

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 30 October 2013

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

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE JAMES TO KUN-SUN

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, B.B.S., M.H.

PROF THE HONOURABLE JOSEPH LEE KOK-LONG, S.B.S., J.P., Ph.D.,  
R.N.

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

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

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

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING, J.P.

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

THE HONOURABLE CHAN HAK-KAN, J.P.

THE HONOURABLE CHAN KIN-POR, B.B.S., J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN, S.B.S., J.P.

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

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

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

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

THE HONOURABLE PAUL TSE WAI-CHUN, J.P.

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE CLAUDIA MO

THE HONOURABLE MICHAEL TIEN PUK-SUN, B.B.S., J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE NG LEUNG-SING, S.B.S., J.P.

THE HONOURABLE STEVEN HO CHUN-YIN

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING

THE HONOURABLE GARY FAN KWOK-WAI

THE HONOURABLE MA FUNG-KWOK, S.B.S., J.P.

THE HONOURABLE CHARLES PETER MOK

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN

DR THE HONOURABLE KENNETH CHAN KA-LOK

THE HONOURABLE CHAN YUEN-HAN, S.B.S., J.P.

THE HONOURABLE LEUNG CHE-CHEUNG, B.B.S., M.H., J.P.

THE HONOURABLE KENNETH LEUNG

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG

THE HONOURABLE DENNIS KWOK

THE HONOURABLE CHRISTOPHER CHEUNG WAH-FUNG, J.P.

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

THE HONOURABLE SIN CHUNG-KAI, S.B.S., J.P.

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, J.P.

THE HONOURABLE MARTIN LIAO CHEUNG-KONG, J.P.

THE HONOURABLE POON SIU-PING, B.B.S., M.H.

THE HONOURABLE TANG KA-PIU

DR THE HONOURABLE CHIANG LAI-WAN, J.P.

IR DR THE HONOURABLE LO WAI-KWOK, B.B.S., M.H., J.P.

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE CHRISTOPHER CHUNG SHU-KUN, B.B.S., M.H., J.P.

THE HONOURABLE TONY TSE WAI-CHUEN

**MEMBERS ABSENT:**

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE FRANKIE YICK CHI-MING

THE HONOURABLE ALICE MAK MEI-KUEN, J.P.

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE JOHN TSANG CHUN-WAH, G.B.M., J.P.  
THE FINANCIAL SECRETARY

MR YAU SHING-MU, J.P.  
SECRETARY FOR TRANSPORT AND HOUSING

PROF THE HONOURABLE K C CHAN, G.B.S., J.P.  
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE LAI TUNG-KWOK, S.B.S., I.D.S.M., J.P.  
SECRETARY FOR SECURITY

THE HONOURABLE EDDIE NG HAK-KIM, S.B.S., J.P.  
SECRETARY FOR EDUCATION

DR THE HONOURABLE KO WING-MAN, B.B.S., J.P.  
SECRETARY FOR FOOD AND HEALTH

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

**CLERKS IN ATTENDANCE:**

MR KENNETH CHEN WEI-ON, S.B.S., SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, DEPUTY SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

The following papers were laid on the table under Rule 21(2) of the Rules of Procedure:

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Air Pollution Control (Air Pollutant Emission) (Controlled Vehicles) Regulation.....	160/2013
Companies Ordinance (Amendment of Schedule 7) Notice 2013.....	161/2013
Companies Ordinance (Amendment of Schedule 10) Notice 2013.....	162/2013
Companies Ordinance (Commencement) Notice 2013 .....	163/2013
Lifts and Escalators Ordinance (Commencement) Notice 2013.....	164/2013

**Other Papers**

- No. 14 — Equal Opportunities Commission  
Annual Report 2012/13
- No. 15 — Environment and Conservation Fund  
Trustee Report 2012-2013
- No. 16 — Office of the Communications Authority  
Trading Fund Report 2012/13
- No. 17 — Electrical and Mechanical Services Trading Fund  
Report 2012/13
- No. 18 — Hongkong Post  
Annual Report 2012/13

No. 19 — Companies Registry Trading Fund  
Annual Report 2012-13

Report of the Bills Committee on Professional Accountants (Amendment)  
Bill 2013

## ORAL ANSWERS TO QUESTIONS

**PRESIDENT** (in Cantonese): Questions. First question.

### Handling of a Complaint Against a Cardiologist

1. **MR JAMES TO** (in Cantonese): *President, the Head of the Division of Cardiology of the Prince of Wales Hospital (PWH) was ordered on 1 February this year to immediately cease handling all cardiac interventional procedures (the suspension). Only after a lapse of several months and a complaint on maladministration had been lodged against its Chief Executive (Chief Executive of PWH) did the PWH set up two clinical audit committees (the investigation panels) to investigate the incident. It has been learnt that the incident has aroused wide public concerns, and a joint statement has also been published in newspapers by some patients, members of the public and healthcare personnel, urging the authorities to dissolve the investigation panels and appoint afresh an independent investigation committee to thoroughly investigate the suspension. In this connection, will the Government inform this Council:*

- (a) *whether it knows why the PWH has, in the absence of sufficient evidence, immediately suspended the doctor concerned from surgical duties prior to the conduct of a formal investigation, whether such a move is an established practice and of the existing mechanism governing the suspension of doctors from surgical duties;*
- (b) *of the number of cases of transcatheter aortic valve implantation (TAVI) performed by the Division since 1 February this year, the number of patients involved and, among them, the number of those who developed complications; whether the Division has looked into the causes of such complications and their impact on patients; whether the surgeries resulting in complications were performed by*

*doctors in accordance with international standards and guidelines, and of the respective numbers of qualified and non-qualified doctors jointly performing each of such surgeries as well as the relevant details; and*

- (c) *given that the two aforesaid investigation panels were set up by the Chief Executive of PWH after a complaint had been made against him and two thirds of the members of the two investigation panels were his subordinates, whether the authorities have assessed if the investigations will not be independent and will be in breach of procedural justice; of the number of doctors in the investigation panels which are tasked with investigating the relevant cases, and their actual experience in performing TAVIs and left atrial appendage occlusions respectively; whether the authorities have assessed if the investigation panels are professionally competent to conduct investigations into the relevant cases; given that the Independent Review Committee subsequently set up by the Hospital Authority (HA) is mainly responsible for considering the investigation reports submitted by the investigation panels and will not conduct its own investigation, whether the authorities will appoint an investigation committee that is genuinely independent in order to thoroughly investigate the incident and to report its findings to the public?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I understand the public's concerns over the incident of the suspension of some clinical duties of the Head of the Division of Cardiology of the PWH. I must point out that as the incident as a whole involves patient safety and reputation of healthcare professionals, it must and it will be handled fairly, objectively and impartially.

My reply to the Member's question is as follows:

- (a) According to the existing mechanism of the HA, if the conduct of a staff member causes danger or brings negative impact on patient safety or the operation of a hospital, he/she may be suspended from all or some of his/her duties so as to protect patient safety. Where necessary, appropriate investigation may be conducted or an



investigation committee may be set up to follow-up the issue. In the past five years (that is, from 2008-2009 to 2012-2013), a total of four doctors involved in complaint cases have been suspended from all or some of his/her duties.

- (b) The PWH's cardiology team is qualified for performing coronary interventional procedures independently. The team consists of cardiologists with the relevant training and recognized qualifications in Transcatheter Aortic - Value Implantation (TAVI) and Left Atrial Appendage Occlusion (LAAO), who can take independent charge of and lead the team to perform the procedures concerned.

Since February 2013, the PWH has performed seven TAVI operations and nine LAAO operations for 16 patients. All operations were performed by members of the team in accordance with the relevant guidelines under the leadership of the team's experienced and qualified cardiologists.

All of the seven patients who received TAVI surgery had the devices successfully implanted in their bodies. Three of them developed complications, the risks of which are known. The clinical performance indicators of the seven cases were fully in compliance with international standards. The six patients who received LAAO operations did not develop any complications. All 16 patients have recovered and have been discharged from the hospital after treatment. All of the above cases will be included in the audit exercise in the long run.

- (c) In January 2013, seven of the eight specialists (other than the Head) of the Division of Cardiology of PWH made non-anonymous complaints about the clinical procedures of some cases undertaken by the Head of the Cardiology. All of the cases are related to complicated and high-risk clinical cardiac interventional procedures, of which TAVI and LAAO involve particularly high risk and skills. Since the safety of patients was involved, the PWH considered the situation as serious. Having examined carefully all relevant information and held discussions with the Vice-Chancellor, Pro-Vice-Chancellor and the Dean of Medicine of The Chinese University of Hong Kong, the Chief Executive of PWH and the

Chief of Service of the Department of Medicine, with patient safety as the primary concern, made an administrative decision to suspend the Head of the Division of Cardiology from part of his clinical work.

In end March 2013, the PWH, upon consulting the relevant department in the HA Head Office, set up two expert panels in accordance with the established mechanism to evaluate the treatment processes of the cases and review the department's internal audit results. The terms of reference, mode of operation and membership of the two expert panels were more or less finalized in April 2013. Moreover, to ensure that the investigation is conducted in a fair and independent manner, the HA also set up an independent review committee to receive and examine the reports of the two expert panels. The review committee will propose follow-up actions based on the review findings of the expert panels. It will deliberate on issues of clinical governance, including credentialing, which has emerged as a concern in this incident. It will also review the entire process in handling the case. Apart from the reports of the expert panels, the committee also has power to directly access the evidence relating to the complaints and the factors which have been considered by the expert panels. The HA has also engaged overseas experts to give professional advice to the committee so as to support its work.

All members of the two expert panels and the committee as well as the overseas experts have declared their interests as required in respect of their participation in the investigation to ensure fairness and impartiality. All declarations have been reported to the committee for review and have been confirmed not to constitute any hindrance to the work of the panels and committee. The HA Head Office has also deployed the Director (Quality and Safety) to provide the expert panels with policy and procedural support. Upon completion, the reports of the expert panels will be submitted directly to the committee without going through the PWH.

All in all, we are highly concerned about the incident. We have taken comprehensive measures in strict adherence to procedural

fairness to investigate and review the incident in order to protect patient safety and the reputation of healthcare professionals.

**MR JAMES TO** (in Cantonese): *President, the Chief Executive of the PWH who made the decision concerning the suspension is Dr FUNG Hong who had already retired. Under his instruction, two investigation panels were set up to investigate the incident involving Prof YU. According to Secretary Dr KO Wing-man's main reply, these two investigation panels were actually investigating the decision concerning the suspension made by Dr FUNG Hong in disguise. May I ask the Secretary if Dr FUNG Hong's appointment of two investigation panels to investigate himself and Prof YU meets the standard of procedural justice as accepted by the Government? Why does Secretary Dr KO not simply dissolve these two investigation panels and set up an investigation committee to conduct a truly fair and independent investigation to convince everyone? Why does the Secretary insist on allowing the two investigation panels appointed by Dr FUNG Hong to continue to handle the case despite the doubts involved? Why does the Secretary insist on doing so?*

**PRESIDENT** (in Cantonese): Mr TO, you have stated your supplementary question.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the two investigation panels set up by the Chief Executive of the PWH are respectively responsible for the audit of high-risk procedures and the clinical audit of other high-risk clinical cardiac interventional procedures. These two areas of work involve clinical audit. Regarding the procedures of handling this case by the administration department of the PWH or the Chief Executive of the PWH, an investigation should be conducted by the review committee set up by the HA.

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

**MR JAMES TO** (in Cantonese): *Why not simply dissolve these two investigation panels? Since the review committee but not the investigation committee is*

*responsible for the review, why not simply dissolve these two investigation panels?*

**PRESIDENT** (in Cantonese): Mr TO, the Secretary has already answered your question. If you disagree with the Secretary's explanation, I am afraid you may have to debate the matter on another occasion. If you still have other supplementary questions, you can wait for your turn to raise your question.

**MR TOMMY CHEUNG** (in Cantonese): *I would like to follow-up on the reply just given by the Secretary though I do not quite follow his reply. It seems to me, a layman who do not know much about this field, that the areas of work of the two investigation panels involve high-risk and low-risk procedures. My supplementary question is: Should the investigations of these high-risk and low-risk procedures, especially when cardiac interventional procedures are involved, be made by experts, so as to ensure that the investigation is properly conducted and has a high level of creditability? In particular, the person involved in this case is a doctor who is a professor of a local university. If an investigation is conducted by local people, there may be doubts of impartiality or slander. On the contrary, overseas experts may simply judge, from the perspective of the investigation panels, whether the surgeries are properly conducted. Will there be higher credibility if all members of the investigation panels are overseas cardiologists?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, concerning the supplementary question of Mr CHEUNG, perhaps I have not given a clear explanation just now. Of the two expert panels set up by the PWH, one is responsible for the audit of coronary interventional procedures, that is, the examination of percutaneous coronary intervention (PCI). Another expert panel is responsible for examining the relevant case which involves the two especially high-risk procedures, namely TAVI and LAO. These two procedures are the subject of the non-anonymous complaints made by seven doctors against the Head of the Cardiology.

Strictly speaking, PCI surgery also involve risks, but the risks of the two aforesaid procedures are particularly high. The two investigation panels comprise members with the relevant experience to carry out investigations. In

respect of overseas experts mentioned by Mr CHEUNG, in fact, there are two overseas experts in the review committee set up by the HA.

**PRESIDENT** (in Cantonese): Mr CHEUNG, has your supplementary question not been answered?

**MR TOMMY CHEUNG** (in Cantonese): *President, my question is simple enough, because I do not have any idea about the composition of the investigation panels. When conducting an investigation of these procedures, should members of the panels have experience in such surgeries so that they can judge if these procedures have been carried out properly? It does not make much sense if there are only one or two experts in an investigation panel of 10 members.*

*Will the investigation be more credible and independent if overseas doctors who have performed such operations are appointed to carry out the investigation? As these overseas doctors will not be involved in any interest, will the investigation be more credible?*

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

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): I wish to add one point. These two expert panels mainly comprise cardiologists or cardiothoracic surgeons, and all members of the panels are experts in the specialty concerned. In addition to cardiologists or cardiothoracic surgeons, other members are the Directors of Quality & Safety Division in the hospital clusters. All members of the expert panel are responsible for clinical audit, and hence, they all understand the professional practices. As regards overseas experts, I reiterate that two members of the review committee set up by the HA are overseas experts.

**MS STARRY LEE** (in Cantonese): *President, the point in question is whether members of these two investigation panels are appointed by Dr FUNG Hong, the Chief Executive of the PWH, who is one of the parties involved in the staff dispute. If so, the report to be issued by the investigation panels will be disputed by the other party concerned. May I ask the Secretary if the aforesaid situation*

*is true? Will the Secretary consider reappointing an independent committee to conduct an investigation to avoid the situation in which the appointment of members of the investigation panels is made by one of the parties in dispute?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): In respect of Ms LEE's supplementary question, I would like to reiterate that in late March this year, the PWH had, after consulting the relevant departments in the HA Head Office, made preparations for the setting up of two expert panels in accordance with the mechanism. First, in preparing for the setting up of these two expert panels, no complaint against the Chief Executive of the PWH had been received. Second, as the preparation work was made after seeking the views of the relevant departments in the HA Head Office, the two expert panels to be set up are independent.

Throughout the process, all members of the two investigation panels, as well as members of the review committee of the HA Head Office, must declare any conflicts of interest in accordance with the mechanisms, and they have done so. After reviewing the declaration process, it has been confirmed that the involvement of these members will not affect the independence of the investigation.

**MR NG LEUNG-SING** (in Cantonese): *President, from the Government's reply just now, we find that it is really necessary to ensure that the two investigation panels and the review committee will conduct a fair investigation. As indicated by many people, these kinds of operations affect the lives and well-being of the general public and involve significant public interest. The sector has also reflected that this incident involves technical issues, as well as office politics in respect of competition for interests. Since the issues are extremely complicated, will the Secretary agree that this Council should invoke the Legislative Council (Powers and Privileges) Ordinance to inquire into the incident?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I fully understand the concerns of Mr NG. For the general public, they would think that it is a loss if an expert who has the skills cannot serve the public; I perfectly understand their concern. However, hospitals, not only the PWH but also every hospital and every administrative department, have the responsibilities to ensure

that operations conducted in hospitals are performed by suitable persons with the relevant qualifications, and such operations must be safe.

Thus, I have explained in part (a) of my main reply that, according to the existing mechanism of the HA, if *prima facie* evidence proves that the conduct of a staff member may cause risks to patients, and the doubt cannot be erased, the Chief Executive of the hospital not only has the power but also the responsibility to suspend a doctor from certain clinical duties. A review of this incident must be conducted from two angles: first, two investigation panels should carry out professional clinical audit procedures; second, if the Chief Executive of the PWH who originally handled this incident was complained against, the HA should instruct that Chief Executive to stop handling the case.

Moreover, reports of the two expert panels will be submitted directly to the review committee of the HA Head Office, without having to be forwarded by the PWH administration. In this connection, I think we should let these two expert panels complete the work, and then the HA review committee would, on the basis of the clinical reports of the two expert panels and the analyses of the two overseas experts in the committee, consider if clinical risks were involved at that time. The review committee may also review if the PWH management has properly handled the case in respect of administrative and procedural measures. Therefore, I have reservations about Mr NG's proposal.

**DR LEUNG KA-LAU** (in Cantonese): *As far as I understand, the two expert panels do not have statutory power, and I know that Prof YU is also reluctant to meet with these two expert panels because he simply does not trust them, and these expert panels do not have statutory powers to summon anyone. Some also queried that the academic status of the experts in these two expert panels may be lower than that of Prof YU. To assess the performance of a doctor, it is also necessary to assess the performance of other doctors. When we allege that the performance of a doctor is not up to standard, his performance should be compared to that of other doctors. Yet, it seems that the HA's expert panels do not have so much time to assess the performance of all cardiologists under the HA.*

*For the sake of procedural justice, may I ask the Secretary if this incident should be investigated by a body with statutory powers such as the Medical Council? The Medical Council has the statutory power to regulate doctors. As*

*this incident affects the professional standard of the doctor concerned as well as the patients under his care, given that we have little confidence in the two expert panels of the HA, should this incident be referred to the Medical Council?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, generally speaking, the clinical audit expert panels will deal with more specialized and professional procedures, and they are bodies with statutory powers. The investigation and review are now in progress, and the expert panels have repeatedly invited Prof YU to attend interviews or provide information in writing to assist in the review. As far as I know, Prof YU has recently accepted the invitation to meet with the expert panels. The expert panels will prudently complete their investigation and review, and then submit reports to the HA review committee. Once again, I reiterate that the HA review committee has two international expert members who may professionally assist the committee in making a decision after considering the reports of the two expert panels.

**PRESIDENT** (in Cantonese): We have spent more than 24 minutes 30 seconds on this question. A few Members are still waiting for their turn to raise questions but I think they have to follow-up on this issue on other occasions. Second question.

### **Anti-mosquito, Pest Control and Bedbug Control Operations**

2. **DR CHIANG LAI-WAN** (in Cantonese): *President, in reply to a question from a Member of this Council last year, the authorities stated that where necessary, the Food and Environmental Hygiene Department (FEHD) would carry out pest control work in public places and promote concerted efforts of government departments. However, it has been recently reported that the numbers of complaints and requests for assistance concerning bedbugs received by the FEHD and the Housing Department (HD) are on the rise, reflecting that bedbugs have caused nuisance to the public. I have received more than a hundred relevant complaints just from Tai Hang Tung Estate, Nam Shan Estate and Un Chau Estate in Sham Shui Po. According to the residents affected, the HD indicated that there had been only individual sporadic cases of bedbug problems, and that the HD would neither intervene nor provide assistance. On the other hand, private companies often charge fees ranging from several*



*thousand to over ten thousand dollars for bedbug control services, which are hardly affordable to residents of public rental housing estates. In this connection, will the Government inform this Council:*

- (a) of the respective numbers of complaints and requests for assistance concerning bedbugs received by various government departments as well as the numbers of bedbug control operations carried out by them in public places in response to such cases each year from January 2009 to August this year, with a breakdown by District Council district;*
- (b) of the names, nature and effectiveness of inter-departmental anti-mosquito, pest control or bedbug control operations carried out last year; if such information is not available, of the reasons for that; and*
- (c) given the recent surge in the numbers of complaints and requests for assistance concerning bedbugs, whether the authorities will reconsider setting up a mechanism to monitor the proliferation and distribution of bedbugs in the territory, implementing measures to control bedbugs and help households exterminate bedbugs, and carrying out a major territory-wide bedbug control operation to safeguard public health and environmental hygiene; if they will, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, according to the Centers for Disease Control and Prevention in the United States, there is at present no known evidence which shows that bedbugs spread diseases. That said, bedbug bites may cause skin allergy and loss of sleep. The FEHD has therefore been closely monitoring the relevant situation. In cases where bedbug infestation is found in public places, the FEHD will conduct bedbug control work accordingly.

My reply to the various parts of the question is as follows:

- (a) The number of complaints and requests for assistance related to bedbugs received by the HD from 2009 to August 2013, and the

number of bedbug control operations conducted at the public places in question are set out at Annex I and Annex II respectively.

The number of related complaints and requests for assistance received by the FEHD over the same period is at Annex III. In handling these complaints and requests, the FEHD officers have carried out on-site inspections. No bedbug infestation was found in nearby public places.

- (b) The FEHD has been engaged in co-ordinating inter-departmental anti-mosquito initiatives, maintaining close liaison with the relevant government departments and providing them with technical support to facilitate effective implementation of anti-mosquito measures within their respective purview.

The FEHD launches territory-wide anti-mosquito campaigns in collaboration with other government departments annually, with a view to raising public awareness of the potential risk of mosquito-borne diseases and encouraging community participation in the promotion of anti-mosquito work. The anti-mosquito campaign launched this year was completed in October. Through the campaign, we sought to heighten public awareness of the potential risk of dengue fever, Japanese encephalitis (JE) and other mosquito-borne diseases, encourage community participation and forge close partnership between the government departments concerned in anti-mosquito work, and eliminate potential mosquito breeding sites.

During the campaign, the FEHD officers stepped up inspection, preventive and control actions as well as publicity work. They focused their actions on potential breeding sites and trouble spots identified. The relevant government departments played an equally active role in the campaign by conducting anti-mosquito operations in places under their purview and enlisted community support for the campaign through their networks. District Councils were also invited to participate in the campaign through the organization of various anti-mosquito activities at the district level. During Phases I and II of this year's campaign, a total of 115 099 mosquito

breeding sites and potential breeding sites were eliminated, 63 warning letters issued and 34 prosecutions instituted.

Before the onset of the rainy season or where necessary, district environmental hygiene offices of the FEHD will convene inter-departmental anti-mosquito task force meetings, tendering professional advice to the relevant departments on how to intensify their mosquito preventive and control work in places under their management. In addition, the Anti-Mosquito Steering Committee (AMSC), which comprises senior officers from various bureaux and departments, holds annual meetings to review the effectiveness of anti-mosquito measures and dengue vector surveillance work. In the light of two confirmed local cases of JE in July this year, the AMSC held a special meeting to discuss ways for further enhancing anti-mosquito measures, intensifying the preventive and control work of the relevant departments, as well as strengthening publicity and education. No local dengue fever cases have been reported so far this year, and no more local JE cases have been reported since the two confirmed cases in July. Nevertheless, all relevant departments will continue to monitor closely the effectiveness of the measures and make timely adjustment if necessary, so as to better control the mosquito problem and minimize the threat of JE and other mosquito-transmitted diseases.

