mr CHAN Kin-por were elected Chairman and Deputy Chairman of the Investigation Committee respectively.

71. Members endorsed the results of the election of the Chairman and the Deputy Chairman of the Investigation Committee.

72. The Chairman said that the membership of the Investigation Committee would be submitted to the President for appointment.

**XII. Proposal from Hon Albert HO to move a motion for adjournment under Rule 16(4) at the Council meeting on 13 January 2010 for the purpose of enabling Members to debate the following issue: The Mainland authorities allegedly exercising jurisdiction in Hong Kong to arrest the Hong Kong people demanding the release of LIU Xiaobo and the accompanying journalists**

*(Letter dated 4 January 2010 from Hon Albert HO Chun-yan to the Chairman of the House Committee (LC Paper No. CB(2)677/09-10(01))*

73. At the invitation of the Chairman, Mr Albert HO explained his proposal. He said that the Panel on Security (the Panel) had convened a special meeting in the morning of the day of the House Committee meeting to discuss the allegation of Mainland law enforcement officers taking enforcement actions in Hong Kong. While some information had been provided to the Panel on the matter, the matter had yet to be investigated. Members noted that the Police had received complaints on the matter, and members had raised various issues of concern at the Panel meeting. As the matter had aroused grave public concern both locally and overseas, he considered it necessary to move a motion for adjournment at the Council meeting on 13 January 2010 to enable Members to have an opportunity to speak on such an important matter, having considered the information provided by the Security Bureau. He appealed to Members to support his proposal.

74. Ms Emily LAU said that she had not attended the Panel meeting as she had attended the hearing of the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products held concurrently. In her view, the matter was very serious and called for more than the holding of an adjournment debate as it caused a shock both locally and overseas. She considered that the matter warranted an investigation by LegCo in order to find out the truth. She would later make such a proposal to the Panel on Security. In the meantime, she had no objection to the proposal for holding an adjournment debate on the matter.

75. Mr LAU Kong-wah, Chairman of the Panel, said that the Panel had seen the video tape on the incident at the special meeting. There was no evidence to show that Mainland law enforcement officers had entered the

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boundary of Hong Kong to take enforcement actions. He pointed out that the wording of the adjournment motion was not founded on facts as the matter had yet to be investigated. The Security Bureau had undertaken to investigate the matter and provide a report on the outcome of the investigation to the Panel. In his view, depending on the outcome of the investigation, Members could then consider holding an adjournment debate or a motion debate on the matter. The holding of such a debate then would be more fruitful as the facts would be known and recommendations could be made. In the circumstances, he considered it not the appropriate time to move a motion for adjournment to debate the matter.

76. Mr Albert HO said that should the investigation establish the taking of enforcement actions by Mainland law enforcement officers in Hong Kong, a motion for debate should be moved. The holding of an adjournment debate at the next Council meeting would provide an opportunity for Members to express their initial views on the matter and point out issues of concern to be focused in the investigation.

77. Mr CHAN Kam-lam said that it was inappropriate to make a foregone conclusion on the matter before investigation. He opined that should the investigation establish the taking of enforcement actions by Mainland law enforcement officers in Hong Kong, LegCo should not only move a motion for debate on the matter but should also urge the Hong Kong Special Administrative Region Government to take up the matter with the Central People's Government. He pointed out that the incident involved various issues, and the taking of enforcement actions by Mainland law enforcement officers in Hong Kong was only one of them. Other relevant issues, for example whether the Police had enforced its duties in disallowing demonstrations in the boundary control points, should also be considered. He added that it was not appropriate for LegCo to hold an adjournment debate on the matter.

78. Mr Paul TSE considered that there was no urgency to hold an adjournment debate on the matter in the absence of facts to make a judgement and as imminent recurrence of the incident was not expected. He said that it would be a waste of time for LegCo to hold an adjournment debate before any investigation was conducted on the matter. After the outcome of the investigation was available, LegCo should focus on policy issues and not on trivial matters. In his view, the matter was only a "storm in a teacup". The issue which should be followed up by LegCo was the reason why the Police had not enforced its duties in boundary control points and not whether the Mainland law enforcement officers had taken enforcement actions in Hong Kong. He considered it not the appropriate time for LegCo to hold an adjournment debate on the matter.

79. Dr Margaret NG said that the public should know the stance of Members on the matter. She noted the views of Mr Paul TSE on the matter which were very different from many other persons. She pointed out that the Panel noted a report from the Human Rights Monitor which was of the view

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that the matter was serious as it involved the exercise of jurisdiction and the obstruction of journalists to cover news and disallowance of demonstrations in boundary control points were in breach of the Johannesburg Principles on National Security. In her view, irrespective of whether Members considered the matter as a "storm in a teacup" or an exercise of jurisdiction in Hong Kong by Mainland enforcement law officers, LegCo should let the public know its stance through the holding of an adjournment debate. She therefore supported Mr Albert HO's proposal.

80. The Chairman said that Mr Albert HO sought the House Committee's support for the following:

- (a) the adjournment debate be held in addition to two other debates on Members' motions with no legislative effect at the Council meeting on 13 January 2010;
- (b) the President to be requested to consider exercising his discretion to extend the duration of the adjournment debate beyond one and a half hours, in order to enable all Members wishing to speak at the adjournment debate to do so; and
- (c) the President to be requested to dispense with the seven days' notice for moving the proposed motion.

81. The Chairman put to vote the proposal for moving a motion for adjournment at the Council meeting on 13 January 2010 for the purpose of debating the allegation concerning the taking of enforcement actions by Mainland law enforcement officers in Hong Kong. The results were: 21 Members voted for and 31 Members voted against the proposal and one Member abstained.

82. The Chairman declared that the proposal was not supported by the House Committee.

**XIII. Any other business**

83. There being no other business, the meeting ended at 3:46 pm.