As for bedbugs, their typical hiding places lie in the cracks, tufts, coils of springs and hollow posts of mattresses and bedsteads, as well as the upholstery of chairs and sofas. They are therefore more commonly found in private places indoor. As has been pointed out in part (a) of the reply, in handling complaints and requests for assistance last year, the FEHD found no bedbug infestation in nearby public places. As such, the need to carry out bedbug control operations did not arise. In cases where public places are found heavily infested, the FEHD will certainly conduct bedbug control work in those places.

- (c) As has been pointed out in part (a) of the reply, since there is at present no known evidence which shows that bedbugs are disease vectors, the FEHD has not put in place an independent monitoring mechanism to oversee this issue. That said, the FEHD has been



	<i>The number of complaints and requests for assistance related to bedbugs received by the Housing Department</i>									
	2009		2010		2011		2012		2013 (as at Aug)	
<i>District Council district</i>	<i>Complaint</i>	<i>Request for Assistance</i>	<i>Complaint</i>	<i>Request for Assistance</i>	<i>Complaint</i>	<i>Request for Assistance</i>	<i>Complaint</i>	<i>Request for Assistance</i>	<i>Complaint</i>	<i>Request for Assistance</i>
North	0	0	0	0	0	0	0	0	0	1
Sai Kung	0	0	0	0	0	0	0	0	0	1
Sha Tin	0	0	0	0	0	0	0	0	1	1
Eastern	0	0	0	1	0	2	0	3	0	1
Southern	0	0	0	0	0	1	0	1	0	2
Tsuen Wan	0	1	0	1	0	1	0	4	0	2
Islands	0	0	0	0	0	0	0	1	0	3
Sham Shui Po	0	0	0	0	0	13	5	40	18	265
Wong Tai Sin	7	0	1	1	0	1	0	7	4	34
Kwai Tsing	0	0	0	1	2	2	0	6	3	11
Yau Tsim Mong	0	0	0	0	0	0	0	46	5	26
Kwun Tong	0	0	0	0	4	0	18	7	3	17
Wan Chai	0	0	0	0	0	0	0	0	0	0
Total:	7	1	1	4	6	20	23	121	35	371

Note:

The discrepancy between the number of requests for assistance and complaints, and the number of corresponding bedbug control operations conducted in public places, is mainly due to the fact that the complaints/requests for assistance involve individual flats while the HD focuses on handling the public places of the building.

## Annex II

	<i>The number of bedbug control operations conducted in public places corresponding to related complaints and requests for assistance received</i>									
	2009		2010		2011		2012		2013 (as at Aug)	
<i>District Council district</i>	<i>Complaint</i>	<i>Request for Assistance</i>	<i>Complaint</i>	<i>Request for Assistance</i>	<i>Complaint</i>	<i>Request for Assistance</i>	<i>Complaint</i>	<i>Request for Assistance</i>	<i>Complaint</i>	<i>Request for Assistance</i>
Kowloon City	0	0	0	0	0	0	0	2	0	0

	<i>The number of bedbug control operations conducted in public places corresponding to related complaints and requests for assistance received</i>									
	<i>2009</i>		<i>2010</i>		<i>2011</i>		<i>2012</i>		<i>2013 (as at Aug)</i>	
<i>District Council district</i>	<i>Complaint</i>	<i>Request for Assistance</i>	<i>Complaint</i>	<i>Request for Assistance</i>	<i>Complaint</i>	<i>Request for Assistance</i>	<i>Complaint</i>	<i>Request for Assistance</i>	<i>Complaint</i>	<i>Request for Assistance</i>
Tai Po	0	0	0	0	0	0	0	0	0	0
Central and Western	0	0	0	0	0	0	0	0	0	0
Yuen Long	0	0	0	0	0	0	0	0	0	0
Tuen Mun	0	0	0	0	0	0	0	0	0	2
North	0	0	0	0	0	0	0	0	0	0
Sai Kung	0	0	0	0	0	0	0	0	0	2
Sha Tin	0	0	0	0	0	0	0	0	2	2
Eastern	0	0	0	0	0	0	0	0	0	0
Southern	0	0	0	0	0	0	0	0	0	0
Tsuen Wan	0	1	0	1	0	1	0	2	0	2
Islands	0	0	0	0	0	0	0	0	0	0
Sham Shui Po	0	0	0	0	0	13	5	20	15	184
Wong Tai Sin	8	0	3	17	0	0	0	2	3	39
Kwai Tsing	0	0	0	0	0	2	0	6	3	2
Yau Tsim Mong	0	0	0	0	0	0	0	0	0	0
Kwun Tong	0	0	0	0	1	0	7	0	0	0
Wan Chai	0	0	0	0	0	0	0	0	0	0
Total:	8	1	3	18	1	16	12	32	23	233

Note:

The discrepancy between the number of requests for assistance and complaints, and the number of corresponding bedbug control operations conducted in public places, is mainly due to the fact that the complaints/requests for assistance involve individual flats while the HD focuses on handling the public places of the building.

## Annex III

<i>District Council district</i>	<i>The number of complaints and requests for assistance related to bedbugs received by the Food and Environmental Hygiene Department</i>				
	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013 (as at Aug)</i>
Kowloon City	0	4	0	0	4
Tai Po	2	0	0	1	0
Central and Western	0	0	0	0	2
Yuen Long	0	0	0	0	0
Tuen Mun	1	0	1(1)	3(1)	0
North	0	0	1	1	0
Sai Kung	0	1	3	2	0
Sha Tin	2	1	0	3	0
Eastern	1	2	0	2	2
Southern	2	0	0	0	2(1)
Tsuen Wan	0	3	0	0	0
Islands	0	0	0	0	1(1)
Sham Shui Po	0	2	12(1)	12(2)	18(3)
Wong Tai Sin	2(2)	2(1)	4(3)	2(2)	6(4)
Kwai Tsing	0	0	3(3)	4(2)	0
Yau Tsim Mong	2	6	5	13(2)	10

<i>District Council district</i>	<i>The number of complaints and requests for assistance related to bedbugs received by the Food and Environmental Hygiene Department</i>				
	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013 (as at Aug)</i>
<i>Kwun Tong</i>	0	0	0	4(1)	7(4)
<i>Wan Chai</i>	0	1	0	0	1
<i>Total:</i>	12(2)	22(1)	29(8)	47(10)	53(13)

Note:

() refers to the number of cases involving public housing estate

**DR CHIANG LAI-WAN** (in Cantonese): *I am grateful for the Secretary's reply. I just want to point out that the bedbugs in question are found in people's homes, but the Secretary told me that no bedbugs are found in public places. We are "not on the same frequency".*

*I am very happy to hear the relevant figures clearly presented by the Secretary. While the FEHD and the HD received only some 100 complaints in 2012, the number has risen to over 400 in August this year. In other words, it may even triple that of last year by the end of this year, which is worth our concern.*

*Furthermore, the Secretary just now said that there would be no more bedbugs so long as we maintain a clean domestic environment. But during our visit to a family last week, we found that the situation is not like what the Secretary has said. Let us look at this picture. The old lady has not put on this pair of shoes for quite some time, and this is how they look when she took them out again. According to the old lady, she has been living in Hong Kong for decades and she cleans the house every day. As we can see, her house is very clean. She asked why bedbugs are not found in the past but only recently. What is more, there are similar cases in many other families. We have even inspected her mattresses and bedsteads. As Members can see, the places circled are infested. We have therefore helped the old lady to engage a professional company to deal with the bedbugs in her flat.*



*Earlier on, the Secretary said that bedbugs are not disease vectors. Nonetheless, I believe the Secretary would agree that if a person is bitten by bedbugs, his entire leg may turn red and inflamed. Only his antibodies can fight the infection. If an elderly person is being bitten, his/her immunity would definitely be weakened ...*

**PRESIDENT** (in Cantonese): Please raise your supplementary question.

**DR CHIANG LAI-WAN** (in Cantonese): ... *this is the situation.*

*Secretary, my supplementary question is: Since ordinary insecticides cannot kill bedbugs, it may be necessary to look to professional companies for their pest or bedbug control services. While the Secretary's suggestion is good, we must not forget that the fee is extraordinarily high, ranging from a few thousand dollars to over \$10,000. This is hardly affordable by grass-roots families and public housing tenants. Therefore, Secretary, may I ask whether the Government will consider conducting the bedbug control work for people who have genuine need or in difficult living conditions?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, concerning Dr CHIANG's question of whether bedbug bites would cause immunity problems, I do not have the relevant medical proof for the time being. Nonetheless, I totally agree that bedbug bites will make people feel very uncomfortable and we are therefore very concerned about this issue. Yet, bedbugs are mostly found in home environment. Unless there is wooden or canvas furniture, otherwise bedbugs are rarely found in public places.

At present, there is no such arrangement for the FEHD to do bedbug control work for all private households because in theory, private places belong to private responsibilities. Even if there are numerous requests for assistance, we will have to assess if we have the capability or manpower to deal with the matter. Currently, the FEHD is responsible for, firstly, teaching members of the public what to do, and secondly, providing advice and information for members of the public, after assessment, to seek help from private companies.

Considering Dr CHIANG's remark that certain housing estates are heavily infested, I think the Government can actually perform a co-ordinating role. For example, it may help gather the Mutual Aid Committees (MACs) of different housing estates and identify appropriate bedbug control services provided by private companies. By so doing, the fee to be shared by each household will not be too high. Concerning the special request for government departments to conduct bedbug control work for each household, I am afraid that there is no such mechanism.

**MR CHAN HAN-PAN** (in Cantonese): *The data shows that complaints about bedbugs have increased by more than 300 times over the past five years. According to Dr CHIANG Lai-wan, bedbug reproduces at an admirable speed and will proliferate. Basically, bedbugs cannot differentiate public or private places. Therefore, apart from making window-dressing efforts by cleaning the public places and distributing leaflets, can the Government also do some real work by, for example, providing financial assistance to the needy elderly and poor families in particular, so as to share part of the bedbug control fee, with a view to resolving this problem? Furthermore, in view of the serious infestation of bedbugs, will the Government launch large-scale cleaning campaign to control the problem of bedbugs?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, as I have said just now, Mr CHAN should also understand that the launching of large-scale cleaning campaign in public places may not necessarily control bedbug infestation as the problem is mostly found in home environment. As I have admitted, no mechanism has been put in place for government officials to enter residential places to conduct bedbug control work for each household. Even if this has to be done or the infestation has proliferated, there will be another question of whether the Government has sufficient manpower to deal with the matter.

While private places should have either owners' corporations (OCs) or owners' organizations, public housing estates should have MACs. Therefore, in the face of serious bedbug infestation, I think a more proactive approach is to see if the Government can assume a co-ordinating or leading role to facilitate co-operation between OCs and MACs in tackling the problem together. If a flat is infested with bedbugs, the neighbours will be affected sooner or later.

Co-ordination work will therefore facilitate the pursuit of bedbug control services provided by private companies on a larger scale, thereby lowering the burden of individual household.

Regarding the Member's proposal to provide government subsidies, I really cannot undertake to take this into consideration at the moment. I would rather proceed with the abovementioned work. We are concerned about this problem and would first provide assistance to places recently hard hit by the infestation of bedbugs through public education and co-ordination.

**PRESIDENT** (in Cantonese): Mr CHAN, what is your point?

**MR CHAN HAN-PAN** (in Cantonese): *As I have just said, the number of complaints has risen by 370 times ...*

**PRESIDENT** (in Cantonese): You need not explain your supplementary question. Please repeat the part that the Secretary has not answered.

**MR CHAN HAN-PAN** (in Cantonese): *I wish to ask the Secretary if he thinks the problem of bedbug has gone out of control.*

**PRESIDENT** (in Cantonese): Mr CHAN, you did not raise this question just now.

**DR ELIZABETH QUAT** (in Cantonese): *Apart from bedbugs, the proliferation of cockroaches is equally quick and I have received some complaints from housing estates. Initially, only one or two households have lodged complaints, but then households from a couple of floors have lodged complaints. At last, all households living in the building have been affected. According to many residents, their flats are neat and clean, but cockroaches sneak into their flats through the pipes, and the situation is particularly serious after the launching of cleaning campaigns in the housing estates, which have driven the pests into the residents' flats. The residents have no idea how to handle the proliferation of*

*cockroaches because any action will only drive the cockroaches to another flat. The problem actually remains unresolved.*

**PRESIDENT** (in Cantonese): Please raise your supplementary question.

**DR ELIZABETH QUAT** (in Cantonese): *Can the authorities adopt other measures, such as the Marking Scheme for Estate Management Enforcement implemented in public housing estates? At present, nothing can be done even if a particularly dirty flat is identified to be breeding many pests. This is because the authorities can neither enter the flat to do the cleaning nor deduct any points in connection with the flat. May I ask the Secretary if there are administrative means to help tackle problems originating from certain units?*

*Furthermore, the Secretary just now highlighted the concerted efforts of MACs to raise funds ...*

**PRESIDENT** (in Cantonese): Dr QUAT, you have raised your supplementary question, so let the Secretary reply.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Regarding the problem of cockroaches mentioned by Dr QUAT, I believe the nature of the problem is different from that of bedbugs. Of course, generally speaking, the infestation of pests is closely related to the hygiene of the home and living environment. And yet, bedbug is different from cockroach in that the latter comes when food is not properly handled or the general environment is not clean, and there are effective ways to prevent cockroaches.

Bedbugs, however, are more difficult to deal with. Not only because they are tiny, but also because they can survive in furniture and cracks of wood. Even if pesticides are used, one must be sure that no cracks have been missed. Therefore, in my main reply, I have highlighted the importance of cautiously handling furniture and inspecting if second-hand wooden furniture is free of bedbugs before moving into a flat. Some people even take good precautionary measures by inspecting their luggage on their return from overseas visits, so as to avoid bringing bedbugs into their flats. We cannot say that the presence of

bedbugs is a sign that the place is dirty. Rather, it is a sign that bedbugs are very difficult to be removed. Therefore, precautionary measures are of paramount importance. Once bedbugs are found, they can hardly be removed.

Also, there are cases that the furniture in our flat has been used by other people. If we have kept our flat neat and clean, then where possibly can the bedbugs come from? Thus, used furniture is possibly an important source of bedbugs. Local experts have therefore contemplated to do something about the furniture being disposed at refuse collection points or similar places.

Thus, we should at least find out what kind of furniture has been moved into our flat. I therefore maintain that public education is of paramount importance. For the proactive co-ordination work to be carried out, I have already mentioned and will not repeat.

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing, please raise supplementary question.

(Dr QUAT raised her hand in indication)

**PRESIDENT** (in Cantonese): Dr QUAT, what is your point?

**DR ELIZABETH QUAT** (in Cantonese): *The Secretary has not answered if consideration will be made to tackle the problem by improving the Marking Scheme.*

**PRESIDENT** (in Cantonese): I have reminded Members time and again to accurately and clearly raise their supplementary questions and avoid talking about other issues. In that case, the Secretary will be able to clearly follow the supplementary questions.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): This has something to do with my previous elaboration because in many cases, the infestation of bedbugs owes much to the attention that a resident pays to his home

environment or the furniture or clothes that he has brought into the flat. I have reservation about Dr QUAT's proposal for the time being as the question is not the carrying out of cleaning work in public places. Of course, property management companies do have a part to play in building management, but should we put the blame on them whenever bedbugs are found in living places and ask them to bear the greatest responsibilities? I have yet to come to a conclusion that would justify Dr QUAT's earlier proposal, and that is, imposing punishments on property management companies by introducing a marking scheme.

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing, as this Council has spent nearly 23 minutes on this question, I cannot allow you to raise supplementary question.

**MR WONG KWOK-HING** (in Cantonese): *President, as you have already called upon me, should you allow me to raise my supplementary question as well?*

**PRESIDENT** (in Cantonese): However, the time spent on this question has already exceeded the specified limit.

**MR WONG KWOK-HING** (in Cantonese): *I can make it very brief.*

**PRESIDENT** (in Cantonese): When I called upon you, I did not notice that Dr Elizabeth QUAT has raised her hand to indicate that the Secretary has not answered her supplementary question. Please follow up this question through other channels. Third question.

### **Law-enforcement Actions to Conduct Stop-and-searches and Check Identity Cards by Police Officers**

3. **MR KENNETH LEUNG** (in Cantonese): *President, it has been reported that there are altogether as many as two million instances of police officers conducting stop-and-searches and checking identity cards on the streets every*

year. There are comments that the practices of police officers in conducting stop-and-searches and checking identity cards infringe upon personal privacy and restrict personal freedom. Regarding the necessity of conducting such law-enforcement actions by the police and whether the number of searches is proportionate to and commensurate with the crime rate, and so on, will the Government inform this Council:

- (a) *of the number of instances in which police officers on patrol checked the identity cards of members of the public, the number of body searches conducted on the spot and the number of suspects arrested subsequently each year from 2008 to 2012 (with a breakdown for each quarter by the type of offences in which they were involved);*
- (b) *regarding those members of the public who have not been identified as crime suspects by police officers after checking their identity cards, whether the police will keep the personal information obtained by checking the identity cards of such persons; if they will, of the use and handling of such personal information (including whether it will be stored in a database), as well as the reasons and legal basis for keeping such information; whether there is a requirement for the police to destroy such information after a certain period of time; if there is, of the details; if not, the reasons and legal basis for that; and*
- (c) *of the total number of complaints received by the Complaints Against Police Office (CAPO) each year from 2008 to 2012 in respect of checking identity cards or conducting body searches by police officers on the streets, with a breakdown for each quarter by the respective results of investigation into the complaints; whether the police have reviewed regularly the appropriateness and effectiveness of such practices?*

**SECRETARY FOR SECURITY** (in Cantonese): President, under section 54 of the Police Force Ordinance (PFO) (Cap. 232) concerning "Power to stop, detain and search", if a police officer finds any person in any street or any other public place who acts in a suspicious manner, or whom he reasonably suspects of having committed or being about to commit or intending to commit any offence, the police officer is empowered to stop the person for the purpose of demanding that

he produces proof of his identity for inspection. Under section 17C of the Immigration Ordinance (Cap. 115) concerning "Carrying and production of proof of identity", a police officer is also empowered to require members of the public to produce proof of identity for inspection. Furthermore, a police officer is empowered by individual laws such as the Public Order Ordinance, the Dangerous Drugs Ordinance, the Weapons Ordinance and the Firearms and Ammunition Ordinance to conduct stop and search action. By means of such actions, the police will be in a better position to discharge their statutory functions, particularly in the prevention and detection of crimes and offences, as well as in the prevention of injury to life and property.

The police fully understand the importance of obtaining public co-operation when stop and question or stop and search actions are conducted. In conducting such actions, police officers shall, first of all, identify themselves and, without prejudicing operational efficiency, clearly explain the reason for stopping the person(s) in question. Any search on the person stopped, if deemed necessary, shall be carried out by police officers of the same sex. Police officers shall also inform the person(s) of the reason for and the scope of such a search in advance. Personal data obtained during the stop and question and stop and search actions shall be properly handled in strict compliance with the Personal Data (Privacy) Ordinance (PDPO) (Cap. 486). The police have ensured that all such actions are entirely lawful, necessary and appropriate.

My detailed reply to Mr Kenneth LEUNG's question is as follows:

- (a) From 2008 to 2012, the police conducted an annual average of around 2 170 000 stop and question and stop and search actions. More than 22 500 offences were detected every year on average by way of such actions. Detailed figures of offences detected as a result of stop and question or stop and search actions are at Annex I.

In the past five years, offences detected by the police through stop and question or stop and search actions included serious offences, such as robbery and burglary, as well as other "preventive arrest" offences such as possession of dangerous drugs and possession of offensive weapons. The criminal offences detected as a result of these actions accounted for a yearly average of 24.8% against the total number of offences detected. In addition, from 2011 to 2012, more than 7 400 wanted persons and over 4 500 illegal immigrants,



overstayers and persons in breach of conditions of stay were arrested by the police by means of these actions.

As seen, stop and question and stop and search actions are considerably effective in the prevention and detection of crimes. According to the police, persons who are contemplating to commit crime would often become hesitant for fear of coming to light once police officers conduct stop and search actions against them. This implies that such actions are a powerful crime deterrent and, therefore, necessary and effective in crime prevention and detection.

- (b) The police shall handle all personal data obtained from identity card checks in strict compliance with the PDPO (Cap. 486). Police officers have to ensure that all such personal data are collected for the lawful purpose of execution of duties under section 10 of the PFO, and that the data collected shall not be more than necessary.

Upon exercising the power to conduct an identity card check, police officers, notwithstanding that no offence is disclosed, shall record in their notebooks the incident as well as any basic information adequate for identifying the person, such as the person's name and his Hong Kong Identity Card number. There are two purposes for such a record. First, to provide proper accountability for the actions taken by the police officers; and second, where necessary, to help the police officers recall the actions they took on a particular occasion. Used notebooks are generally kept for three years before disposal.

During an identity card check, a police officer, if having reasonable grounds, may verify the person's Identity Card through the computer system. Such a checking record will be stored in the system for three years, and the officer shall also record the incident in his notebook.

- (c) Figures of reportable complaints received by the CAPO from 2008 to 2012 in respect of stop and question or stop and search actions conducted by police officers are at Annex II. From 2008 to 2012, the CAPO received an average of 219 concerned complaint cases each year, representing about 0.01% of such actions conducted in the

same period. In other words, for every 10 000 stop and question or stop and search actions, approximately one complaint case was received on average.

In addition to regular reviews on the internal orders and guidelines of stop and question and stop and search actions, the police provide training to officers of various ranks to ensure that such actions are properly carried out. Through day-to-day supervision and guidance to their subordinates, front-line supervising officers also ensure that all stop and question and stop and search actions are performed in compliance with the law and procedures. Furthermore, the police have been keeping a close watch on the number of complaints and complaint cases arising from these actions. Suitable administrative measures are also taken to prevent actions that are improper or in violation of relevant orders.

President, notwithstanding the inconvenience that may be caused to members of the public during such stop and question or stop and search actions by the police, I must reiterate that the deterrent effect of such actions on crime is beyond any doubt, and that such actions are, in a certain degree, effective in the discovery and detection of crimes. I hope that Members and the public will understand this and continue to support the enforcement work of the police, so that Hong Kong remains one of the safest cities in the world.

#### Annex I

#### Figures of Stop and Question or Stop and Search Actions Conducted by Police Officers between 2008 and 2012

<i>Year</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
Number of stop and search actions	1 861 864	1 896 592	1 865 434	1 743 028	1 637 334
Number of stop and question actions	413 290	384 843	353 217	357 870	345 917

<i>Year</i>	2008	2009	2010	2011	2012
Number of offences detected*	29 383	26 290	21 902	17 797	17 517

Note:

\* The police do not maintain figures of arrests as a result of stop and question or stop and search actions, nor are there any quarterly breakdowns of the categories of offences committed by the arrestees.

Annex II

Stop and search or stop and question related reportable complaints received by the CAPO from 2008 to 2012

<i>Year</i>	2008					2009					2010					2011					2012				
Total number of Reportable Complaints	2 672					4 231					3 271					2 762					2 373				
Number of stop and search or stop and question related reportable complaints (% against all reportable complaints)	159(5.95%)					326(7.71%)					265(8.1%)					210(7.6%)					137(5.77%)				
Number of allegations of stop and search or stop and question related complaints*	300					561					418					360					261				
Investigation result by allegation	Number of allegations by quarter					Number of allegations by quarter					Number of allegations by quarter					Number of allegations by quarter					Number of allegations by quarter				
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total
Substantiated	0	0	1	0	1	0	0	0	0	0	0	0	0	1	1	1	0	0	0	1	0	0	0	0	0
Substantiated Other Than Reported	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Not Fully Substantiated	1	0	0	1	2	0	0	1	2	3	0	0	0	0	0	0	0	0	0	0	0	0	0	4	4
Unsubstantiated	23	16	16	23	78	10	15	20	17	62	15	9	10	6	40	3	5	1	1	10	3	2	12	4	21
False	2	2	0	0	4	1	1	1	1	4	3	0	4	0	7	1	0	1	0	2	1	1	0	0	2
No Fault	1	1	3	1	6	3	2	5	4	14	1	0	0	3	4	0	0	0	0	0	2	0	1	1	4
Not Pursuable	16	19	12	9	56	8	14	30	27	79	28	9	9	14	60	15	17	5	4	41	9	8	8	15	40
Withdrawn	19	8	20	15	62	34	42	69	56	201	52	39	38	43	172	57	49	27	35	168	37	29	33	30	129
Informally Resolved	26	18	11	36	91	30	54	57	56	197	58	37	20	17	132	33	25	24	26	108	19	10	8	7	44

Year	2008					2009					2010				2011				2012						
Investigation ongoing	0	0	0	0	0	0	0	0	0	0	0	2	0	0	2	0	0	21	9	30	0	5	0	12	17
Total number of allegations	88	64	63	85	300	87	128	183	163	561	157	96	81	84	418	110	96	79	75	360	71	55	62	73	261

Note:

The above figures may be adjusted according to investigation results.

\* Some cases have more than one allegation

**MR KENNETH LEUNG** (in Cantonese): *President, regarding part (b) of Secretary LAI's main reply, I would like to ask whether personal information collected by police officers would include the address of the persons concerned, and why such information would be kept for three years? Have they sought the advice of the Privacy Commissioner for Personal Data (PCPD) in this regard? In addition, whether information kept by the police would be used for other purposes, for example, investigating other cases or conducting criminal intelligence work?*

**SECRETARY FOR SECURITY** (in Cantonese): President, we consider a period of three years reasonable because after the information has been recorded in a police officer's notebook, litigation or other legal matters may arise later. Let me illustrate with a simple example. I have with me information about an appeal case concerning a civil claim for compensation by someone who had his identity card checked and body searched by the police. That case took place in 2006, but it was not until 2010 that ...

(Mr Kenneth LEUNG raised his hand in indication)

**PRESIDENT** (in Cantonese): Secretary, please wait. Mr LEUNG, what is your point?

**MR KENNETH LEUNG** (in Cantonese): *President, I think Secretary LAI needs not recount the whole precedent case; he only needs to give us the name of that precedent case.*

**PRESIDENT** (in Cantonese): Will Members please respect the Secretary's reply. If Members keep interrupting the Secretary, it will only waste more time. Secretary, please answer the Member's supplementary question.

**SECRETARY FOR SECURITY** (in Cantonese): The Court of Appeal handed down its judgment in July 2010, and in the course of hearing, the relevant information must be retained and must not be disposed of. Hence, for the sake of setting an appropriate period, the police adopt a duration of three years. The information will be disposed of after three years if nothing happens. Regarding the reasons for keeping the relevant information, I have already provided an answer in the main reply just now and thus I will not repeat again.

As to whether excessive information have been collected, the Court has examined in detail the case I just mentioned, and it took the view that the information collected was justifiable, lawful, reasonable and constitutional. Regarding information collected during stop and question or stop and search actions, as well as intelligence collected by law-enforcement agencies to combat crimes, I must make it clear that the two are totally different in nature and no comparison should be drawn. Intelligence collected by law-enforcement agencies from various channels such as crime reports submitted by members of the public or the so-called intelligence collected from open sources must be screened, evaluated and analysed before they can be collated into intelligence. Therefore, taking down a person's name cannot be regarded as intelligence or turned into intelligence.

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

**MR KENNETH LEUNG** (in Cantonese): *Secretary LAI has not answered me, when police officers on patrol conduct stop and question or stop and search actions, apart from recording the identity card number and name of the person concerned, will other information, including the residential address of that person be collected as well?*

**SECRETARY FOR SECURITY** (in Cantonese): Generally speaking, we will only ask for the names and identity card numbers of the persons concerned during stop and question and stop and search actions. Of course, I do not preclude the possibility that the relevant police officers might ask for further information from the persons concerned under reasonable conditions in special cases, but this is subject to the situation of individual cases.

**MR CHAN KIN-POR** (in Cantonese): *I think stop and question and stop and search actions are effective in fighting crimes. As the Vice-Chairman of the Independent Police Complaints Council (IPCC), I know that many complaints are related to the use of foul language or impolite treatment, and as a matter of fact, these cases are very difficult to prove.*

*As such cases can be avoided if police officers are equipped with body worn video cameras because the situation can be recorded on the spot, I would like to know about the Government's plan relating to the use of such cameras.*

**PRESIDENT** (in Cantonese): Mr CHAN, what is the relationship between your supplementary question and the main question?

**MR CHAN KIN-POR** (in Cantonese): *Because stop and question and stop and search actions are mentioned, and I think Mr LEUNG queries in his main question why there are so many complaints. I am considering the matter along the direction of how to minimize this type of complaints.*

**PRESIDENT** (in Cantonese): Your supplementary question is not directly related to the main question. Please think again.

**MR CHAN KIN-POR** (in Cantonese): *President, instead of asking this supplementary question, I would like to ask another question. As I just said, many complaints are related to politeness, or the persons concerned may lodge a complain because they query why they, and not other people, are stopped and searched by the police; therefore, complaints are actually caused by this kind of sentiments.*

*I would like to ask the Secretary whether they have recorded some actual cases; in some cases, stop and search actions may not be very useful, but in other cases, such actions can actually help combat crimes, for example, some people may actually be consequently arrested. In this connection, have the authorities collated such information so as to make the police's stop and question and stop and search system more effective?*

**SECRETARY FOR SECURITY** (in Cantonese): The police are concerned about stop and question and stop and search actions conducted by front-line officers, and have been providing training in this regard on an ongoing basis. In the course of training, some common cases would of course be edited into teaching materials to provide real-life as well as simulated scenarios for training purposes, so that police officers can discuss how the situations can be better handled.

Regarding whether there are some real-life recorded cases, as the current plan to equip police officers with body worn video cameras is still on trial, therefore, as far as I know, there is no plan to use actual recordings as teaching materials for the time being. But I think the police will select some common cases handled by front-line officers, cases that are difficult to handle, cases that can be handled in a better way, as well as some solutions, to be edited and recorded, and incorporated into the simulated teaching materials for training front-line officers. Presentation will be provided to these officers, followed by discussions, so that they would know how to effectively handle certain common situations. That is definitely what the police will do.

**MR IP KWOK-HIM** (in Cantonese): *As mentioned in the Secretary's main reply, 2 170 000 stop and question and stop and search actions have been conducted in 2012, and such actions are very helpful to the police, leading to the detection of 22 500 offences by the police. It seems that the police's actions in this regard are actually quite helpful.*

*But as I read further, according to his main reply, such information collected from stop and question and stop and search actions is now recorded in the notebooks of police officers, and members of the public are very concerned about whether such personal information recorded in the notebooks is kept properly and will not be lost. But as indicated by earlier incidents, the loss of*

*personal information by the authorities is not uncommon, and in particular, the report published by the Office of PCPD last week has criticized the police for being extremely negligent and careless in the regard. Under the circumstances, is it true that the police's awareness in the protection of data privacy is not strong enough? If this is indeed the case, how can the police ensure that more training will be provided to front-line officers in this regard, so as to protect the personal data of the public?*

**SECRETARY FOR SECURITY** (in Cantonese): I thank Mr IP for the supplementary question. First of all, I must reiterate that the protection of personal data is very important, and must be handled with special attention. As just mentioned by Mr IP, the report published by the Officer of PCPD on 24 October did refer to some incidents; but as we can see, these are individual, albeit undesirable, cases involving the loss of notebooks by some police officers. Whenever such incidents occur, the police will handle them according to the established practice. First, we will make known the situation as soon as possible and will not conceal any facts; second, we will inform the PCPD. Hence, after receiving the relevant information, the PCPD has also studied this matter and issued its report with recommendations for improvement. The police attach great importance to that report. In this regard, I will conduct a comprehensive review on these recommendations, so as to refine the current system and strive to ensure that all front-line police officers are always vigilant in safekeeping their notebooks. As police officers are members of the disciplinary forces, we will of course handle the matters very seriously if any of them violates the orders.

**MR YIU SI-WING** (in Cantonese): *President, with as many as 17 000-odd crimes detected by the authorities through stop and question and stop and search actions in the past two years, it shows that such actions can help maintain law and order in Hong Kong, and I hope the authorities will not reduce the number of such actions. In the main reply, the Secretary mentioned that over the past five years, more than 200 complaint cases were still received each year in respect of stop and question or stop and search actions conducted by police officers. I would like to ask the Secretary the main contents of such complaints. My second supplementary question is whether the authorities ...*



**PRESIDENT** (in Cantonese): Mr YIU, only one question can be asked in each supplementary question.

**MR YIU SI-WING** (in Cantonese): *They are in fact the same supplementary question, that is, whether the authorities have other measures to minimize the number of complaints?*

**SECRETARY FOR SECURITY** (in Cantonese): As we can see from Annex II, the number of complaints in respect of identity card checks or stop and search actions has actually dropped over the past four years, from 561 in 2009 to 418 in 2010, and from 360 in 2011 to 261 last year, which represents a remarkable decrease of around 60%. Compared with the overall number of stop and question and stop and search actions taken, the complaint rate — as I just mentioned in the main reply — is only about 1 over 10 000, and of this rate of 1 over 10 000, around 90% of the cases are related to minor allegations such as impoliteness; only a very small number of complaints, or less than 4%, are related to allegations of power abuse by the police officers concerned. According to the final outcome of our investigation, for example, there was no substantiated case in 2012, while the number of not fully substantiated cases was four. It is clear that after investigation by CAPO and the IPCC, most of these complaints are actually not valid.

Nonetheless, the police still attach great importance to this matter and hence, substantial resources have been allocated to provide training to officers of various ranks at different stages. I must stress that training is provided at different stages, that is, apart from induction training, all refresher training courses for both front-line officers and supervisors, or even rank-and-file officers after promotion have especially included this area of training in view of its importance. If do not carry out the relevant work or if the work is not conducted properly, highly undesirable effect will be resulted on the detection and prevention of crimes.

I can assure Members that the police will regularly review their work in this regard and strive to do better, so that the work can be effectively carried out, and the persons who are subject to stop and question or stop and search actions would understand the significance of the work.

**PRESIDENT** (in Cantonese): This Council has spent nearly 23 minutes on this question. Fourth question.

### **Outlying Island Ferry Services**

4. **MR LEUNG CHE-CHEUNG** (in Cantonese): *President, the operator of the ferry service between Discovery Bay and Mui Wo indicated earlier that it would discontinue the operation of that ferry route in November this year due to operating difficulties. Upon cessation of the service, some 40 primary pupils going to school in Discovery Bay from Mui Wo by ferry every day and over a thousand visitors to these places during the holidays will be affected. It will take those pupils one and a half hours each journey to go to school by bus instead, which is three times of that by ferry. To show its solicitude for the affected school children and residents, the ferry operator has recently announced that it will continue operating the ferry route until 9 February next year. In this connection, will the Government inform this Council:*

- (a) *of the Government's initiative to help the affected school children so that they need not spend three hours on travelling to and from school every day under the circumstances of the existing ferry operator discontinuing the ferry service between Discovery Bay and Mui Wo with no other operator taking over the operation;*
- (b) *given the report that the discontinuation of the aforesaid ferry service by its existing operator is due to the substantial rise in costs caused by the Marine Department's proposed implementation of measures to enhance vessel and navigational safety, but some of such measures aim primarily to facilitate collecting evidence and tracking down the responsible party by the enforcement authorities in the wake of an accident, rather than enhancing navigational safety, of the views received by the Government during consultation with the industry on such safety measures, as well as the Government's response to such views, including whether it will amend the relevant measures in response to the request of the industry; and*
- (c) *given the report that owing to the small population of outlying islands, ferry service operators may still encounter operating*

*difficulties even if high ferry fares are charged, and that the Government has subsidized ferry services between outlying islands and urban areas on a number of occasions, why the Government has never subsidized other ferry services the operators of which have similarly encountered operating difficulties; whether it will consider providing the relevant subsidies; and whether it will consider, when providing subsidies to ferry service operators, requiring them to take over ferry services of those routes which are not provided with subsidies and have been discontinued due to operating difficulties; if it will not, of the reasons for that?*

**PRESIDENT** (in Cantonese): The Chinese character "蒐" should be pronounced as "sau1".

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, on knowing the intention of the operator of the licensed ferry service between Discovery Bay and Mui Wo to discontinue the service, the Transport Department (TD) immediately discussed with the operator on various measures to improve the financial position of the route with a view to continuing the service. After much further discussion, recently the operator undertook to continue the service at least until 9 February 2014. The TD will continue the discussion with the operator including examining the possibility of adjusting ferry schedule or fare as appropriate. If the operator is determined to discontinue the service, a re-tender exercise will be arranged for the ferry route to identify a suitable new operator.

Our reply to various parts of the question raised by Mr LEUNG Che-cheung is as follows:

- (a) The TD has taken the initiative to contact the school which affected students attend and inform the school of the possible discontinuation of ferry service between Discovery Bay and Mui Wo. The TD also assists the school and parents to contact other ferry and land transport operators (including school bus operators) to provide alternative transport services.

Besides, inter-changing to a ferry or kaito in Peng Chau may also be an alternative when travelling between Discovery Bay and Mui Wo. Since the operator of the ferry route between Discovery Bay and Mui Wo also runs a kaito service between Discovery Bay and Peng Chau, the TD has requested the operator to provide special kaito service between Discovery Bay and Peng Chau when school finishes in the afternoon so as to reduce inconvenience to students if it finally decides to discontinue the service between Discovery Bay and Mui Wo.

The TD will continue to consider if these alternative options are feasible. Meanwhile, as I have stated above, if the incumbent operator eventually gives up operation, the TD will arrange a re-tender exercise and identify an operator willing to take over the service.

- (b) Since the vessel collision near Lamma Island on 1 October last year, the Marine Department (MD) has held over 20 meetings with representatives of the trade through various working groups. They have discussed and drawn up measures to follow-up on the recommendations on improvement in the report of the independent Commission of Inquiry and made by the experts commissioned by MD, with a view to enhancing marine safety. Both parties share the same goal of enhancing the safety for local passenger carrying vessels.

After rounds of consultation with the trade, improvement measures for the first phase will be implemented shortly. These include deploying a crew member to assist look-out in addition to the coxswain during hours of darkness and in reduced visibility, maintaining a muster list, determining the standard on number of crew on board, printing the name or registration number of vessels on lifejackets and requiring watertight doors be fitted with alarming system.

The medium and long term measures include requiring local vessels to install an Automatic Identification System (AIS), Very High Frequency radio and radar. The measure referred to by the

Mr LEUNG is probably about AIS installation. This measure is a recommendation made in the Report of the Commission of Inquiry into the Collision of Vessels near Lamma Island. The MD is of the view that vessels equipped with AIS will allow the detection of their navigation status by other vessels which enables early collision avoidance actions as necessary. This can prevent collision. In addition, when vessels need rescue or assistance in case of emergency or accident, AIS will quickly and accurately show the location of the vessels, thus expediting the rescue missions. Meanwhile, the navigational data could be used for traffic management planning and investigation of accidents. The MD will continue to consult the trade and adopt a fair and reasonable approach in addressing the concerns of the industry premised on the principle of ensuring marine safety. The MD will also provide suitable assistance to shipowners or relevant persons when in genuine need.

- (c) It is the Government's established policy that public transport services should be run by the private sector in accordance with prudent commercial principles to achieve operating efficiency. As there has long been a lack of growth in patronage and given the escalating operating costs of the ferry services, the Government has been providing various measures to reduce the operating costs of the ferry services, which include taking over the responsibility of pier maintenance, waiving fuel duty and reimbursing pier rentals and exempting vessel licence fees for ferry services under the Elderly Concessionary Fares Scheme. In addition, ferry service operators are allowed to sublet shops at the piers to increase non-fare box revenue to cross-subsidize their operations. These measures are applicable to all ferry operators.

Besides, the Finance Committee of the Legislative Council approved funding in 2010 to provide extra Special Helping Measures (SHMs) for the operators of the six major outlying island ferry routes (namely "Central — Cheung Chau", "Inter-islands", "Central — Mui Wo", "Central — Peng Chau", "Central — Yung Shue Wan" and "Central — Sok Kwu Wan" routes) during the three-year licence period from mid-2011 to mid-2014. After the mid-term review, the

Finance Committee of the Legislative Council again approved funding in July 2013 to maintain these SHMs during the next three-year licence period from mid-2014 to mid-2017.

The reason for the provision of SHMs to the above six major routes is that ferry is basically the only external mode of transport for these outlying islands. Its service is indispensable. Nor is there any suitable alternative transport service. Without the Government's SHMs, either there will be huge fare increases, or the operators will refuse to maintain services due to great losses, thus affecting tens of thousands of passengers. The objective of SHMs is to ensure the continuation of such essential ferry services through enhancing their long-term financial viability and maintaining fare stability. On the one hand, we need to support essential services which otherwise would not be financially viable, and on the other hand let the residents of outlying islands shoulder the appropriate fare responsibility.

Regarding ferry services for outlying islands other than the above six routes, the Government will properly process eligible operators' request for SHMs, if any, in accordance with the above policy principles.

**MR LEUNG CHE-CHEUNG** (in Cantonese): *President, the ferry service between Discovery Bay and Mui Wo was originally scheduled to discontinue in November this year, but after the Government's repeated discussions with the operator, the ferry service will extend to early February next year. After the service is discontinued in February next year, many school children have no other alternatives but to travel by land transport for over an hour to go to school. Parents of these children query why the Government does not subsidize the ferry service between Discovery Bay and Mui Wo while it subsidizes the ferry service between Central and Mui Wo. As both ferry routes have land transport as alternative transport service, why does the Government subsidize the former but not the latter?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, as I have explained in my main reply, the reason for the provision of SHMs to the six major routes is that ferry is basically the only external mode of transport for these outlying islands. There are no alternative means of transport and a relatively large number of passengers are affected. These are our major considerations. As regards the ferry route between Discovery Bay and Mui Wo, the TD has discussed with the operator and we find that the situation is different from those six routes. Therefore, we have not provided any special financial subsidy. We had clearly explained the situation and the relevant policy to the Panel on Transport and to the Finance Committee of the Legislative Council when it examined our funding application.

Concerning the current situation of this particular route, the TD has discussed with the operator and considered that there are many alternatives, such as cost cutting and revenue generation to sustain viability for continuous operation. We can continue to negotiate with them.

**MR CHUNG KWOK-PAN** (in Cantonese): *President, when the Government invited bids for this ferry route, only one operator submitted the tender, meaning that no other people were willing to run that ferry route. Although the Secretary said that a re-tender exercise would be arranged, I am afraid that no one would be willing to take over the operation in the end. In particular, the operator had not anticipated the provision of additional special safety measures and hence had not included the extra cost incurred. I once again urge the authorities to reconsider providing this route and the six aforesaid routes with relevant subsidies.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the Government is well aware of the needs of passengers of this ferry route, especially school children travelling to and from school, and we are now doing our best to ensure that proper transport arrangements will be put in place for them. We are considering if there are other feasible options other than direct ferry route. Of course, at the present stage, the operator has promised to operate the route until early February, but it is truly impossible to continue running this ferry route? I think it is too early to tell. Besides, will we really receive no bids in the re-tender exercise? I also think it is too early to tell. Colleagues from the TD are now discussing with the industry to find out more about the

situation. Hence, at this stage we cannot jump to the conclusion that definitely no operation will run the route.

The Member mentioned that after the maritime tragedy near Lamma Island, many additional safety measures are imposed which led to additional facilities and higher cost. In this connection, we are now discussing with the industry and if necessary, the Government will consider their requests of providing appropriate assistance.

**MR TAM YIU-CHUNG** (in Cantonese): *President, Mr Steven HO, Mr Christopher CHUNG and I had a meeting with the representatives of the Passenger Carrying Vessels Concern Group of the Joint Conference of Hong Kong Marine Sectors last week. The Concern Group is composed of representatives of 15 trade unions and other organizations in the sector. At the meeting, these representatives stressed that the safety measures imposed on the trade by the Government were requirements stipulated by the International Maritime Organization on seafaring vessels. Their small vessels could hardly comply with those requirements. They highlighted that the trade suffered from acute manpower shortage but the Government had not provided any training courses for the industry. Besides, the average age of workers in the trade was already over 55, how would the Government help them address the problem of manpower shortage? Would the Government assist them in recruiting and training workers?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): *President, we know that after the maritime tragedy, both the Government and the industry are very much concerned about marine safety. They all understand and agree with us that there is a need to implement marine safety measures. Therefore, the industry, the Bureau and the Marine Department have met constantly and the last meeting was held last Wednesday. At present, the trade basically agrees to implement the five measures mentioned in my main reply shortly and it is believed that the trade can cope with those measures in their operation.*

Regarding the problems of long-term manpower and training brought up by Mr TAM, these problems are also included in our discussion. We understand that the trade has to make adjustments in this respect. Therefore, our short-term



measures have less impact on them, but in the medium to long run, we are willing to examine the implementation table. On the premise of ensuring safety, we will discuss with the trade the schedule and extent of implementing the measures in the light of the conditions of the trade.

Concerning the specific problem of manpower training, we understand the problems faced by the trade, and hence we have discussed with the trade and training institutes on how to enhance the training of workers. The Government will establish a training fund for maritime and aviation transport and we propose to use a portion of the fund to support the training of talents for local vessels. We are willing to discuss with training institutes, relevant chambers of commerce and trade unions about how to optimize the training fund to support and train the maritime personnel.

**MR STEVEN HO** (in Cantonese): *President, I have attended the meeting mentioned by the Secretary and met with Mr WONG, the person in charge of the company that operates the ferry route. I am glad that he would continue with the operation until February next year, but it will not solve the problem by extending the operation every three months. Regarding the manpower problem mentioned by Mr TAM, the Government has not addressed squarely this problem for a long time and has not offered any effective solution. Even if the Government invites for bids again, the result may not be good.*

*I would like to ask about the manpower problem again. There are only two solutions to this problem. First, enhance the existing training, on which the Secretary has already replied. But no matter how effective the training is, with the workers' average age at 55, it cannot be of much help. Second, recruit young people. I would like to ask the Secretary, as young people prefer getting a vehicle licence to getting a vessel licence, how the authorities can improve the examination system to enhance the incentive of young people to get a vessel licence.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, just now, I mentioned the training fund for maritime and aviation transport. When considering the training of talents, we notice two points. One is the on-the-job training for existing workers and the other is how to recruit new

entrants to the industry, which is very important. Therefore, we will consider various ways to use the training fund to attract new entrants to the sector.

As regards the on-the-job requirements specifically mentioned by Mr HO, the Marine Department is reviewing the situation. We will adopt a more pragmatic approach in considering the current manpower situation and the requirements of talents, so as to draw up requirements that better meet the present environment, so that new entrants can be attracted.

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

**MR STEVEN HO** (in Cantonese): *President, I asked about the licensing system.*

**PRESIDENT** (in Cantonese): Please repeat your question.

**MR STEVEN HO** (in Cantonese): *President, my supplementary question was whether he would revise the licensing system.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the review now conducted by the Marine Department that I mentioned just now also includes the licensing system.

**MR CHAN HAN-PAN** (in Cantonese): *President, many ferry operators have lost interest in running this business lately. The most important reason is that in order to comply with the new requirements imposed by the Marine Department, their business has become unprofitable and can barely sustain. Even for some popular routes, only one submission is submitted despite the Government's repeated invitation for tender. In the face of such a passive situation, will the Government discuss the policy on ferry services now instead of reviewing it a few years later as originally scheduled?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, we have finished the mid-term review on ferry services early this year and we have applied to the Finance Committee for funding as recommended to ensure that the relevant operators will continue to operate during the three-year licence period from 2014 to 2017. We consider that there is no need for a comprehensive review for the time being. Of course, if individual ferry service operators have specific difficulties and problems, the TD is willing to discuss with them to look for ways to broaden their source of income and reduce the expenditure such as adjusting the ferry schedule or fare as mentioned earlier, to make it viable for them to continue with their operation.

**PRESIDENT** (in Cantonese): As Mr James TO is not present here, I will ask Ir Dr LO Wai-kwok to ask the supplementary question.

**IR DR LO WAI-KWOK** (in Cantonese): *President, the Secretary mentioned in the main reply measures taken by the Government to reduce the operation costs of the ferry services, including taking over the responsibility of pier maintenance, waiving fuel duty and vessel licence fees. I would like to ask the Secretary whether such concessionary measures have been provided for the ferry service between Discovery Bay and Mui Wo which is about to be discontinued. If not, in the course of discussion, if this kind of support is offered to the operator, will it sustain the operation? Of course, if these measures cannot help, I agree with other colleagues that the ferry service of routes other than the six major outlying island routes should also be provided with special support under special circumstances.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I have already answered that the measures provided by the Government are applicable to all ferry operators. These measures include taking over the responsibility of pier maintenance, waiving fuel duty and reimbursing pier rentals and exempting vessel licence fees for ferry services under the Elderly Concessionary Fares Scheme, or streamlining the sublet process to allow the operators to earn extra income. Fuel duty has been waived for this route in question.

**PRESIDENT** (in Cantonese): We have spent more than 22 minutes on this question. Fifth question.

### **Allocation of Resources for Tertiary Institutions**

5. **MR CHEUNG KWOK-CHE** (in Cantonese): *The University Grants Committee (UGC) implemented the Competitive Allocation Mechanism (CAM) for the first time in the 2009-2012 triennium. Under the mechanism, various UGC-funded institutions (institutions) have to reserve a certain percentage of their first-year-first-degree (FYFD) places for reallocation among the institutions by the UGC in the light of the outcome of its assessment of the Academic Development Proposals (ADPs) of the institutions. In addition, the Chief Executive undertook in his election platform to review the role, functions and resource allocation criteria of the UGC and the Research Grants Committee (RGC), and to provide more subsidized tertiary education opportunities. So far, such pledges have not yet been fulfilled. In this connection, will the Government inform this Council:*

- (a) *whether it knows the work schedule and details of the academic development planning for the 2015-2018 triennium conducted by the UGC and various institutions; when the UGC will notify the institutions in writing to submit their ADPs, and the respective percentages of FYFD places the institutions are required to reserve; whether the authorities have reviewed the effectiveness and impacts of the CAM on the institutions in the 2009-2012 triennium and the 2012-2015 triennium respectively; if they have, of the details; if not, whether the authorities will conduct such reviews, and the specific timetable for conducting the reviews; whether the authorities have made an assessment with the outcome that the institutions lack the ability to review on their own their teaching capability and development strategies, and they therefore continue to implement the CAM; whether enhancing institutions' international competitiveness is the primary resource allocation criterion adopted by the Government; if so, of the reasons for that; if not, the major criteria;*
- (b) *whether the Government has specifically reviewed last year the functions of the UGC and the RGC, as well as their respective resource allocation work and criteria; if it has, of the details; if not,*

*whether it will conduct such reviews, and the specific timetable concerned; and*

- (c) *given that quite a number of members of the public have urged the Government to increase the number of publicly-funded FYFD places, whether the Government of the current term has any plan to increase such places, so as to fulfil the election pledge made by the Chief Executive; if it has, of the details; if not, the reasons for that?*

**SECRETARY FOR EDUCATION** (in Cantonese): President,

- (a) The UGC usually conducts academic planning with its funded institutions on a triennial basis. This includes an assessment of the ADPs submitted by the institutions to determine the number of student places and the level of recurrent grants required. To ensure that the precious publicly-funded student places are put to their best use for the benefit of the community, the UGC has introduced a performance-based CAM since the 2009-2012 triennium to re-distribute a small number of FYFD places, thereby driving excellence. For the 2012-2015 triennium, the eight funded institutions together had set aside 724 FYFD places per annum. Together with 90 of the 380 additional FYFD places per annum provided by the Government, these places were put in a central pool for re-distribution by the UGC to its funded institutions based on assessment of the ADPs against agreed criteria to reflect their comparative merits. As for the remaining 14 186 FYFD places per annum, which represent 94.6% of a total of 15 000 places, they have not been affected by the CAM.

I would like to stress that the assessment by the UGC of the funded institutions' ADPs and the implementation of the CAM is carried out in a fair, interactive and transparent manner. During the preparatory stage of the academic planning exercise, the UGC will first consult and agree with the institutions on the rules, evaluation criteria, procedure and principles of the exercise. Further than that, the actual assessment will be conducted by a UGC-formed independent dedicated group, comprising outstanding overseas academics and local members not coming from any of the eight

UGC-funded institutions, as a means to ensure a fair, professional and independent assessment.

As far as the outcome of the academic planning for the 2012-2015 triennium is concerned, as compared with the 2011-2012 academic year there is an increase in FYFD places for five among the eight institutions, no change for two institutions and a slight decrease of 28 places for just one institution (representing 2.2% of its FYFD places).

The UGC is thrashing out the details of the academic planning arrangements beyond the 2012-2015 triennium with the Administration. It is expected that the UGC will inform the institutions of the arrangements in early 2014.

- (b) Comprising local members from different quarters and renowned non-local academics, the UGC's main function is to provide impartial and expert advice to the Government on the funding and development of higher education in Hong Kong, thereby assuring the standards and cost-effectiveness of the operations and activities of the UGC-funded institutions. The UGC is tasked with various important functions relevant to the higher education sector, such as the assessment of ADPs prepared by the institutions as mentioned above. Furthermore, the RGC and the Quality Assurance Council under the UGC are respectively responsible for allocating funding for academic research projects undertaken by the institutions and ensuring effectiveness in the quality assurance mechanisms of their programmes at first degree or above level. The fact that these functions are discharged by the independent and professional UGC system helps significantly minimize the Government's direct involvement in higher education matters. In other words, the UGC system plays an important buffer role between the Government and the tertiary institutions, where academic freedom and institutional autonomy are safeguarded while the institutions' accountability to the public is ensured.

All along, the UGC and the agencies within its purview have been performing their functions effectively, greatly contributing to the higher education sector in Hong Kong. At the same time, in

response to changes in society, we also acknowledge the need to review the role of the UGC and its practice standards every now and then to keep abreast of the times.

From a macro perspective, the higher education sector has undergone a number of significant changes in recent years, including the implementation of the New Academic Structure, the revamp of the undergraduate curriculum, promotion of internationalization, and so on. We need time to study the results of these initiatives. The UGC will also need to take charge of numerous tasks, including implementation of the various recommendations of the 2010 Higher Education Review. The Government will continue to keep this under review as appropriate, with a view to tying in with the development of our society and the higher education sector.

- (c) The Government's policy objective is to provide secondary school leavers with quality, diversified and flexible study pathways with multiple entry and exit points through the parallel development of the publicly-funded and the self-financing post-secondary sectors. For the 2012-2015 triennium, we have substantially increased the number of UGC-funded undergraduate places, namely, the number of FYFD places has been increased to 15 000 per annum and the number of senior year intake places has been doubled to 4 000 per annum. This will provide outstanding sub-degree graduates with more opportunities for further study.

Meanwhile, the Government strives to promote the development of the self-financing post-secondary sector, with emphasis on both quality and quantity, through a basket of support measures. The number of full-time locally-accredited self-financing undergraduate places available this year is about 7 000, while the number of self-financing senior year undergraduate places has been increased to 7 600 this year, from about 3 000 in the 2010-2011 academic year.

Through the implementation of these measures, our degree-level participation rate is now over 30%, up from 5% in the 1985-1986 academic year, 18% in the 1995-1996 academic year and 22% in the 2005-2006 academic year. Even if we only take those publicly-funded undergraduate places into account, the current

participation rate is about 23%. It is estimated that in the coming two years, over one third of our young people in the relevant age cohort will have access to degree programmes. Taking sub-degree places together, we expect that 70% of our young people will have access to post-secondary education. These graduates will contribute to the pool of talent underpinning the future development of Hong Kong. Looking ahead, we anticipate that with a decreasing population in the relevant age cohort, the ratio of young people receiving post-secondary education will continue to rise.

**MR CHEUNG KWOK-CHE** (in Cantonese): *As revealed in the main reply, it seems that the Secretary is not willing to conduct a review. However, as reflected by certain information, regarding the re-distribution of FYFD places of the approved four-year programmes per annum among the eight institutions under the competitive allocation for the 2012-2015 triennium, I dare say that the Hong Kong Baptist University (the HKBU) and The Hong Kong Polytechnics University (PolyU) have lost 34 and 109 places respectively. As a result, the HKBU is forced to cancel its undergraduate programmes in physics and digital graphic communication. On the other hand, The Chinese University of Hong Kong, having got an extra 108 places, has offered five new programmes.*

*In fact, many teachers and students have relayed to me that with the passage of the two triennia, it is necessary to conduct a review. But the 10-odd members of the UGC seem to consider a review unnecessary. Have they ever consulted students and front-line teachers? If we consider a comprehensive review necessary, why has nothing been done after we have been waiting for six years? President, I would like to ask the Secretary what factors have been taken into consideration in concluding in the main reply that there is no need to conduct a review.*

**SECRETARY FOR EDUCATION** (in Cantonese): President, thanks to Mr CHEUNG for the question.

If we review the overall development, as far as the allocation of student places in the second three-year triennium is concerned, only one institution has been slightly affected. For programmes organized by other institutions, such as healthcare programmes, the number of places has increased during the same



period. We can also see progress in some other aspects. This shows that enhancement is made through a slight adjustment in the number of places among the eight institutions.

Secondly, as I have mentioned in the main reply, it is not that we will not conduct a review. We have been monitoring the development. As we are still reviewing the data on the first year development of the New Senior Secondary Academic Structure at the moment, and the UGC is also conducting a study with the Administration, we hope that comments can be put forward in early next year for an in-depth examination with the institutions.

**MR WU CHI-WAI** (in Cantonese): *President, I notice from part (c) of the main reply that articulation programmes for associate degree students to enter universities are in short supply. However, as reflected in the main reply, it seems that there is still great limitation in increasing the total number of university places. In the face of insufficient articulation places for associate degree graduates, may I ask the Government whether it will, apart from providing more places under the existing university mechanism, consider extending the current further studies grants scheme, so that eligible students may enrol in qualified overseas universities to pursue further studies as an alternative to local institutions?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, we have also kept an eye on the development in several aspects. The whole reform of the New Senior Secondary Academic Structure aims at providing diversified pathways for students. Let us take a look at the statistics on the pathway of secondary six students in 2012, of some 59 000 school leavers who had responded, 87.8% continued their full-time studies; among them, 31.6% enrolled in undergraduate programmes, 37.3% enrolled in other tertiary programmes, and 15.7% enrolled in other full-time programmes. About 7.7% of school leavers took up full-time jobs while 3.5% took up part-time jobs or enrolled in part-time programmes. Regarding destination for further education, around 7% of the students continued their studies overseas. All these show that we have made progress in different aspects.

At the same time, we are aware of the demand for university places. In addition to increasing the number of subsidized FYFD places to 15 000 per

annum, we have increased the number of senior year undergraduate places to 4 000 per annum. This reflects that we have already made arrangement in response to the needs of the community. Apart from programmes offered by traditional universities, we should not neglect other professional and vocational training programmes.

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

**MR WU CHI-WAI** (in Cantonese): *President, the Secretary has not answered the supplementary question. There are 33 000 associate degree students every year ...*

**PRESIDENT** (in Cantonese): Please repeat your supplementary question.

**MR WU CHI-WAI** (in Cantonese): *My question is about the pathways for associate degree students. Will the Government provide multiple options for these students?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, associate degree students have diversified study pathways. Apart from the traditional study pathway, there are many other professional and career paths. These students may attain various qualifications and get different achievements through other pathways, including the system within the qualifications framework.

**DR FERNANDO CHEUNG** (in Cantonese): *President, first of all, I have to declare that I am teaching in the PolyU.*

*The Secretary said that the CAM has no impacts on the institutions. Again this is "hypocritical rhetoric" by fiddling with figures. In the three academic years from 2012-2013 to 2014-2015, the PolyU has contributed 109 places but in return none is rewarded. How can this be regarded as having no impacts? Under the CAM, universities are forced to contribute 6% of their*

*places for reallocation by the UGC. This has triggered fierce fights among different departments of a university. They try to think of ways to evade contributing their places. The principles in making contribution should tie in with the principles laid down by the UGC, which take into account academic publication, followed by the performance of students. What is the meaning of performance? It means how much the students earn after they graduate ...*

**PRESIDENT** (in Cantonese): Mr CHEUNG, please ask your supplementary question.

**DR FERNANDO CHEUNG** (in Cantonese): *... this is market-oriented. The so-called "competitive allocation" is definitely making the whole university education system more and more market-oriented. If the Secretary does not conduct a review, many human science departments (including history) or even the departments of science and physics will soon close down ...*

**PRESIDENT** (in Cantonese): Mr CHEUNG, please ask your supplementary question.

**DR FERNANDO CHEUNG** (in Cantonese): *This is a very short-sighted measure. I would like to ask the Secretary when he is willing to review this mechanism. Please do not be so short-sighted. Please allow the higher education of Hong Kong to make long-term and far-sighted development, instead of being market-oriented.*

**SECRETARY FOR EDUCATION** (in Cantonese): I would like to respond to the situation of the PolyU mentioned by Mr CHEUNG. For the 2012-2015 triennium, the number of places of the PolyU has in general increased by 3.4%. Of course, the abovementioned enhancement is related to individual departments. Let me read out some information here. Under the general classification system, the departments of medicine, dentistry and nursing had a total of 434 places in 2009-2010 and the number has increased to 611 in 2014-2015. This is exactly the adjustment made to help the institution prioritize and optimize its programmes.

Regarding the conduct of a review, just now I have mentioned the academic planning arrangements beyond the 2012-2015 triennium. The UGC and the Administration are now discussing the development in different aspects. It is anticipated that by early next year, concrete details will be available for further examination with the institutions.

**DR FERNANDO CHEUNG** (in Cantonese): *The Secretary has not answered at all ...*

**PRESIDENT** (in Cantonese): Please repeat your supplementary question.

**DR FERNANDO CHEUNG** (in Cantonese): *He is only fiddling with the hypocritical rhetoric. The figures he provides are not what we are talking at all ...*

**PRESIDENT** (in Cantonese): Please repeat your supplementary question in a simple way.

**DR FERNANDO CHEUNG** (in Cantonese): *My question is when he will conduct a review. The figures he mentioned are actually the places to recover those being curtailed in the past.*

**SECRETARY FOR EDUCATION** (in Cantonese): As I have mentioned just now, the UGC and the Administration are now examining the development in different aspects, including other development in the reform of the New Senior Secondary Academic Structure. The issue on CAM will also be considered. Hopefully by early next year, more concrete details can be available for further discussion with the institutions on the long-term development.

**MR LEE CHEUK-YAN** (in Cantonese): *President, I would like to follow-up on the issue of marketization mentioned by Dr Fernando CHEUNG and Mr CHEUNG Kwok-che. The whole idea of the Secretary is to ask the institutions*

*to assess on their own the demands in the community and suspend those courses which are deemed to have no social demand and introduce those that are in demand in the community. This is very short-sighted.*

*I would like to ask the Secretary if he discriminates against or hates physics. In fact science is very important. If we only focus on practical subjects without studying science, there will be no scientific research in Hong Kong. Then how can we develop high technology? What is the purpose of the Government to set up the Science Park?*

*I would like to ask the Secretary whether he agrees that the mechanism will only lead to discrimination against human sciences subjects. Does the Government discriminate against sciences? If so, why did it set up the Science Park? I would like to ask whether the Secretary has any discrimination.*

**SECRETARY FOR EDUCATION** (in Cantonese): I thank Mr LEE for his question. Some may doubt whether the mechanism will commercialize education and affect scientific development. I think such a remark is not founded. The UGC attaches great importance to the development of humanities and sciences. Throughout the whole process, the UGC does not and cannot force the institutions to offer particular courses and it has never interfered in the funding allocation of the institutions among different departments.

With the exception of some subjects which have to meet specific manpower targets, institutions enjoy high autonomy in deciding their internal deployment regarding student places and resources. This is how the present mechanism works.

Besides, through the discussion between the sub-committees of UGC and the institutions, we can promote development in various aspects through overall consideration of the institutions' development plans.

**PRESIDENT** (in Cantonese): This Council has spent more than 22 minutes and 30 seconds on this question. Last question seeking an oral reply.

### **Closure of a Tenement Building in To Kwa Wan**

6. **DR PRISCILLA LEUNG** (in Cantonese): *President, it is learnt that in October 2009, the Buildings Department (BD) issued repair orders to the owners of a tenement building at 51 Kai Ming Street, To Kwa Wan, requiring them to repair the external walls, common areas and pipes of the building. In early 2010, the BD further found that there were problems with the cantilevered slab balconies of the building and, therefore, issued statutory orders to the owners requiring them to arrange for a detailed investigation. Subsequently, the BD included the building in the "Operation Building Bright" programme, and the owners paid the costs of about \$17,000 per household for the repair works, which were completed in October 2011. Yet, in August this year (that is, less than two years after the completion of the works) and on the ground that the balconies of the building constituted an immediate danger, the BD applied to the court and was granted a closure order to close the building. In this connection, will the Government inform this Council:*

- (a) *of the specific relocation arrangements made by the authorities for the affected residents and ground floor shop operators since the aforesaid closure order was served, as well as the progress of the investigation works conducted by the BD and the anticipated completion date; whether the authorities have formulated plans to deal with the situation where the building is confirmed as no longer suitable for habitation, including matters such as demolition of the building and proper resettlement of the residents;*
- (b) *given that the BD had, as early as in the beginning of 2010, found that the aforesaid building had structural problems and erected emergency shoring as a protective measure, which indicated that the building was in danger of collapse at any time, why the BD subsequently did not incorporate the further strengthening works of the balconies into the repair works under the Operation Building Bright (OBB) programme for concurrent implementation, and whether the authorities have assessed if there is any mishandling involved; and*
- (c) *whether it knows if the Urban Renewal Authority (URA) will consider taking the initiative to make offers for acquiring the*

*aforesaid building as well as other old buildings in the vicinity for redevelopment; if not, of the reasons for that?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, building owners are responsible for the maintenance and management of their property, and they need to also comply with the statutory orders issued against their buildings by the BD. The Government always attaches importance to building safety, and has been encouraging and supporting owners to take up the responsibility for property maintenance. In 2009, the BD identified that there was dilapidation in the building at 51 Kai Ming Street (the building) and had since been taking appropriate actions. These actions included issuing a repair order to the owners concerned in October 2009 in accordance with the Buildings Ordinance, requiring them to repair the external walls, common areas and pipes of the building. Upon identifying structural problems of the cantilevered slab balconies (the balconies) on the first floor of the building, emergency shoring was erected as a protective measure in February 2010. In addition, an order was issued to the owners in March 2010 requiring them to appoint an Authorized Person to conduct a detailed investigation of the building.

Since the owners concerned failed to arrange by themselves the carrying out of the repair and investigation works, and expressed that they had financial difficulties, the building was included in the OBB scheme. The BD subsequently engaged a contractor to carry out repair works for the external walls, common areas and pipes of the building. The repair works were completed in October 2011. It should be noted that under the OBB scheme, the interior of individual flats of the building is not covered.

As regards the detailed investigation of the building, the BD engaged in December 2010 a consultant to conduct the investigation works. However, owing to failure to gain entry into the concerned flats, the investigation could not be completed until after the consultant finally obtained consent from the owners and residents in May 2013 for entering individual flats to carry out investigation. According to the investigation report and analysis submitted by the consultant in August 2013, the structural conditions of the balconies concerned were poor. After consideration, the BD decided that the balconies should be removed and further investigation of the parent building was necessary to ensure the safety of the residents of the building and the public.

The BD applied for and obtained a closure order from the Court on 30 August 2013, and made arrangements on the ensuing two days for the residents to return to the building to remove their personal belongings. The BD then immediately proceeded with the erection of temporary shoring and collection of concrete samples.

My reply to the three-part question is as follows:

- (a) Since serving the notice of intention to apply for a closure order on 22 August 2013, the BD has all along maintained communication with the owners, residents and shop operators concerned to understand their needs and concerns. In parallel, the BD has also been working closely with the relevant departments, including the Housing Department, Social Welfare Department and Home Affairs Department, to offer assistance to the affected residents.

All 32 occupants moved out from the building on 30 August this year. While a number of them arranged for temporary accommodation themselves, the others were arranged to move temporarily into private hostels and subsequently into the Housing Department's temporary accommodation in Shek Lei. At present, 17 tenants are still living in Shek Lei. As for the shop operators on ground floor, they can continue their business for the time being. The BD will continue to work with other departments to provide appropriate assistance to the residents, and will keep them abreast of the latest development.

The BD finished the installation of temporary shoring for the balconies on respective floors in mid-September and completed further investigation on the parent building in end September. Currently, the BD and the consultant are analysing the information obtained from the investigation and it is estimated that a detailed report will be completed by the end of this year. Having regard to the investigation results, the BD will determine the follow-up actions required, including whether it is necessary to demolish the whole building or demolish only the balconies on each floor, or other feasible remedial proposals. The BD and other departments will provide appropriate assistance to the residents where necessary.



Before executing the closure order, the BD discussed with the residents and it was agreed that the residents would be allowed to move back to the building (except the area of the balconies) after the BD has finished further investigation on the building. The BD has approached the residents upon completion of further investigation works, and so far none of them has expressed the intention to move back to the building at the moment. As for the shop operators on the ground floor, they can continue their business for the time being.

- (b) As abovementioned, since the owners concerned could not arrange by themselves to carry out the repair and investigation works as required by the statutory orders, the BD included the building in the OBB in 2010 and engaged a contractor to assist the owners to repair the external walls, common areas and pipes. The works concerned were completed in October 2011. As abovementioned, the works did not cover the interior of individual flats. In other words, they did not cover the balconies in individual flats.

To accurately assess the structural conditions of the whole building including the balconies, the consultant engaged by the BD commenced a preliminary inspection in December 2010 and needed to enter individual flats for investigation and taking concrete samples thereafter. However, since the consultant had not been able to obtain the consent from the owners and residents or get into contact with them, the consultant could not enter the flats. The BD finally reached a consensus with the owners and residents in May 2013 on the arrangements concerned. The investigation work was then carried out and completed in late June. Since the conditions of the balconies on respective floors of the building could only be assessed after the investigation, the strengthening works required could not be ascertained by the BD beforehand.

- (c) The URA has been closely monitoring the development of the building concerned and has met with the residents several times to understand their worries and concerns. The URA also explained to the residents in details its policy in undertaking redevelopment projects, as well as the requirements and procedures for the application for the Demand-led Redevelopment Project Pilot Scheme (Demand-led Scheme).

The URA indicated that application from the owners of Nos. 41 to 51 Kai Ming Street under the Demand-led Scheme had been received in end September this year. The URA is processing the application in accordance with established procedures.

**DR PRISCILLA LEUNG** (in Cantonese): *President, in conducting the work, the Government "has not sped up when it should speed up, and has not slowed down when it should slow down". With regard to the building at 51 Kai Ming Street, if the Government had done the preparatory work three years ago, these shop operators and tenants would not have ... In particular, we learn that some tenants had their tenancy agreements renewed only one month before the closure order was issued and as a result, they had to relocate their customers and some of them did not even have enough time to notify their customers. Certainly, I know that the Government has also listened to our views and has given some leeway so that the shop operators can postpone the time for moving out and continue to operate their business for the time being.*

*I would like to ask the Government, given that many owners of the building at 51 Kai Ming Street would like to have the building included in the urban renewal programme, will the Government make special arrangements under this special situation? Since a closure order has been issued with regard to the building, it is no longer an ordinary application for the Redevelopment Project Pilot Scheme. Will the Government expeditiously assist these owners to include the building in the Scheme?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, as I said in the main reply, the owners concerned have submitted their application under the Demand-led Scheme which is being considered by the URA. On the question of whether the Development Bureau will make any special arrangements, we consider it inappropriate to give instructions to the URA under the present circumstances. One reason is that the owners have already submitted their application under the Demand-led Scheme and another reason is that owners of private property are actually responsible for the repair and maintenance of their properties. If the building has to be redeveloped due to the lack of maintenance, it is perceivable that in the redevelopment process, tenants have to be relocated and owners have to be compensated as well. The living conditions of most buildings in the older districts are rather crowded. In respect of the projects

under the Demand-led Scheme submitted by the URA to the Development Bureau for vetting, all housing redevelopment have to be subsidized by public funds. For this reason, we have to handle the matter with caution. However, I can tell Dr Priscilla LEUNG that the URA is very concerned about the building at 51 Kai Ming Street and will pay close attention to the investigation report of the BD. I believe the URA will, after getting the analysis, take appropriate follow-up actions.

**DR HELENA WONG** (in Cantonese): *In connection with Kai Ming Street, I hope the Development Bureau will ensure that the situation at No. 51 will not recur. The first few paragraphs of the Secretary's main reply indicated that after the authorities had required the owners to carry out the repair works, they declared the building dangerous. In other words, the owners had paid for the cosmetic works under the OBB scheme. Though "the vital organs" of the building were severely damaged, the authorities still asked the owners to pay for the cosmetic surgery. I hope that the Secretary will not repeat such practices because the situation at 21 Kai Ming Street is similar to that at No. 51. In future, if the authorities again say that they cannot carry out the investigation because owners refuse to let them enter the flats, does that mean if the closure order is issued, owners will open the door or they can get into contact with the owners? I think the Secretary should get his sequence right.*

*At present, many residents of Kai Ming Street cannot return to their homes and members of the same household have to live separately. Some of the residents have been arranged to move into the temporary accommodation in Shek Lei. Since they were initially told by the Government that they only have to stay in Shek Lei for 21 days, they only took with them some clothes and belongings. But when they reached Shek Lei, they found that there were no cooking stove and refrigerator. They thought they only have to tolerate the situation for a short while, but two months have now gone by. The Secretary said that investigation works had been completed and he has got the information, but after these people have been waiting for two months, he said it would take two more months to analyse the information ...*

**PRESIDENT** (in Cantonese): Dr WONG, please raise your supplementary question.

**DR HELENA WONG** (in Cantonese): *President, I would like to raise a supplementary question on behalf of the residents of Kai Ming Street. Can the Secretary tell them right now what special arrangements will be made under the special situation and how many more months they will have to wait before they know where they will live in future? The reason is that if they have to wait two more months ...*

**PRESIDENT** (in Cantonese): Dr WONG, you have already asked your supplementary question. Please sit down. Secretary, please reply.

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, in the process of applying for a closure order against 51 Kai Ming Street to carry out investigation works, we have tried our best to provide support and assistance to the residents. Members may be aware that we initially arranged the residents to stay in the temporary accommodation in Po Tin, but in response to the requests of the residents, we have liaised with the Housing Department and arranged them to stay temporarily in Shek Lei.

On the question of whether special arrangements can be made for handling the redevelopment application, as I have explained before, the URA is very concerned about the matter and is taking follow-up actions. We consider it inappropriate for the Development Bureau to give any special instructions at this stage. In fact, some Members of this Council are board members of the URA and they would know very well that the URA has to consider an array of factors in considering the redevelopment of Kai Ming Street. These factors, as I have mentioned earlier, include the responsibility for the maintenance of the property, the use of public funds and fairness to other urgent projects of redevelopment.

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

**DR HELENA WONG** (in Cantonese): *My supplementary question is: Can the Secretary tell the residents of Kai Ming Street what special arrangements will be made under the special situation; how long the residents will have to wait, do they have to wait two more months until the completion of the report, meaning*

*that they have to wait four months in total? Or do the residents have to wait for the URA to process their application under the Demand-led Scheme which is estimated to be completed in April next year, which means the total waiting time would be eight months ...*

**PRESIDENT** (in Cantonese): Dr WONG, please do not express your opinion again. Secretary, can you answer the question of how long the residents have to wait?

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, a detailed analysis of the information obtained in the investigation would surely be available by the end of the year. The final outcome would depend on whether the investigation report finds the building suitable for habitation and different follow-up actions will be required.

**DR CHIANG LAI-WAN** (in Cantonese): *First, I have to declare that I am a board member of the URA. As the Secretary has just said, the URA has established procedures in processing the application. However, I also agree that due to the relatively urgent conditions of the building at 51 Kai Ming Street, it may not be possible to wait till next year or even at a later time to process the application. Therefore, I very much hope that the Secretary would adopt a lenient approach in considering the application. I would ask the Secretary whether he will consider making reference to the Ma Tau Wai incident and ask the URA to take the initiative to make offers for acquiring the building for redevelopment.*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): The URA has had many discussions on whether it would take the initiative to make offers for acquiring the building for redevelopment or proceed with the matter in accordance with the procedures of the Demand-led Scheme. The final outcome will depend on the findings of the investigation report of the building. The report may point out that the building is not suitable for habitation and has to be demolished completely, or it may state that the conditions of the building are not very poor and only the balconies have to be demolished while the other parts of the building are suitable for habitation after repair. With different findings,

there will be different ways to resolve the issue. Therefore, President, all I can say is that if the report unfortunately states that the building has to be demolished completely, which means the residents of the building can no longer move back, I believe the URA, the Development Bureau and other relevant Government departments will expeditiously take appropriate actions to assist the residents concerned.

**MR WU CHI-WAI** (in Cantonese): *President, it has been reported that more than 50 000 removal orders are pending processing by the BD. I would like to ask the Secretary whether he has reviewed the reasons for the long delay in processing these removal orders and how many of them involve dangerous structures which have to be dealt with immediately.*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, after a removal order has been issued, the progress of the removal will depend on whether the owners are willing to co-operate. After the entry arrangement was endorsed by the Legislative Council in July 2012, the BD can apply to court for a warrant to enter the building. We have given such instructions to the BD, and it also has its priority of work. Urgent cases will surely be given priority treatment. In addition, the Government will allocate more resources internally so that our colleagues in the BD can strengthen and expedite their law-enforcement work.

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

**MR WU CHI-WAI** (in Cantonese): *My supplementary question is whether the Secretary has reviewed the 50 000 removal orders according to different categories?*

**PRESIDENT** (in Cantonese): Secretary, have the removal orders been classified into different categories?

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, I do not have the information in hand. Let me provide the supplementary information after the meeting. (Appendix I)

**MR PAUL TSE** (in Cantonese): *President, I believe one main reason for the complaint and discontent is that the authorities should have investigated the building before giving approval for works to be carried out under the OBB scheme. How come the serious problems in connection with the balconies have not been identified at all at that time? Soon after the owners had made their payments the authorities told them that the building had to be demolished and they had to move out. I would ask the Secretary whether the authorities have adopted a holistic approach in processing the applications under the OBB scheme or is it true that the BD will only be responsible for examining the external walls and pipes of the building, and cannot or will not deal with any other serious problems detected?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, the OBB scheme is mainly concerned with common areas and external walls and it does not include the internal structures of the units. Nevertheless, I believe that our colleagues in the BD would not turn a blind eye to any problem during their visit, and I am referring to the checks conducted in 2010. The review which led to the inspection and the subsequent closure of the building was, however, a major, large-scale, territory-wide, focused review conducted in various districts. The problems with the balconies were identified only after the key areas of the building had been checked one after the other and immediate follow-up actions had been taken.

**DR HELENA WONG** (in Cantonese): *President, if by the end of this year — we certainly hope that the Secretary can expedite the work and we need not have to wait until the end of the year — the analysis of the building structure indicate that the whole building is dangerous and unsuitable for habitation, I would like to ask the Secretary whether the authorities will expeditiously activate the process if the Demand-led Scheme; if they will, of the details; if not, what are the details?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, as I have said before, I think it is inappropriate for us to speculate on the final findings. However, if the final findings show that the conditions of the building are very poor, and the whole building is dangerous and unsuitable for habitation and has to be demolished as soon as possible, the Development Bureau or the URA will inform the residents concerned of the urgency of the matter and how they will be affected. We will certainly take appropriate actions to deal with the matter expeditiously.

**PRESIDENT** (in Cantonese): This Council has spent about 23 minutes on this question. Oral questions end here.

## WRITTEN ANSWERS TO QUESTIONS

### Changing Facilities for Staff of Contractors for Outsourced Services

7. **MR LEUNG YIU-CHUNG** (in Chinese): *President, it has been recently reported in the press that the outsourced cleansing service contractors (contractors) of the Food and Environmental Hygiene Department (FEHD) did not provide changing facilities for staff to change their uniforms. As a result, female cleansing workers have to change their clothes in outdoor areas. In this connection, will the Government inform this Council:*

- (a) *whether the FEHD has followed up the aforesaid report; if it has, of the progress; if not, the reasons for that;*
- (b) *whether it is stipulated in the existing cleansing service contracts that contractors must provide changing facilities for their staff; if so, of the details; if not, the reasons for that; and*
- (c) *whether it has provided contractors with sufficient space for setting up changing facilities to avoid recurrence of the aforesaid problem; if so, of the details; if not, the reasons for that; whether the Government has other measures in place to solve the problem; if it has, of the measures; if not, the reasons for that?*



**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, at present, the contracts entered into between the FEHD and street cleansing service contractors are outcome-based. Requirements on the clothing of contractors' staff when providing street cleansing services are stipulated in the contracts.

My reply to the various parts of the question is as follows:

- (a) In response to the media report about a contractor's staff changing into uniform in outdoor areas, the FEHD, having looked into the matter, has urged the contractor concerned to make available as soon as possible a suitable place for its staff to change their uniforms. The FEHD has also in writing asked the contractor to refrain from having its staff changing into uniform in outdoor areas. In the meantime, the FEHD has made special interim arrangement to vacate a certain area in a nearby refuse collection point, without affecting its normal operation, for the contractor's staff to get their uniforms changed.
- (b) The contracts signed between the FEHD and its street cleansing service contractors stipulate that the contractors should ensure that their employees are wearing neat and tidy uniforms or special protective clothing as appropriate in the course of service provision. It is incumbent upon the contractors to arrange changing facilities for their staff in order to comply with the requirements of the contracts.
- (c) The follow-up measures taken by the FEHD in response to the incident mentioned have been set out in part (a) of the reply. Part (b) of the reply has made it clear that, under the contracts, the onus of providing their staff with appropriate changing facilities lies with the contractors. The FEHD will continue to monitor closely the service performance of contractors, including their compliance with all the requirements of the contracts, and where necessary, provide suitable assistance subject to resource availability.

### **Measures to Combat Pickpocketing Crimes**

8. **MR ABRAHAM SHEK** (in Chinese): *President, it has been reported that in the first eight months of this year, the number of pickpocketing cases on Hong*

*Kong Island recorded an increase of 26.5% over the same period last year. It has been learnt that some pickpockets are mainlanders who came to Hong Kong with the intent of committing crimes. In this connection, will the Government inform this Council:*

- (a) of the respective numbers of pickpocketing cases in various districts of Hong Kong in the first eight months of this year;*
- (b) whether it has assessed the reasons for the rise in the number of pickpocketing cases on Hong Kong Island this year; if it has, of the details; if not, the reasons for that;*
- (c) of the detection rate of pickpocketing cases in Hong Kong last year; whether it has assessed the effectiveness of the police's efforts in combating such crimes at present; if it has, of the details; if not, the reasons for that;*
- (d) given reports that pickpockets from the Mainland usually commit crimes in Hong Kong in gangs of two or three persons, of the corresponding counter-measures adopted by the police; whether the police will step up its publicity efforts to urge members of the public to help one another in fighting against such crimes; and*
- (e) whether it has assessed if the penalties meted out in general to pickpockets by courts in Hong Kong are adequate to deter Mainland pickpockets from committing crimes in Hong Kong; if it has, of the details; if not, the reasons for that?*

**SECRETARY FOR SECURITY** (in Chinese): President, in addition to the prevention and combat of pickpocketing through a number of measures, the police take enforcement actions against offenders of different nationalities or races in Hong Kong in a non-discriminatory manner.

The Administration's reply to the question raised by the Member is as follows:

- (a) In the first eight months of 2013, there were 943 pickpocketing cases recorded in Hong Kong, a decrease of 68 cases or 6.7% against

1 011 cases in the same period in 2012. Figures of pickpocketing cases in various districts in the first eight months of this year are at Annex.

- (b) In the first eight months of 2013, there were 277 pickpocketing cases recorded in the Hong Kong Island Region, an increase of 58 cases or 26.5% against the same period in last year, and there was a relatively significant rise of pickpocketing cases in bars of Lan Kwai Fong.

The number of restaurants and bars with liquor licences has increased by 13 from 2012 to August 2013, and crowded bars are always prone to pickpocketing.

To combat crime, including pickpocketing, in Lan Kwai Fong, the Central Police District regularly launches large-scale anti-crime operations in high profile, inspecting premises selling liquor and places of entertainment during weekends and holidays. In addition, anti-pickpocket operations are conducted at such premises to safeguard the property of the public.

On another front, a consultative group formed by the Central Police District and stakeholders of premises selling liquor in Central held three meetings from January 2012 to October 2013 for the purpose of publicity and public education on preventive measures against pickpocketing and theft. A total of 300 participants have participated in these meetings.

- (c) and (d)

In 2012, there were totally 1 540 pickpocketing cases recorded in Hong Kong with a detection rate of 14.7%. In the first eight months of 2013, the detection rate was 14.3%, quite the same as that of last year.

The police have adopted a number of measures to combat pickpocketing, particularly against organized pickpocketing activities.

As regards law enforcement, the police have stepped up patrol and surveillance at pickpocket black spots, and in the light of district conditions, deployed officers with anti-pickpocket experience to combat such activities. Front-line officers have also been provided with specific anti-pickpocket training.

In the area of intelligence gathering, the police have strengthened intelligence gathering and cross-sector co-operation by means of communication channels with management staff of shopping malls and shops for the combat and prevention of pickpocketing. Intelligence-led operations are also conducted to raid shops suspected to receive stolen items through pickpocketing.

As regards publicity and education, the Fight Crime Committee continues to adopt "Mind Your Belongings" as one of the themes of its 2013-2014 fight crime publicity campaign. The police also augment public vigilance and crime prevention awareness through different channels, such as bus body advertisements, TV announcements, posters and Hong Kong Police YouTube. Furthermore, a variety of fight crime publicity campaigns are regularly conducted in various police districts. Schools and uniform groups are invited to join effort in distributing publicity leaflets to remind the public of the points to note about "anti-quick cash crimes" so as to avoid being victims of such crimes.

To enhance public awareness of crime prevention, the police have been introducing common mode of operation of pickpocketing through the TV programme "Police Magazine". The public are reminded to keep their property well attended at all times, particularly at crowded places where they should keep their personal belongings, such as handbags and backpacks, to the front or in safe custody.

- (e) According to section 9 of Theft Ordinance (Cap. 210, Laws of Hong Kong), any person who commits theft shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years. When meting out sentences to offenders, the court generally takes into consideration a number of factors, such as how serious the case is and whether the convicted is a repeated offender.

The police will pay close attention to the effectiveness of their anti-pickpocket measures.

Annex

Number of Pickpocketing Cases in Different Regions of Hong Kong  
in the First Eight Months of 2013

<i>Region</i>		<i>Between January and August 2013</i>
Hong Kong Island Region	Central District	144
	Wan Chai District	91
	Western District	10
	Eastern District	32
	Sub-total	277
Kowloon East Region	Wong Tai Sin District	30
	Sau Mau Ping District	22
	Kwun Tong District	39
	Sub-total	91
Kowloon West Region	Yau Tsim District	88
	Mong Kok District	147
	Sham Shui Po District	79
	Kowloon City District	28
	Sub-total	342
New Territories North Region	Border District	14
	Yuen Long District	72
	Tuen Mun District	35
	Tai Po District	26
	Sub-total	147
New Territories South Region	Tsuen Wan District	28
	Sha Tin District	25
	Kwai Tsing District	24
	Lantau District	7
	Airport District	2
	Sub-total	86
Overall Total		943

**Measures to Prevent Purchase of Drugs from Websites on the Mainland**

9. **MR WONG TING-KWONG** (in Chinese): *President, it has been reported that members of the public can easily purchase "Salvia divinorum" (a dangerous drug listed in the Dangerous Drugs Ordinance (Cap. 134)) and a wide array of tools for taking drugs from websites on the Mainland. Meanwhile, regarding the use of Internet as a platform for selling drugs, the police have set up a Narcotics Intelligence Team (the Intelligence Team) with four police officers who are responsible for carrying out Internet patrol and collecting relevant intelligence and evidence. In this connection, will the Government inform this Council:*

- (a) *whether the authorities have followed up the aforesaid report; if they have, of the details; if not, the reasons for that;*
- (b) *according to the understanding of the Intelligence Team, whether the sale of drugs on the Internet is rampant at present; whether it has assessed if the manpower for collection of intelligence is sufficient; whether the authorities have encountered any difficulty in combating the sale of drugs involving websites outside Hong Kong; if they have, of the difficulties;*
- (c) *of the number of cyber drug trafficking cases detected by the police since 2008, the details of such cases and penalties imposed on the convicted persons, and set out the information in table form; and*
- (d) *regarding the problem of purchasing drugs on the Internet, whether the authorities have drawn up any measure to curb the activities concerned and stepped up efforts in publicizing the relevant legislation; if they have, of the details; if not, the reasons for that?*

**SECRETARY FOR SECURITY** (in Chinese): *President, the Government attaches great importance to tackling the drug problem and has been committed to fighting drugs through the five-pronged anti-drug strategy of preventive education and publicity, treatment and rehabilitation, legislation and law enforcement, external co-operation and research. To combat online drug activities, the police set up a cyber patrol team (CPT) in 2008. Since its operation, the CPT has been closely monitoring drug-related information on*

websites and conduct intelligence-led enforcement operations against local cases. The CPT also maintains close liaison with other law-enforcement agencies and refers drug-related information on websites in Mainland and overseas to relevant organizations for follow up.

Our reply to the various parts of the question is as follows:

(a) according to record, among the online drug-related local cases handled by the CPT, none of them was related to the possession or trafficking of "Salvia Divinorum" or drug paraphernalia;

(b) and (c)

since its operation, the CPT has been closely monitoring online drug activities and the situation is found to be stable. As at September 2013, among the cases handled by the CPT, a total of 30 people were arrested for committing offences under the Dangerous Drug Ordinance (Cap. 134), including "trafficking in dangerous drug" under section 4, "offer to supply or procure dangerous drug" under section 5 or "possession of dangerous drug" under section 8. One of them was convicted and sentenced to 12 months probation order. The Administration will continue to ensure sufficient manpower to effectively combat online drugs; and

(d) The Administration will continue to adopt the five-pronged strategy in combating drug activities, including online drug offences. Apart from taking rigorous law-enforcement actions, the Administration is also committed to taking preventive education and publicity efforts to enhance the resolve of the general public (especially young people) against drugs, and promote community awareness (including parents and teachers) about the drug problem. Taking into account the growing popularity of the Internet in recent years, the Administration has also launched various Internet anti-drug preventive education and publicity initiatives, including disseminating anti-drug messages through popular websites, discussion fora and social networks frequently visited by parents and young people, as well as mobile phone applications. The Beat Drugs Fund also sponsors a variety of projects to reach high-risk

youths online for provision of counselling services and enhancing publicity on drug-related legislation.

### **Handling of Complaints About Water Seepage in Residential Units**

10. **MS STARRY LEE** (in Chinese): *President, the Food and Environmental Hygiene Department (FEHD) and the Buildings Department set up a Joint Office (JO) in 2006 to centralize the handling of complaints and enquiries about water seepage in buildings. In his 2010-2011 Annual Report, The Ombudsman pointed out that the lack of concerted effort among the departments concerned in handling water seepage problems was very common and he had drawn the attention of the Central Administration to the matter and had urged for effective measures for improvement. The Director of Audit's Report No. 59 released last year also pointed out that among 10 of the more recent water-seepage cases examined, there had been long periods of inaction by the FEHD in eight of them, with the time of inaction up to five years in individual cases and 44 months on average. The Audit Commission suggested the FEHD to improve the efficiency of its investigations. Besides, some professionals have pointed out that the testing techniques currently adopted by the Government are extremely out-dated, requiring entry into the complainant's unit as well as the unit suspected to have caused the seepage, which will prolong the investigation time, and the success rate of ascertaining the source of seepage in the end is on the low side. In this connection, will the Government inform this Council:*

- (a) *of the number of complaints about water seepage received by JO in each of the past three years, with a breakdown by District Council district where the complaints arose; of the number of those cases in which the source of seepage could not be ascertained in the end and investigation was discontinued; and of the number of cases investigation of which has lasted more than a year but has yet to be concluded since the setting up of JO;*
- (b) *of the measures the departments concerned will take to improve the success rate in ascertaining the source of seepage and to shorten the investigation time required; whether they will consider changing testing techniques to be employed and use more advanced equipment; if they will, of the details; if not, the reasons for that; and*



- (c) *in respect of the cases in which investigation has lasted more than a year but has yet to be concluded, whether the departments concerned will consider according priority to tackling such cases with one-off deployment of additional manpower; if they will, of the details; if not, the reasons for that?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, as property owners are responsible for management, maintenance and repair of their buildings, they have a responsibility for resolving any inter-floor water seepage problems. Hence, if water seepage is found inside a private property, the owner should first investigate the cause and, as appropriate, co-ordinate with the occupants and other owners concerned for repairs.

Where the water seepage problem poses a public health nuisance, a risk to the structural safety of a building or water wastage, the Government would be obliged to intervene and take action in accordance with the relevant provisions of the Public Health and Municipal Services Ordinance (Cap. 132), Buildings Ordinance (Cap. 123) or Waterworks Ordinance (Cap. 102). The JO, currently set up with staff of the Buildings Department and the FEHD, is tasked to tackle water seepage cases through a "one-stop shop" approach.

My reply to the three-part question is as follows:

- (a) The JO is committed to assisting property owners to handle water seepage cases. The JO conducts different tests to investigate the cause and source of water seepage. However, as there are many different reasons causing water seepage in buildings, there may still be cases where the cause or source of water seepage cannot be established despite extensive practical tests conducted, especially where the seepage is not obvious or only intermittent. In the absence of sufficient evidence which proves that the seepage constitutes a contravention of the relevant legislation, the departments concerned cannot take further enforcement or follow-up action in the case.

In the past three years (that is, 2010, 2011 and 2012), the JO received a total of 76 730 reports on water seepage. Other than those non-actionable cases which did not involve water seepage, the

JO, after the completion of investigation and testing, categorized 6 374 cases as "the source of water seepage could not be ascertained". In 2010, 2011 and 2012, the numbers of reports on water seepage received by the JO as well as cases in which the source of water seepage could not be ascertained and investigation into which was ceased, broken down by the 18 District Council districts in Hong Kong, are tabulated below. As there was a lapse of time between receipt of a report and the completion of investigation, a water seepage case into which investigation was ceased in a particular year might not necessarily be received in that same year.

<i>Year</i> <i>District</i>	<i>Number of reports on water seepage received</i>			<i>Number of cases in which the source of water seepage could not be ascertained and investigation ceased</i>		
	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
Central and Western	1 338	1 177	1 213	91	24	131
Wan Chai	908	835	910	51	64	58
Eastern	3 169	2 948	3 315	349	289	304
Southern	1 132	958	1 138	141	136	114
Islands	121	94	127	1	3	2
Yau Tsim Mong	2 441	2 354	2 492	157	93	21
Sham Shui Po	1 826	1 516	1 771	151	115	69
Kowloon City	3 116	2 380	2 798	248	171	79
Wong Tai Sin	980	894	1 125	112	139	126
Kwun Tong	1 675	1 867	2 161	253	262	244
Tsuen Wan	1 330	1 234	1 531	58	99	79
Kwai Tsing	1 188	1 370	1 656	106	85	73
Tuen Mun	1 767	1 703	1 979	144	126	105
Yuen Long	613	612	674	9	30	70
North	663	517	675	47	32	26
Tai Po	752	648	826	28	48	56
Sha Tin	2 003	1 796	1 985	267	241	228

<i>Year</i> <i>District</i>	<i>Number of reports on water seepage received</i>			<i>Number of cases in which the source of water seepage could not be ascertained and investigation ceased</i>		
	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
Sai Kung	695	757	977	109	132	178
Total	25 717	23 660	27 353	2 322	2 089	1 963

The JO does not keep statistics on the processing time of individual cases. Generally speaking, cases which took longer processing time were mainly those with recurring or intermittent water seepage, which called for prolonged investigations and monitoring by the JO.

- (b) As mentioned above, there are many different reasons causing water seepage in buildings. In the light of circumstances of individual cases, the JO will adopt appropriate non-destructive tests to ascertain the source of water seepage. The moisture metre and colour water test currently adopted by the JO are widely used and effective means for ascertaining the source of seepage. The moisture metre is user-friendly and can provide accurate and direct measurement of moisture content for reference. As regards the collection of evidence for enforcement, colour water test is the most direct way for proving the source of water seepage.

To enhance the effectiveness of the JO's investigation of the source of water seepage, the JO, with the assistance of the Hong Kong Applied Science and Technology Research Institute, is working to explore more effective methods for water seepage investigations. In parallel, the JO has recently commissioned consultancy to explore other testing equipment, such as infrared thermography and microwave tomography, with a view to facilitating identification of seepage sources in water seepage investigations.

Since its establishment in 2006, the JO has from time to time reviewed its *modus operandi* as well as strengthened its manpower and monitoring with a view to enhancing the efficiency and quality of the service. The JO has implemented a number of improvement

measures progressively, including strengthening co-ordination and co-operation among the JO staff through regular liaison meetings, formulating milestones and enhancing the Complaint Management Information System for enhanced progress monitoring of cases, as well as drawing up various operational guidelines for reference of staff to enhance the efficiency and effectiveness of handling water seepage cases.

- (c) The time required for processing a water seepage case largely depends on the complexity of the case and the extent of co-operation of the parties concerned, in particular the owners and occupants involved. Since the circumstances of individual cases vary, the procedures and time taken for investigation may also differ widely. For complicated cases which may, for instance, involve multiple sources, recurring or intermittent water seepage, JO staff will have to conduct different or repeated tests or ongoing investigations and monitoring in order to ascertain the cause of water seepage. As these tests take time and require full co-operation of the owners/occupants concerned, the processing of such complicated cases takes more time in general. Where vacant units or unco-operative owners/occupants are involved, the JO would have to apply to the court for warrants of entry in order to carry out investigations. The processing of these cases would be even more time-consuming.

The JO will take into account the circumstances and needs of individual cases and take appropriate steps to conduct investigation so as to expedite the processing of each water seepage case as far as practicable. Given the varied circumstances of individual cases, prioritizing water seepage cases for investigation simply based on the handling time lapsed may not effectively expedite the processing, and is not the most cost-effective arrangement. As such, we have no plan at this stage to accord priority to processing the unresolved cases in which investigation has lasted more than a year. The JO will endeavour to expedite the handling of each water seepage case, taking into account the circumstances of individual cases.

**Registration of New Drugs and Their Inclusion in Drug Formulary and Scope of Subsidies of Various Funds**

11. **PROF JOSEPH LEE** (in Chinese): *President, some members of the pharmaceutical industry have relayed to me that it takes a long time (up to several years for the longest) for completing the procedures for the registration of new drugs in Hong Kong. Moreover, the criteria and procedures adopted by the Hospital Authority (HA), the Samaritan Fund (SF) and the Community Care Fund (CCF) for assessing whether a drug should be included in the HA Drug Formulary (the Formulary) or in the scope of subsidies of the funds are not transparent. In this connection, will the Government inform this Council:*

- (a) *of the number of drug items in respect of which applications for registration in Hong Kong had been made in the past five years; the average, the longest and the shortest time currently taken for vetting and approving applications for drug registration, with a breakdown by the various vetting and approval procedures; whether the authorities will review the existing vetting and approval procedures, establish clear application guidelines and set a reasonable vetting-and-approval time frame so that drug registration in Hong Kong can be expeditiously completed, so as to benefit the patients in need; if they will, of the details; if not, the reasons for that;*
- (b) *given that at present, committees have been set up by various hospital clusters/hospitals to decide if drugs included in the Formulary are to be used in the clusters/hospitals concerned as well as to oversee and manage the Formulary, which may also submit applications to the HA Drug Advisory Committee (DAC) for evaluation of new drugs for the latter to decide whether a drug should be included in the Formulary, whether it knows the respective procedures of such committees in conducting the relevant assessments; the average, the longest and the shortest time taken for completing the procedures; whether the authorities will review the existing assessment procedures with a view to streamlining and shortening the time required for drug assessment with a view to expeditiously including suitable drugs in the Formulary, so as to benefit the patients in need; if they will, of the details; if not, the reasons for that;*

- (c) *whether the authorities will, in the long run, consider setting up an independent committee to assess the inclusion of drugs in the Formulary in a more effective and fair manner; if they will, of the details; if not, the reasons for that; and*
- (d) *whether it knows the procedures and criteria adopted by SF and the CCF Medical Assistance Programme (before its incorporation into SF on 1 September 2012) for assessing whether a drug should be included in their lists of subsidized drugs?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, the HA implemented the Formulary in July 2005 with a view to ensuring equitable access by patients to cost-effective drugs of proven safety and efficacy by standardizing the drug policy and drug utilization in the HA. The Formulary is developed with appraisal of new drugs and review of the prevailing list of drugs by relevant experts on a regular basis. The review process is based on scientific and clinical evidence, in which the safety, efficacy and cost-effectiveness of drugs will be considered. The views of patient groups will also be taken into account. Changes to the Formulary will be made as appropriate.

In recent years, the HA has kept expanding the coverage of the Formulary to benefit more patients. In this financial year, the Financial Secretary announced in the Budget passed earlier that an additional \$44 million would be allocated to include in the Formulary two chemotherapeutic drugs for cancer treatment and to expand the application of two special drugs. At present, there are more than 1 200 standard drugs in the Formulary, all of which have been included after going through a stringent, objective and scientific process.

As regards self-financed items in the Formulary which are subsidized by the safety net, the HA has put in place the SF to provide financial assistance for patients who have met the clinical criteria and passed the means test so that they can purchase the self-financed drugs. Moreover, the CCF Medical Assistance Programme also provides assistance for needy patients.

My reply to the various parts of the question is as follows:

- (a) Under the Pharmacy and Poisons Ordinance (Cap. 138), pharmaceutical products must be registered with the Pharmacy and

Poisons Board of Hong Kong (the Board) before they can be sold and distributed on the market. Applicants are required to submit the relevant information (including the product's formulation, specification, Manufacturer's Licence, reports on clinical and laboratory tests, and so on) to prove the safety, efficacy and quality of the pharmaceutical product before approval for registration is granted by the Board. For pharmaceutical products containing new chemical entities (that is, active ingredients which have not been registered in Hong Kong), applications should be submitted to the Pharmacy and Poisons (Registration of Pharmaceutical Products and Substances: Certification of Clinical Trial/Medicinal Test) Committee (Registration Committee) for approval. In such cases, legislative amendments, including the moving of motions and gazettals, are required in order to incorporate the new chemical entities into the relevant schedules to the ordinance. As for pharmaceutical products without new chemical entity, which are generally known as "generic drugs", the Registration Committee has empowered the Drug Office of the Department of Health (DH) to approve their registration.

The Board approved an average of about 1 100 applications for pharmaceutical product registration (including new chemical entities and generic drugs) annually in the past five years. The number of applications approved each year is listed in the table below:

<i>Year</i>	<i>Number of registered pharmaceutical products</i>
2008	1 056
2009	1 735
2010	1 360
2011	731
2012	679

The DH has always placed emphasis on service efficiency and has pledged that no less than 90% of applications for pharmaceutical product registration would be processed within five months upon the submission of all required documents by the applicants. According to the Board's information, the DH fulfilled the above performance pledge in the past five years, with about 96% of applications processed within five months on average.

The DH has adopted various measures to expedite the approval of registration of pharmaceutical products with new chemical entities. Such measures include increasing the frequency of meetings of the Registration Committee where necessary to process the applications, and notifying the pharmaceutical industry in advance the dates of meetings of the Registration Committee in the coming year. The Food and Health Bureau and DH have also maintained close co-ordination in the relevant legislative amendment exercises.

To help the pharmaceutical industry better understand the registration requirements of pharmaceutical products, the Drug Office of DH has published and uploaded to its website a detailed guide to the registration of pharmaceutical products. In addition, the DH organizes talks on a regular basis to explain the registration requirements to the industry and answer enquiries. Practitioners are also encouraged to direct their enquiries to and seek assistance from the DH. The DH will continue to maintain close communication and liaison with the industry to review and refine the pharmaceutical products registration mechanism in due course.

- (b) The HA appraises new drugs and reviews the prevailing drug list in the Formulary regularly through an established mechanism. The HA Drug Utilization Review Committee (DURC) conducts periodic reviews of existing drugs in the Formulary and the DAC systematically appraises new drugs for inclusion into the Formulary. Both the DURC and DAC are supported by expert panels which provide professional advice on the selection of drugs for individual specialties. They also provide professional advice on safety, efficacy and cost-effectiveness. Besides, the Drug and Therapeutics Committees of individual clusters/hospitals are also responsible for monitoring and administering the implementation of drug utilization policy at cluster/hospital level. They may also submit applications to the DAC for appraisal of new drugs for incorporation into the Formulary.

The DAC conducts meeting once every three months. At every meeting, the DAC was able to complete the appraisal of all applications received and determine whether the new drugs would be



incorporated into the Formulary. As such, there is no longest and shortest assessment time.

- (c) The HA has established an effective and flexible mechanism under which experts appraise new drugs and review the drugs covered by the Formulary on a regular basis. The mechanism has developed continuously in line with such core values as evidence-based medical practice, rational use of public resources, targeted subsidy and opportunity cost, and so on. The review process is based on scientific and clinical evidence, in which the efficacy, safety and cost-effectiveness of the drugs are considered. Reference is also made to international recommendations and practices, development in technology, drug classification, disease states, patients' compliance to medication, patients' quality of life, actual experience in the use of drugs, comparison with available alternatives, and views of professionals and patient groups. This mechanism has been operating effectively. Apart from putting the drug policy of Hong Kong in line with international developments, it also helps to ensure that we will keep introducing new drugs into the public healthcare system.

The HA keeps in close liaison with patient groups and listen to patients' views about the Formulary. To further increase transparency and patient participation, the HA holds consultation with patients' organizations about the Formulary and SF every year. During the consultation, the HA will, besides informing patients' organizations of the latest development of the Formulary and SF, listen to their major concerns and opinions and relay their views and suggestions to the relevant committees for consideration. In addition, the Chief Executive of HA meets with patient representatives regularly and listen to their views about patient services. This platform gives the HA an additional channel to communicate with patient groups on issues related to the Formulary. In order to enhance the transparency of inclusion of new drugs in the Formulary and improve the communication with patients' organizations, the HA has uploaded the membership composition of the DAC, the drug lists discussed at meetings, the review outcome of each application and the reference literature used for making the assessments to its intranet and the Internet for public reference.

The Government and HA will continue to optimize the use of limited public resources in a fair and effective manner to provide healthcare services for more patients. We will also review the Formulary in accordance with the existing mechanism and actual circumstances.

- (d) Since its establishment, CCF has rolled out 18 assistance programmes including two medical assistance programmes (First Phase and Second Phase). The Second Phase Programme of CCF Medical Assistance Programme has been incorporated into the Government's regular assistance programme, that is, SF, with effect from 1 September 2012.

SF and the First Phase Programme of the CCF Medical Assistance Programme currently provide financial assistance for patients in need of specified self-financed drugs. Both Funds periodically review their lists of self-financed drugs. The DURC will submit recommendations to revise the lists of subsidized drugs to the two Funds on a regular basis.

For drugs to be covered by SF, recommendations of the DURC, if endorsed by the Samaritan Fund Management Committee, will be submitted to the Medical Services Development Committee of the HA Board for approval. For drugs to be covered by CCF, recommendations of the DURC, if endorsed by the HA CCF Administration Committee, will be submitted by the HA to the CCF Task Force under the Commission on Poverty (CoP) for consideration. Upon endorsement by the Task Force, the recommendations will be submitted to the CoP for approval.

In deciding whether the drugs should be covered by the Funds, the committees under the HA will take into account various factors such as safety, efficacy, cost-effectiveness, international recommendations and practices, estimated number of beneficiaries, financial implications on the Funds, and so on.

### **Dental Services for Elderly and Grassroots**

12. **MR ALBERT CHAN** (in Chinese): *President, I have learnt that many members of the public are currently suffering from persistent dental problems,*

*and quite a number of them are low-income persons who are, nonetheless, ineligible for various subsidies, such as the grant to cover dental treatment costs under the Comprehensive Social Security Assistance (CSSA) Scheme, the subsidy for dental services for the elderly under the Community Care Fund (CCF) nor the Elderly Health Care Voucher. Due to the inadequacy in public dental services, they can seek treatment only in private dental clinics, which is a heavy financial burden on them. In this connection, will the Government inform this Council:*

- (a) whether it has assessed the number of adults in need of dental treatment services; if it has, of the details; if not, the reasons for that;*
- (b) whether it has assessed the number of members of the public who cannot afford private dental treatment services; if it has, of the details; if not, the reasons for that;*
- (c) whether it has assessed if the existing public dental services are sufficient to meet public demand; if it has, of the details; if not, the reasons for that; and*
- (d) whether it will consider enhancing public dental services, including the introduction of ex gratia allowances for elderly dental services and increasing the number of public dental clinics, so that more members of the public can receive inexpensive quality dental services; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, the Government's policy on dental care seeks to raise public awareness of oral hygiene and facilitate the development of proper oral health habits through promotion and education, thereby improving public oral health and preventing dental diseases. The Government has been allocating resources primarily to promotion and preventive efforts. To enhance the oral health of the public, the Oral Health Education Unit of the Department of Health (DH) has, over the years, implemented oral health promotion programmes targeted at different age groups and disseminated oral health information through different channels.

My reply to the various parts of the question is as follows:

(a) and (b)

To help the Government formulate effective goals and programmes on oral health, the DH is committed to conducting a territory-wide oral health survey every 10 years in accordance with the criteria recommended by the World Health Organization. According to the territory-wide oral health survey in 2001, the oral health status and gum condition of the adult population in Hong Kong had the same ranking as, if not better than, its counterparts from most developed countries in the world. The DH conducted another territory-wide oral health survey between May 2011 and February 2012 to continuously monitor the oral health status of specific groups and assess their oral health behaviours and habits. The preliminary findings of the survey showed that the oral health of Hong Kong population, in terms of tooth loss, was satisfactory as compared with most developed countries. The oral health survey report is expected to be completed in six months and the findings will be useful for planning and assessing various oral health programmes.

(c) and (d)

Apart from working on promotion and prevention, the Government also provides emergency dental treatment for the public and special oral care services for in-patients and persons with special oral healthcare needs. Basic and preventive dental treatment is provided for primary school students through the School Dental Care Service to help them build up a good foundation in oral health and develop proper dental care and cleaning habits.

At present, the DH provides free emergency dental services (generally referred to as General Public Sessions) through its 11 government dental clinics. Dental services provided in General Public Sessions include treatment of acute dental diseases, prescription for pain relief, treatment of oral abscess and teeth extraction. The dentists will also give professional advice to patients with regard to their individual needs. In addition, specialist oral maxillofacial surgery and dental treatment are provided by the Oral Maxillofacial Surgery and Dental Units (OMS&DUs) of the DH in seven public hospitals for the referred in-patients as well as

patients with special oral healthcare needs and dental emergency. The specialist dental care services in OMS&DUs are provided through referral. Members of the public in need of these services may seek referrals by hospitals/out-patient clinics under the Hospital Authority or any registered dentists or medical practitioners. OMS&DUs will arrange appointments for them according to the urgency of their conditions. Patients with emergency needs, such as cases of dental trauma, will be provided with immediate consultation and treatment. Currently, the Government does not have any plan to expand the public dental services. Curative dental services are mainly provided by the private sector and non-government organizations (NGOs). As at September 2013, there were about 2 100 registered dentists in Hong Kong serving members of the public.

As for elderly people with financial difficulties, dental grants are available under the CSSA Scheme for recipients who are aged 60 or above, disabled or medically certified to be in ill-health to pay for dental treatment services (including tooth extraction, dentures, crowns, bridges, scaling and polishing, fillings and root canal treatment). Eligible recipients can approach the 57 dental clinics (including two mobile clinics) designated by the Social Welfare Department (SWD), for dental examination and cost estimation. They may choose to receive the relevant dental treatment from either the designated dental clinics or any registered dentists at non-designated dental clinics. The amount of grant payable will be based on the exact fee charged by the non-designated clinic, the cost estimated by the designated clinic or the ceiling set by the SWD, whichever is the less.

As far as the elderly people are concerned, the Government has put in place a series of measures in recent years to strengthen the dental services provided for them. In 2009, the Administration launched the Elderly Health Care Voucher Scheme to provide financial subsidies for elders aged 70 or above to use private primary healthcare services, including dental services, within their neighbourhood. As at mid-September 2013, a total of 392 dentists enrolled in the Scheme. The annual voucher amount has been increased to \$1,000 since 1 January 2013 and the Scheme will be

converted from a pilot project into a recurrent support programme for the elderly in 2014.

As elders residing in residential care homes (RCHEs) or receiving services in day care centres (DEs) are generally physically weak with frail conditions, the Government launched the three-year Pilot Project on Outreach Primary Dental Care Services for the Elderly in RCHEs and DEs (Pilot Project) in collaboration with NGOs in April 2011 to provide these elders with free outreach primary dental care and oral healthcare services. The Pilot Project is expected to provide services for about 100 000 attendances. We are actively considering its long-term implementation.

The CCF has also set aside \$100 million for the Elderly Dental Assistance Programme (programme) to subsidize low-income and needy elders for dentures and related dental services. The programme has been implemented since September 2012. The CCF Task Force under the Commission on Poverty has been monitoring the implementation of the programme. A working group has been set up to enhance the arrangements of the programme and consider expanding the number of beneficiaries progressively, taking into account the progress of implementation and the experience gained, as well as the supply of local dentist manpower, so that more elders who are facing financial difficulties and are not recipients of CSSA will benefit.

We will continue our publicity and education efforts to improve the oral health of the public.

### **Expeditious Implementation of Railway Development Plans**

13. **DR ELIZABETH QUAT** (in Chinese): *President, quite a number of residents of New Territories East have complained to me that the train compartments of various railway lines are packed with passengers during both the rush hours and off-peak hours at night, and passengers thus often have to wait for a long time before they can board the train. They consider that the patronage of the existing railway has already reached its capacity, and they are worried that the overcrowding of train compartments will worsen upon the*

*commissioning of the West Island Line and South Island Line (East) in 2014 and 2015 respectively. Regarding the expeditious implementation of the railway development plans for new railway lines to alleviate the crowdedness of train compartments, will the Government inform this Council:*

- (a) given that the Stage 1 and Stage 2 of the Public Engagement Exercises in connection with the review and update of the Railway Development Strategy 2000 were completed in July 2012 and May 2013, of the schedule and details of the relevant follow-up work;*
- (b) given that the Government plans to give an account to the public of the way forward of the different railway projects within 2014 (that is, more than one year after the completion of the public engagement exercises), of the reasons for the long time required for the relevant follow-up work, whether it has evaluated if such pace of work runs counter to public expectation, and whether it can give an account to the public at an earlier date; if it can, of the schedule; if not, the reasons for that; and*
- (c) whether it will consider giving an account to the public at an earlier date of the way forward of those new railway projects of a more pressing need; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, my consolidated reply to the three parts of Dr Elizabeth QUAT's questions is as follows:

Railway projects have profound impact on the society, people's livelihood and economic development. It often takes eight to 10 years for a railway project to take shape from formulation of ideas, conceptual planning, consultation with stakeholders, detailed design, to actual construction and completion. We are now taking forward five new railway projects in full swing, namely, the West Island Line, South Island Line (East), Kwun Tong Line Extension, Guangzhou-Shenzhen-Hong Kong Express Rail Link and Shatin to Central Link. These projects are expected to be completed in succession between 2014 and 2020.

To allow early planning for railway development beyond 2020, the Government has commissioned a consultant to conduct a study for the Review and Update of the Railway Development Strategy 2000, with a view to updating the long-term railway development blueprint for Hong Kong to cater for the latest development needs of the society. We conducted the Stage 1 Public Engagement exercise from April to July last year, with the focus on the conceptual proposals of three major regional railway corridors, and the Stage 2 Public Engagement exercise from February to May this year to explore the conceptual proposals of seven local enhancement schemes.

The schemes proposed at the two stages are conceptual proposals which the consultant, upon preliminary study, considers worthy of public discussion. Projects that are of a more pressing need have been included. To be forward looking, we wish to engage the public in the discussion as early as possible and to map out the future railway development of Hong Kong together with the community.

We collected over 10 000 comments during the two stages of Public Engagement exercise. While the focuses of the two stages are different, they are integrated as the basis for the planning for the overall development of the railway network in future. The consultant is collating the public comments holistically and refining the railway schemes in response to some requests from the public. With the use of transport models, the consultant is assessing the overall effectiveness and efficiency of the railway network and conducting further analysis on the more preferred proposals, so as to optimize the planning for the major regional railway corridors and local enhancement schemes in a co-ordinated manner.

Railway development and town planning are closely related, involving comprehensive considerations. As such, the consultant has been in liaison with relevant government departments in the course of the study to exchange the latest planning data for making reliable forecasts. The consultant will then submit its overall recommendations to the Government. We have been monitoring the whole study process to ensure the proper conduct of different parts of the study.

The entire study is expected to be completed at the end of this year. The Government will consider the consultant's overall recommendations in formulating the blueprint for railway development beyond 2020, having regard to transport demand, cost-effectiveness and development needs of New



Development Areas, as soon as possible. We will report to the public the way forward for the railway projects next year. When individual projects are taken forward in future, we will still need to carry out further study, including public consultation, on the projects.

With a view to alleviating crowdedness on trains and reducing passengers' waiting time, the MTR Corporation Limited (MTRCL) added more than 1 200 train trips per week (that is, over 62 000 train trips per year) on busier railway lines vide the launching of the "Listening • Responding" programme in 2012. This year, the MTRCL further enhances train service on East Rail Line, Island Line, West Rail Line, Kwun Tong Line and Tsuen Wan Line, and so on, to meet the needs of passengers.

### **Impact of Shanghai Free Trade Zone on Hong Kong**

14. **MR CHAN KIN-POR** (in Chinese): *President, recently, the State Council announced the launch of the China (Shanghai) Pilot Free Trade Zone Scheme to set up the Shanghai free trade zone (FTZ). The objectives of setting up FTZ include liberalization of the Renminbi (RMB) capital accounts, implementation of a taxation policy which promotes investment, and development of offshore financial business. According to some analyses, the setting up of FTZ will pose a threat to Hong Kong and deal a blow to its status as an offshore RMB business centre. There are also concerns that the Central People's Government is copying the model of Hong Kong's economy on the Mainland. Nevertheless, the Secretary for Financial Services and the Treasury told the media that FTZ is only "a testing ground for the liberalization of the economy", and Hong Kong should not be over worried about losing business to FTZ. In this connection, will the Government inform this Council:*

- (a) *whether it has conducted a comprehensive assessment on the impact of FTZ upon Hong Kong, in particular its short and long term impact on Hong Kong's economic and financial development as well as its impact upon Hong Kong as an offshore RMB business centre; if it has, of the details; if not, the reasons for that; and whether it has assessed if the Secretary for Financial Services and the Treasury's view that FTZ is only a testing ground instead of an offshore centre is over optimistic; if it has, of the assessment results;*

- (b) *whether it has formulated plans to seek co-operation with FTZ, for example, enhancing liaison with FTZ with the support of Hong Kong's comprehensive financial infrastructure, banking services which are in line with international standards and the supplementary facilitates in the entire financial market, so as to increase co-operation between Hong Kong and Shanghai in order to achieve mutual benefits; if it has, of the details; if not, the reasons for that; and*
- (c) *in the face of the challenges brought about by FTZ, of the authorities' specific measures to consolidate Hong Kong's status as an offshore RMB business centre, for example, whether they will consider co-operating with the authorities of Guangdong Province and Macao in developing a Guangdong-Hong Kong-Macao FTZ?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, the State Council announced the General Plan for the China (Shanghai) Pilot Free Trade Zone (FTZ) on 27 September 2013. The General Plan emphasized that the FTZ is a "testing ground" to propel the Mainland's opening up and reforms. The FTZ seeks to deepen the reforms, speed up changes in governmental functions, modernize trade and investment management, facilitate trade and investment, and with safeguards against possible risks, further open up the services sector and push forward the opening up of and innovation in the financial sector. Through these, the FTZ will be a model from which "replicable" and "promotable" experience can be shared as a model for and to better serve the whole nation.

In the long run, the impact of the establishment of FTZ on the overall economy of Hong Kong will depend on the extent of the liberalization measures of the FTZ and the regulatory mechanisms, and so on. As the General Plan for the FTZ was only announced in end September 2013, details of a number of policies have yet to be announced. For example, details of the policies on RMB capital account convertibility and cross-border use of the RMB are still under study and being formulated. We would only be able to make a more detailed study and assessment on the impact of the FTZ on Hong Kong's future economy when the relevant details are available.

Over the past few years, the Mainland has taken forward financial reforms on various fronts, including expanding liberalization of capital account and the greater use of RMB in cross-border trade. With its first-mover advantage and unique edge, Hong Kong has capitalized on the opportunities of the country's deepening reforms, and has developed into the world's largest offshore RMB business centre. It has, among other things, the world's largest offshore pool of RMB funds and RMB financing market, and provides a diversity of RMB financial products and one-stop RMB services for enterprises and financial institutions from all over the world. At present, the value of RMB settlement handled by banks in Hong Kong accounts for nearly 80% of the total payments that are conducted with the Mainland and among the offshore market globally, ranking number one in the world.

Regarding the co-operation between Shanghai and Hong Kong, since the signing of a Memorandum of Understanding Concerning Advancing Hong Kong-Shanghai Financial Co-operation in January 2010, the two places have held discussions on ways to strengthen co-operation in four areas, namely the development of the securities markets, the development of the bond markets, the promotion and support of mutual establishment of financial institutions, and the training and exchange of financial talents. In March 2013, representatives of government departments, financial regulators and exchanges of Hong Kong and Shanghai held the third meeting in Hong Kong. Both sides discussed and exchanged views on ways to foster the co-operation in financial services and products, enhance the training and exchange of financial talent, and strengthen the co-operation of financial institutions between the two places. We believe that with the establishment of the FTZ, there will be more opportunities for co-operation between Shanghai and Hong Kong. We will forge a closer partnership with Shanghai through more exchanges and communications for mutual benefits and the overall development needs of our country.

As for co-operation with Guangdong, Hong Kong and Guangdong have all along been maintaining close co-operation in economic and financial areas. For example, the two sides have been strengthening the co-operation and exchange in respect of financial institutions, financial instruments, capital and talents through the Mainland and Hong Kong Closer Economic Partnership Arrangement and platforms like the Expert Group on Hong Kong-Guangdong Financial Co-operation. This long-established and close co-operation relationship provides the basis for enhancing communication and co-operation between Guangdong and Hong Kong. Building on this foundation and complementing

national policy planning, Hong Kong can play its part by providing financing support for industrial upgrading in Guangdong and Pearl River Delta, while the Guangdong Province can continue its role as the "early and pilot implementation" platform for financial co-operation between the Mainland and Hong Kong, in particular enhancing co-operation on cross-border RMB business between the two places. This will not only provide support for economic development of the Guangdong Province, especially in some key areas, but also promote the development of Hong Kong as an offshore RMB business centre.

In the past few decades, Hong Kong has contributed to the country's reform and opening up, and has also grasped many opportunities during the process. Therefore, the Special Administrative Region Government supports the national policy of further reform and opening up, and believes that Hong Kong, as an international financial center of global influence, will be able to contribute to the further liberalization of the financial markets in the Mainland. To this end, it is most important for Hong Kong to continue to develop its talent pool, enhance its market infrastructure and improve its market quality for market development. At the same time, we should complement the policies introduced by the Central Government and play more effectively the first-mover role in the process of developing a diversified financial market in the Mainland and expediting the internationalization of the RMB.

### **Household Income and Expenditure on Rent, Mortgage Payment and Loan Repayment**

15. **MR LEE CHEUK-YAN** (in Chinese): *President, regarding the data collected from the 2001 and 2011 Population Censuses and the 2006 Population By-census on the monthly rent, mortgage payment, loan repayment and income of the households, will the Government inform this Council of the following figures in each of the aforesaid three years:*

- (a) *in respect of households living in rented tenements, the lower quartile, median and upper quartile of (i) the monthly rent and (ii) monthly rent to income ratios of the households, broken down by household size and type of quarters (set out by year in tables of the same format as Tables 1 and 2);*

Table 1 Year: \_\_\_\_\_

Household size	Monthly rent of the households	Type of quarters		
		Public rental housing units	Private residential flats	All households living in rented tenements
1 person	Lower quartile			
	Median			
	Upper quartile			
2 persons	Lower quartile			
	Median			
	Upper quartile			
3 persons	Lower quartile			
	Median			
	Upper quartile			
4 persons	Lower quartile			
	Median			
	Upper quartile			
5 persons	Lower quartile			
	Median			
	Upper quartile			
6 persons or more	Lower quartile			
	Median			
	Upper quartile			
Total	Lower quartile			
	Median			
	Upper quartile			

Table 2 Year: \_\_\_\_\_

Household size	Monthly rent to income ratios of the households	Type of quarters		
		Public rental housing units	Private residential flats	All households living in rented tenements
1 person	Lower quartile			
	Median			
	Upper quartile			
2 persons	Lower quartile			
	Median			
	Upper quartile			
3 persons	Lower quartile			
	Median			
	Upper quartile			
4 persons	Lower quartile			
	Median			
	Upper quartile			
5 persons	Lower quartile			
	Median			
	Upper quartile			
6 persons or more	Lower quartile			
	Median			
	Upper quartile			

Household size	Monthly rent to income ratios of the households	Type of quarters		
		Public rental housing units	Private residential flats	All households living in rented tenements
Total	Lower quartile			
	Median			
	Upper quartile			

- (b) in respect of households living in owner-occupier accommodation with mortgage payment or loan repayment, the lower quartile, median and upper quartile of (i) the monthly mortgage payment and loan repayment and (ii) monthly mortgage payment and loan repayment to income ratios of the households, broken down by household size and type of housing (set out by year in tables of the same format as Tables 3 and 4);

Table 3 Year: \_\_\_\_\_

Household size	Monthly mortgage payment and loan repayment of the households	Type of housing		
		Subsidized sale flats	Private permanent housing	All households living in owner-occupier accommodation with mortgage payment or loan repayment
1 person	Lower quartile			
	Median			
	Upper quartile			
2 persons	Lower quartile			
	Median			
	Upper quartile			
3 persons	Lower quartile			
	Median			
	Upper quartile			
4 persons	Lower quartile			
	Median			
	Upper quartile			
5 persons	Lower quartile			
	Median			
	Upper quartile			
6 persons or more	Lower quartile			
	Median			
	Upper quartile			
Total	Lower quartile			
	Median			
	Upper quartile			

Table 4 Year: \_\_\_\_\_

Household size	Monthly mortgage payment and loan repayment to income ratios of the households	Type of housing		
		Subsidized sale flats	Private permanent housing	All households living in owner-occupier accommodation with mortgage payment or loan repayment
1 person	Lower quartile			
	Median			
	Upper quartile			
2 persons	Lower quartile			
	Median			
	Upper quartile			
3 persons	Lower quartile			
	Median			
	Upper quartile			
4 persons	Lower quartile			
	Median			
	Upper quartile			
5 persons	Lower quartile			
	Median			
	Upper quartile			
6 persons or more	Lower quartile			
	Median			
	Upper quartile			
Total	Lower quartile			
	Median			
	Upper quartile			

- (c) the lower quartile, median and upper quartile of the monthly income of the households after deduction of rent or mortgage payment and loan repayment, broken down by household size, tenure of accommodation and type of quarters or housing (set out by year in tables of the same format as Table 5); and

Table 5 Year: \_\_\_\_\_

Household size	Monthly income of the households after deduction of rent or mortgage payment and loan repayment	Households living in rented tenements			Households living in owner-occupier accommodation						
		Public rental housing units	Private residential flats	All households living in rented tenements	With mortgage payment or loan repayment			Without mortgage payment or loan repayment	All households living in owner-occupier accommodation	All households	
					Subsidized sale flats	Private permanent housing	Sub-total				
1 person	Lower quartile										
	Median										
	Upper quartile										
2 persons	Lower quartile										
	Median										
	Upper quartile										
3 persons	Lower quartile										
	Median										
	Upper quartile										
4 persons	Lower quartile										
	Median										
	Upper quartile										
5 persons	Lower quartile										
	Median										
	Upper quartile										
6 persons or more	Lower quartile										
	Median										
	Upper quartile										
Total	Lower quartile										
	Median										
	Upper quartile										

(d) the lower quartile, median and upper quartile of the per capita monthly income of the households after deduction of rent or mortgage payment and loan repayment, broken down by tenure of accommodation and type of quarters or housing (set out in Table 6)?



Table 6 Year \_\_\_\_\_

Year	Per capita monthly income of the households after deduction of rent or mortgage payment and loan repayment	Households living in rented tenements			Households living in owner-occupier accommodation			Without mortgage payment or loan repayment	All households living in owner-occupier accommodation	All households
		Public rental housing units	Private residential flats	All households living in rented tenements	With mortgage payment or loan repayment					
					Subsidized sale flats	Private permanent housing	Sub-total			
2001	Lower quartile									
	Median									
	Upper quartile									
2006	Lower quartile									
	Median									
	Upper quartile									
2011	Lower quartile									
	Median									
	Upper quartile									

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, based on the results of the 2001 and 2011 Population Census, and the 2006 Population By-census, the Census and Statistics Department provides the requested information according to items (a) to (d) of the question: Table 1 on monthly household rent; Table 2 on the ratio of monthly household rent to income; Table 3 on monthly household mortgage payment and loan repayment in respect of quarters occupied by the households concerned; Table 4 on the ratio of the abovementioned mortgage payment and loan repayment to income; Table 5 on monthly household income after deduction of the abovementioned rent or mortgage payment and loan repayment; and Table 6 on monthly per capita household income after deduction of the abovementioned rent or mortgage payment and loan repayment.

Table 1

## Monthly Domestic Household Rent

Year: 2001 (March)

<i>Household size</i>	<i>Monthly domestic household rent (HK\$)</i>	<i>Type of quarters</i>		
		<i>Public rental housing units</i>	<i>Private residential flats</i>	<i>All domestic households living in rented accommodation</i>
1 person	Lower quartile	610	1,700	880
	Median	900	4,000	1,400
	Upper quartile	1,060	7,000	4,300
2 persons	Lower quartile	940	3,000	1,000
	Median	1,120	5,500	1,500
	Upper quartile	1,450	8,500	4,100
3 persons	Lower quartile	1,040	3,300	1,100
	Median	1,300	5,600	1,490
	Upper quartile	1,590	9,500	2,650
4 persons	Lower quartile	1,130	3,500	1,190
	Median	1,370	6,000	1,490
	Upper quartile	1,650	11,000	2,330
5 persons	Lower quartile	1,240	4,000	1,280
	Median	1,500	6,330	1,560
	Upper quartile	1,900	12,000	2,270
6 persons or more	Lower quartile	1,380	4,500	1,420
	Median	1,640	5,800	1,730
	Upper quartile	2,130	8,300	2,440
Total	Lower quartile	1,000	2,600	1,100
	Median	1,300	5,300	1,500
	Upper quartile	1,620	8,600	2,740

Note:

Foreign domestic helpers are excluded from the calculation.

Year: 2006 (July)

<i>Household size</i>	<i>Monthly domestic household rent (HK\$)</i>	<i>Type of quarters</i>		
		<i>Public rental housing units</i>	<i>Private residential flats</i>	<i>All domestic households living in rented accommodation</i>
1 person	Lower quartile	760	2,300	940
	Median	1,000	4,500	1,310
	Upper quartile	1,160	7,500	3,800
2 persons	Lower quartile	980	3,200	1,050
	Median	1,200	5,000	1,500
	Upper quartile	1,510	8,000	3,500
3 persons	Lower quartile	1,160	3,500	1,240
	Median	1,450	5,500	1,680
	Upper quartile	1,900	9,500	2,520
4 persons	Lower quartile	1,270	4,000	1,340
	Median	1,580	6,500	1,830
	Upper quartile	2,180	12,000	2,740
5 persons	Lower quartile	1,440	4,000	1,490
	Median	1,900	6,800	2,070
	Upper quartile	2,460	12,500	2,740
6 persons or more	Lower quartile	1,570	4,100	1,600
	Median	2,100	6,100	2,240
	Upper quartile	2,700	11,220	3,010
Total	Lower quartile	1,050	3,200	1,160
	Median	1,390	5,100	1,680
	Upper quartile	1,920	8,800	2,880

Note:

Foreign domestic helpers are excluded from the calculation.

Year: 2011 (June)

<i>Household size</i>	<i>Monthly domestic household rent (HK\$)</i>	<i>Type of quarters</i>		
		<i>Public rental housing units</i>	<i>Private residential flats</i>	<i>All domestic households living in rented accommodation</i>
1 person	Lower quartile	700	3,200	820
	Median	860	6,500	1,170
	Upper quartile	1,060	10,000	4,300
2 persons	Lower quartile	850	4,900	990
	Median	1,100	7,500	1,400
	Upper quartile	1,360	11,500	4,610
3 persons	Lower quartile	1,050	5,200	1,140
	Median	1,300	8,000	1,640
	Upper quartile	1,750	13,000	3,550
4 persons	Lower quartile	1,160	5,170	1,250
	Median	1,500	9,000	1,830
	Upper quartile	2,000	16,000	3,000
5 persons	Lower quartile	1,270	5,000	1,350
	Median	1,750	8,300	1,960
	Upper quartile	2,200	16,000	2,610
6 persons or more	Lower quartile	1,390	5,000	1,500
	Median	1,920	7,000	2,080
	Upper quartile	2,320	15,500	2,760
Total	Lower quartile	920	4,500	1,060
	Median	1,210	7,500	1,600
	Upper quartile	1,720	12,500	3,500

Note:

Foreign domestic helpers are excluded from the calculation.

Table 2

## Monthly Domestic Household Rent to Income Ratio

Year: 2001 (March)

<i>Household size</i>	<i>Monthly domestic household rent to income ratio (%)</i>	<i>Type of quarters</i>		
		<i>Public rental housing units</i>	<i>Private residential flats</i>	<i>All domestic households living in rented accommodation</i>
1 person	Lower quartile	13.0	19.9	15.3
	Median	21.0	30.0	24.7
	Upper quartile	29.0	42.6	35.4
2 persons	Lower quartile	8.9	16.7	10.4
	Median	14.5	25.1	17.6
	Upper quartile	21.7	38.5	28.0
3 persons	Lower quartile	6.4	18.2	7.1
	Median	9.6	27.6	12.1
	Upper quartile	14.9	40.0	21.7
4 persons	Lower quartile	5.7	17.9	6.1
	Median	8.5	27.5	10.0
	Upper quartile	13.0	39.5	17.9
5 persons	Lower quartile	5.4	17.7	5.6
	Median	8.2	26.5	9.1
	Upper quartile	13.0	38.5	15.6
6 persons or more	Lower quartile	5.1	15.0	5.3
	Median	7.7	22.8	8.5
	Upper quartile	12.4	33.7	14.8
Total	Lower quartile	6.5	18.0	7.5
	Median	10.4	27.5	14.0
	Upper quartile	17.1	40.0	25.0

Notes:

- (1) Foreign domestic helpers are excluded from the calculation.
- (2) Monthly domestic household rent refers to the rent payment for March 2001 while the income refers to the total income of all household members for February 2001.

Year: 2006 (July)

<i>Household size</i>	<i>Monthly domestic household rent to income ratio (%)</i>	<i>Type of quarters</i>		
		<i>Public rental housing units</i>	<i>Private residential flats</i>	<i>All domestic households living in rented accommodation</i>
1 person	Lower quartile	12.9	18.5	14.9
	Median	22.3	28.9	25.0
	Upper quartile	32.6	44.4	37.0
2 persons	Lower quartile	9.9	14.8	10.8
	Median	16.3	23.2	18.1
	Upper quartile	25.2	37.8	29.1
3 persons	Lower quartile	7.7	15.8	8.2
	Median	12.0	25.0	13.9
	Upper quartile	19.0	38.8	23.3
4 persons	Lower quartile	7.0	15.7	7.4
	Median	11.1	24.8	12.4
	Upper quartile	17.6	38.5	21.1
5 persons	Lower quartile	7.0	16.3	7.3
	Median	11.2	24.6	12.3
	Upper quartile	18.3	37.0	20.9
6 persons or more	Lower quartile	7.1	13.0	7.3
	Median	11.3	20.3	12.2
	Upper quartile	18.4	33.0	20.3
Total	Lower quartile	8.2	16.2	9.1
	Median	13.5	25.4	16.0
	Upper quartile	22.3	40.0	27.1

Notes:

- (1) Foreign domestic helpers are excluded from the calculation.
- (2) Monthly domestic household rent refers to the rent payment for July 2006 while the income refers to the total income of all household members for June 2006.

Year: 2011 (June)

<i>Household size</i>	<i>Monthly domestic household rent to income ratio (%)</i>	<i>Type of quarters</i>		
		<i>Public rental housing units</i>	<i>Private residential flats</i>	<i>All domestic households living in rented accommodation</i>
1 person	Lower quartile	10.7	19.4	13.4
	Median	19.0	28.5	23.1
	Upper quartile	30.6	42.4	34.6
2 persons	Lower quartile	7.9	16.3	9.3
	Median	12.5	23.9	15.6
	Upper quartile	19.9	35.4	25.6
3 persons	Lower quartile	6.1	17.5	6.9
	Median	9.2	25.4	11.9
	Upper quartile	14.3	36.9	21.4
4 persons	Lower quartile	5.6	17.6	6.1
	Median	8.4	25.5	10.3
	Upper quartile	13.0	36.8	19.0
5 persons	Lower quartile	5.3	17.9	5.7
	Median	8.3	25.8	9.5
	Upper quartile	12.9	36.1	16.7
6 persons or more	Lower quartile	5.3	15.8	5.6
	Median	7.7	21.7	8.9
	Upper quartile	11.8	32.9	14.9
Total	Lower quartile	6.7	17.6	7.8
	Median	10.6	25.9	14.0
	Upper quartile	17.9	37.7	25.0

Note:

Foreign domestic helpers are excluded from the calculation.

Table 3

Monthly domestic household mortgage payment and loan repayment  
(in respect of the quarters they occupied)

Year: 2001 (March)

<i>Household size</i>	<i>Monthly domestic household mortgage payment and loan repayment (in respect of the quarters they occupied)(HK\$)</i>	<i>Type of housing</i>		
		<i>Subsidized home ownership housing</i>	<i>Private permanent housing</i>	<i>All domestic households living in self-owned quarters with mortgage payment or loan repayment for the quarters</i>
1 person	Lower quartile	3,500	6,100	5,500
	Median	5,700	9,600	8,500
	Upper quartile	7,890	14,900	13,000
2 persons	Lower quartile	4,300	7,500	6,000
	Median	6,500	11,000	9,500
	Upper quartile	8,800	16,000	14,000
3 persons	Lower quartile	3,500	7,000	5,250
	Median	6,000	11,000	8,500
	Upper quartile	8,150	17,500	14,000
4 persons	Lower quartile	2,750	7,000	4,600
	Median	5,500	12,000	8,300
	Upper quartile	8,100	20,000	14,000
5 persons	Lower quartile	2,540	7,000	4,000
	Median	5,000	12,000	8,000
	Upper quartile	8,300	20,000	13,000
6 persons or more	Lower quartile	2,600	6,900	3,600
	Median	5,000	11,500	7,500
	Upper quartile	8,350	20,000	12,000
Total	Lower quartile	3,030	7,000	5,100
	Median	5,900	11,000	8,500
	Upper quartile	8,300	17,500	14,000

Notes:

- (1) Foreign domestic helpers are excluded from the calculation.
- (2) Figures in the table refer to the amount of mortgage payment and loan repayment paid by household members.



Year: 2006 (July)

<i>Household size</i>	<i>Monthly domestic household mortgage payment and loan repayment (in respect of the quarters they occupied)(HK\$)</i>	<i>Type of housing</i>		
		<i>Subsidized home ownership housing</i>	<i>Private permanent housing</i>	<i>All domestic households living in self-owned quarters with mortgage payment or loan repayment for the quarters</i>
1 person	Lower quartile	2,960	5,000	4,540
	Median	4,600	7,500	7,000
	Upper quartile	6,500	11,000	10,360
2 persons	Lower quartile	3,200	6,100	5,500
	Median	5,500	9,080	8,000
	Upper quartile	7,500	13,170	12,000
3 persons	Lower quartile	3,000	6,290	5,000
	Median	5,500	9,500	7,760
	Upper quartile	7,500	14,900	12,000
4 persons	Lower quartile	2,500	6,500	4,800
	Median	5,000	10,500	8,000
	Upper quartile	7,500	16,500	13,000
5 persons	Lower quartile	2,300	6,700	4,500
	Median	5,000	11,000	7,620
	Upper quartile	7,600	18,000	13,000
6 persons or more	Lower quartile	2,300	6,300	4,000
	Median	5,000	10,500	7,500
	Upper quartile	7,890	20,000	12,000
Total	Lower quartile	2,700	6,000	5,000
	Median	5,200	9,500	7,800
	Upper quartile	7,500	14,500	12,000

Notes:

- (1) Foreign domestic helpers are excluded from the calculation.
- (2) Figures in the table refer to the amount of mortgage payment and loan repayment paid by household members.

Year: 2011 (June)

<i>Household size</i>	<i>Monthly domestic household mortgage payment and loan repayment (in respect of the quarters they occupied)(HK\$)</i>	<i>Type of housing</i>		
		<i>Subsidized home ownership housing</i>	<i>Private permanent housing</i>	<i>All domestic households living in self-owned quarters with mortgage payment or loan repayment for the quarters</i>
1 person	Lower quartile	2,360	4,790	4,360
	Median	4,330	6,750	6,300
	Upper quartile	6,000	10,500	9,980
2 persons	Lower quartile	3,090	5,310	5,000
	Median	5,000	7,570	7,000
	Upper quartile	7,000	11,630	10,400
3 persons	Lower quartile	3,000	5,400	4,700
	Median	5,000	8,000	6,940
	Upper quartile	6,510	12,500	11,000
4 persons	Lower quartile	2,880	6,000	4,900
	Median	5,000	9,300	7,500
	Upper quartile	7,000	15,000	12,500
5 persons	Lower quartile	2,260	6,000	4,800
	Median	5,000	9,500	7,500
	Upper quartile	7,350	15,000	12,000
6 persons or more	Lower quartile	2,300	6,000	4,700
	Median	5,500	10,000	7,500
	Upper quartile	7,990	16,000	12,000
Total	Lower quartile	3,000	5,400	4,730
	Median	5,000	8,000	7,000
	Upper quartile	6,920	13,000	11,000

Notes:

- (1) Foreign domestic helpers are excluded from the calculation.
- (2) Figures in the table refer to the amount of mortgage payment and loan repayment paid by household members.

Table 4

Monthly domestic household mortgage payment and loan repayment  
(in respect of the quarters they occupied)

Year: 2001 (March)

<i>Household size</i>	<i>Monthly domestic household mortgage payment and loan repayment (in respect of the quarters they occupied) to income ratio (%)</i>	<i>Type of housing</i>		
		<i>Subsidized home ownership housing</i>	<i>Private permanent housing</i>	<i>All domestic households living in self-owned quarters with mortgage payment or loan repayment</i>
1 person	Lower quartile	25.0	27.3	26.7
	Median	35.7	37.4	37.0
	Upper quartile	45.6	48.0	47.6
2 persons	Lower quartile	19.6	21.3	20.7
	Median	27.8	29.7	29.2
	Upper quartile	37.7	40.0	39.3
3 persons	Lower quartile	16.2	21.5	19.4
	Median	25.0	30.7	28.6
	Upper quartile	35.7	42.1	40.0
4 persons	Lower quartile	13.1	20.7	17.1
	Median	21.5	30.5	26.9
	Upper quartile	32.5	42.9	38.9
5 persons	Lower quartile	11.4	20.7	14.9
	Median	18.9	31.3	25.0
	Upper quartile	29.8	45.0	38.0
6 persons or more	Lower quartile	10.2	18.3	12.6
	Median	16.4	29.2	21.1
	Upper quartile	26.2	43.7	34.5
Total	Lower quartile	14.6	21.7	18.9
	Median	23.7	31.3	28.6
	Upper quartile	34.8	43.0	40.0

Notes:

- (1) Foreign domestic helpers are excluded from the calculation.
- (2) Figures in the table refer to the amount of mortgage payment and loan repayment paid by household members.
- (3) Monthly domestic household mortgage payment and loan repayment refers to the payment for March 2001 while income refers to the total income of all household members for February 2001.

Year: 2006 (July)

<i>Household size</i>	<i>Monthly domestic household mortgage payment and loan repayment (in respect of the quarters they occupied) to income ratio (%)</i>	<i>Type of housing</i>		
		<i>Subsidized home ownership housing</i>	<i>Private permanent housing</i>	<i>All domestic households living in self-owned quarters with mortgage payment or loan repayment</i>
1 person	Lower quartile	23.0	26.1	25.3
	Median	32.9	38.0	37.4
	Upper quartile	47.8	52.6	52.0
2 persons	Lower quartile	16.5	19.3	18.7
	Median	24.9	28.0	27.3
	Upper quartile	36.8	41.5	40.5
3 persons	Lower quartile	14.2	19.3	17.6
	Median	22.7	27.9	26.1
	Upper quartile	33.0	41.0	38.4
4 persons	Lower quartile	11.4	18.8	15.8
	Median	20.0	28.0	25.0
	Upper quartile	30.4	40.9	37.3
5 persons	Lower quartile	10.0	18.5	14.1
	Median	18.0	27.2	23.3
	Upper quartile	27.5	40.0	35.1
6 persons or more	Lower quartile	8.1	15.3	11.5
	Median	15.6	25.8	20.6
	Upper quartile	25.6	39.9	33.0
Total	Lower quartile	13.1	19.8	17.6
	Median	22.0	29.0	26.9
	Upper quartile	33.2	43.0	40.0

Notes:

- (1) Foreign domestic helpers are excluded from the calculation.
- (2) Figures in the table refer to the amount of mortgage payment and loan repayment paid by household members.
- (3) Monthly domestic household mortgage payment and loan repayment refers to the payment for July 2006 while income refers to the total income of all household members for June 2006.

Year: 2011 (June)

<i>Household size</i>	<i>Monthly domestic household mortgage payment and loan repayment (in respect of the quarters they occupied) to income ratio (%)</i>	<i>Type of housing</i>		
		<i>Subsidized home ownership housing</i>	<i>Private permanent housing</i>	<i>All domestic households living in self-owned quarters with mortgage payment or loan repayment</i>
1 person	Lower quartile	16.4	18.0	17.7
	Median	26.0	26.7	26.7
	Upper quartile	37.3	37.2	37.2
2 persons	Lower quartile	13.1	13.7	13.6
	Median	20.6	19.4	19.6
	Upper quartile	30.0	28.3	28.8
3 persons	Lower quartile	11.2	14.0	13.3
	Median	17.7	20.0	19.5
	Upper quartile	26.7	29.1	28.6
4 persons	Lower quartile	9.1	13.8	12.6
	Median	16.3	20.0	18.9
	Upper quartile	24.7	28.9	27.6
5 persons	Lower quartile	7.4	13.4	11.4
	Median	13.5	19.7	17.8
	Upper quartile	21.8	29.5	27.4
6 persons or more	Lower quartile	7.2	13.2	10.7
	Median	14.9	19.1	17.4
	Upper quartile	24.2	30.0	26.8
Total	Lower quartile	10.8	14.2	13.4
	Median	17.8	20.3	20.0
	Upper quartile	27.1	30.0	29.5

Notes:

- (1) Foreign domestic helpers are excluded from the calculation.
- (2) Figures in the table refer to the amount of mortgage payment and loan repayment paid by household members.

Table 5

Monthly domestic household income after deduction of rent or mortgage payment and loan repayment (in respect of the quarters they occupied)

Year: 2001 (February)

Household size	Monthly domestic household income after deduction of rent or mortgage payment and loan repayment (in respect of the quarters they occupied) (HK\$)	Domestic households living in rented accommodation			Domestic households living in self-owned quarters					All domestic households
		Public rental housing units	Private residential flats	All domestic households living in rented accommodation	With mortgage payment or loan repayment			Without mortgage payment or loan repayment	All domestic households living in self-owned quarters	
					Subsidized home ownership housing	Private permanent housing	Sub-total			
1 person	Lower quartile	2,160	4,240	2,600	5,000	7,700	7,000	1,000	3,000	2,610
	Median	2,710	8,300	5,410	8,900	14,000	12,400	5,600	9,000	6,500
	Upper quartile	5,770	17,200	10,990	13,600	26,160	23,400	15,000	19,000	14,000
2 persons	Lower quartile	4,270	7,000	4,870	9,320	14,400	12,400	4,500	8,000	5,800
	Median	6,810	14,600	9,100	15,700	24,500	21,000	11,400	16,800	12,650
	Upper quartile	11,370	30,500	18,020	23,200	41,410	35,500	23,000	30,000	25,000
3 persons	Lower quartile	7,630	7,840	7,800	10,900	14,000	12,500	12,000	12,200	9,650
	Median	12,120	14,400	12,820	16,700	24,100	20,500	20,000	20,000	16,520
	Upper quartile	18,280	30,000	20,580	24,500	42,000	34,100	31,800	33,000	27,520
4 persons	Lower quartile	9,240	8,500	9,230	11,850	14,100	13,000	14,000	13,250	11,000
	Median	14,610	16,430	15,100	18,200	25,500	21,700	21,840	21,750	18,530
	Upper quartile	22,250	34,750	24,420	27,640	46,000	37,000	35,000	36,000	30,300
5 persons	Lower quartile	10,390	9,910	10,400	12,780	13,500	13,000	15,010	14,300	12,000
	Median	16,630	19,220	17,050	20,710	24,850	22,440	24,710	23,550	20,000
	Upper quartile	26,330	37,500	27,590	31,810	44,610	37,300	39,800	38,500	32,850
6 persons or more	Lower quartile	12,080	11,350	12,040	15,100	15,830	15,500	17,910	16,700	13,730
	Median	19,930	21,300	20,150	24,970	29,000	26,300	29,000	28,000	23,620
	Upper quartile	31,440	36,800	32,330	37,210	47,710	40,750	43,800	42,510	37,220
Total	Lower quartile	6,060	6,360	6,290	10,600	12,900	11,940	9,000	10,200	7,830
	Median	11,130	12,600	11,810	17,030	23,200	20,470	18,000	19,300	15,120
	Upper quartile	18,970	27,250	21,340	26,200	41,000	35,000	30,710	33,000	27,330

Notes:

- (1) Foreign domestic helpers are excluded from the calculation.
- (2) Mortgage payment and loan repayment deducted in the table refers to the amount paid by household members.
- (3) Monthly domestic household rent and mortgage payment and loan repayment refers to the payment for March 2001 while the income refers to the total income of all household members for February 2001.

Year: 2006 (June)

Household size	Monthly domestic household income after deduction of rent or mortgage payment and loan repayment (in respect of the quarters they occupied) (HK\$)	Domestic households living in rented accommodation			Domestic households living in self-owned quarters					All domestic households
		Public rental housing units	Private residential flats	All domestic households living in rented accommodation	With mortgage payment or loan repayment			Without mortgage payment or loan repayment	All domestic households living in self-owned quarters	
					Subsidized home ownership housing	Private permanent housing	Sub-total			
1 person	Lower quartile	2,100	4,610	2,380	3,820	5,000	4,880	960	2,700	2,400
	Median	2,960	10,000	5,350	7,000	10,300	9,500	5,500	7,210	6,000
	Upper quartile	6,570	22,500	11,350	12,000	20,000	18,000	13,000	15,500	13,250
2 persons	Lower quartile	3,770	7,930	4,320	7,000	10,990	9,500	4,010	6,500	5,010
	Median	6,390	16,920	8,720	13,450	21,000	19,000	10,750	15,000	11,500
	Upper quartile	11,160	33,000	17,310	22,000	36,700	33,000	23,000	28,500	23,700
3 persons	Lower quartile	6,520	8,500	6,910	10,250	12,300	11,500	11,000	11,280	8,820
	Median	10,830	17,400	12,100	16,500	22,710	20,000	19,500	19,940	15,980
	Upper quartile	16,800	36,200	19,870	24,000	39,000	33,200	31,500	32,350	27,000
4 persons	Lower quartile	8,170	10,500	8,590	11,900	13,780	13,000	14,900	13,810	10,820
	Median	13,250	21,430	14,420	18,900	25,500	22,250	23,500	22,940	18,860
	Upper quartile	20,400	42,700	23,500	28,000	44,000	36,980	36,250	36,500	30,790
5 persons	Lower quartile	8,830	11,300	9,100	13,490	15,200	14,210	15,500	15,000	11,500
	Median	14,600	22,210	15,550	21,500	27,910	24,470	25,000	24,840	20,250
	Upper quartile	23,600	44,460	25,700	31,750	47,660	39,710	39,500	39,550	33,000
6 persons or more	Lower quartile	9,720	15,780	10,150	16,200	16,000	16,000	18,030	17,500	13,000
	Median	15,820	29,500	17,220	26,000	30,000	27,710	28,980	28,500	22,830
	Upper quartile	26,220	48,300	29,000	36,620	51,210	42,200	46,000	44,250	36,710
Total	Lower quartile	4,900	7,000	5,480	9,450	10,500	10,000	8,000	9,000	6,810
	Median	9,370	15,450	10,800	16,600	21,000	19,300	17,210	18,210	14,250
	Upper quartile	16,290	32,600	19,920	25,600	37,750	33,200	30,500	31,800	26,400

Notes:

- (1) Foreign domestic helpers are excluded from the calculation.
- (2) Mortgage payment and loan repayment deducted in the table refers to the amount paid by household members.
- (3) Monthly domestic household rent and mortgage payment and loan repayment refers to the payment for July 2006 while the income refers to the total income of all household members for June 2006.

Year: 2011 (June)

Household size	Monthly domestic household income after deduction of rent or mortgage payment and loan repayment (in respect of the quarters they occupied) (HK\$)	Domestic households living in rented accommodation			Domestic households living in self-owned quarters					All domestic households
		Public rental housing units	Private residential flats	All domestic households living in rented accommodation	With mortgage payment or loan repayment			Without mortgage payment or loan repayment	All domestic households living in self-owned quarters	
					Subsidized home ownership housing	Private permanent housing	Sub-total			
1 person	Lower quartile	1,990	6,400	2,500	5,000	10,000	8,500	1,040	1,540	2,400
	Median	3,220	14,300	6,000	9,900	19,000	16,480	5,040	9,200	7,000
	Upper quartile	7,000	32,400	13,200	16,500	33,000	30,000	15,000	21,000	16,950
2 persons	Lower quartile	4,550	11,300	5,500	9,680	18,040	15,000	4,070	8,000	6,060
	Median	7,600	24,000	10,280	17,000	31,100	27,350	13,200	18,900	14,090
	Upper quartile	12,770	47,500	21,000	27,500	51,000	45,500	27,500	35,500	29,960
3 persons	Lower quartile	8,170	11,740	8,810	14,000	19,200	17,190	15,000	15,700	11,800
	Median	13,260	24,400	15,100	21,040	32,000	27,730	24,000	25,520	20,300
	Upper quartile	19,370	46,800	24,790	30,000	53,950	46,000	38,100	41,300	34,700
4 persons	Lower quartile	10,420	13,100	11,180	16,600	22,810	20,000	19,000	19,500	14,880
	Median	16,760	27,900	18,570	25,000	38,290	33,000	29,540	30,790	24,800
	Upper quartile	24,440	54,600	29,000	36,040	62,360	53,500	45,800	49,000	40,300
5 persons	Lower quartile	12,000	12,000	12,130	19,040	23,270	21,500	21,000	21,040	15,800
	Median	19,050	25,790	19,920	31,000	39,740	35,300	33,000	34,000	26,380
	Upper quartile	28,500	55,000	31,230	42,570	65,960	56,670	49,750	51,500	41,900
6 persons or more	Lower quartile	14,350	15,500	14,550	19,300	26,000	22,150	23,000	23,000	17,940
	Median	22,050	27,100	22,900	28,800	41,900	36,570	36,000	36,000	29,000
	Upper quartile	32,220	53,000	33,510	42,500	65,500	56,300	53,500	54,000	44,600
Total	Lower quartile	5,660	10,000	6,560	12,990	18,000	16,000	9,400	11,940	8,300
	Median	10,750	22,000	13,190	21,030	31,630	28,000	20,500	23,570	18,030
	Upper quartile	18,690	44,900	24,320	32,000	53,000	47,000	37,000	40,850	33,400

Notes:

- (1) Foreign domestic helpers are excluded from the calculation.
- (2) Mortgage payment and loan repayment deducted in the table refers to the amount paid by household members.



Table 6

Monthly per capita domestic household income after deduction of rent or mortgage payment and loan repayment (in respect of the quarters they occupied)

Year	Monthly per capita domestic household income after deduction of rent or mortgage payment and loan repayment (in respect of the quarters they occupied) (HK\$)	Domestic households living in rented accommodation			Domestic households living in self-owned quarters					All domestic households
		Public rental housing units	Private residential flats	All domestic households living in rented accommodation	With mortgage payment or loan repayment			Without mortgage payment or loan repayment	All domestic households living in self-owned quarters	
					Subsidized home ownership housing	Private permanent housing	Sub-total			
2001 (February)	Lower quartile	2,240	2,990	2,420	3,250	4,600	3,930	3,000	3,500	2,750
	Median	3,510	6,250	4,130	5,370	8,750	7,080	5,680	6,380	5,130
	Upper quartile	5,630	13,200	7,240	8,400	16,000	12,670	10,000	11,330	9,400
2006 (June)	Lower quartile	1,990	3,430	2,200	3,130	4,150	3,750	3,000	3,330	2,600
	Median	3,260	7,380	4,000	5,230	8,050	6,880	5,750	6,250	5,070
	Upper quartile	5,410	15,670	7,220	8,100	14,580	12,290	10,080	11,170	9,480
2011 (June)	Lower quartile	2,390	4,500	2,720	4,330	6,670	5,810	3,640	4,430	3,330
	Median	4,000	9,930	4,960	7,030	12,000	10,130	7,090	8,230	6,500
	Upper quartile	6,320	20,880	8,800	10,570	21,000	18,090	12,420	14,700	12,100

Notes:

- (1) Foreign domestic helpers are excluded from the calculation.
- (2) Mortgage payment and loan repayment deducted in the table refers to the amount paid by household members.
- (3) As regards the 2001 figures, monthly domestic household rent and mortgage payment and loan repayment refers to the payment for March 2001 while the income refers to the total income of all household members for February 2001.
- (4) As regards the 2006 figures, monthly domestic household rent and mortgage payment and loan repayment refers to the payment for July 2006 while the income refers to the total income of all household members for June 2006.

## Measures to Enhance Utilization of and Economic Benefits Brought by Kai Tak Cruise Terminal

16. **MR PAUL TSE** (in Chinese): *President, the first berth of Kai Tak Cruise Terminal (Cruise Terminal) was commissioned in June this year. However, the Government has indicated that the proposal to construct the Environmentally Friendly Linkage System (Linkage System) to connect the Kai Tak Development Area and Kowloon East, even if it is confirmed now, will not be commissioned before 2023. It is learnt that some members of the public have criticized that the Cruise Terminal does not have enough ancillary facilities, thus constraining its utilization. In this connection, will the Government inform this Council:*

- (a) *whether it will consider conducting studies on other means (such as constructing a transportation link between Kwun Tong and the Cruise Terminal for passengers and vehicles, as well as constructing additional pedestrian facilities connecting Cha Kwo Ling, Yau Tong waterfront and Lei Yue Mun) before the confirmation and completion of the Linkage System to facilitate cruise passengers going ashore to visit the tourist attractions and shopping spots in Kwun Tong and Lei Yue Mun, so as to enhance the overall economic benefits brought about by the Cruise Terminal and promote the synergy between the commercial and tourism sectors in Kowloon East;*
- (b) *of the estimated number of days with no cruise vessels berthing at the Cruise Terminal in each of the coming three years;*
- (c) *whether it has studied if the venues and facilities of the Cruise Terminal can also be used, apart from holding exhibitions, for concerts, community activities or other performances during the periods when no vessels are berthing at the Terminal; if the study outcome is in the affirmative, of the expected audience capacity, venue application procedures, rental fees and types of performances to be held, as well as the economic benefits to be brought about by such activities to the Cruise Terminal; if the study outcome is in the negative, of the reasons for that; and*
- (d) *whether it has, as indicated by the Secretary for Commerce and Economic Development in reply to an oral question raised at the*

*meeting of this Council on 24 October last year, studied the feasibility of providing water taxi services or other waterborne transport services to connect the Cruise Terminal, based on Hong Kong's actual needs and unique environment and with regard to aspects of technology, operation, safety and legislation, and so on; if it has, of the outcome of the study; if not, the reasons for that, and whether a study can be conducted immediately?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, my reply to the four parts of the question is as follows:

- (a) The proposed Environmentally Friendly Linkage System (EFLS) will be the connectivity backbone that enhances the inter-district and intra-district connectivity of Kowloon East, which comprises Kai Tak Development Area, Kowloon Bay and Kwun Tong business areas. The Kwun Tong Transportation Link under the EFLS serves mainly to carry a monorail across the entrance of Kwun Tong Typhoon Shelter. Currently, there is no plan to provide another link bridge to connect the Cruise Terminal and Kwun Tong under the Kai Tak Development (KTD). In the long term, the Government will develop roads and elevated walkways to connect the Cruise Terminal and the areas around Kowloon Bay, subject to the development programmes of other works at KTD.

When cruise tourists arrive in Hong Kong, their itineraries (including transportation arrangements) are mostly arranged by shore excursion operators. These operators are encouraged to develop more attractive excursion itineraries that include, for instance, unique scenic spots in Kowloon East and Lei Yue Mun. The Terminal operator also organizes shuttle bus services running between the Cruise Terminal and nearby shopping malls and liaises with the taxi trade to arrange taxis to pick up cruise tourists at the Cruise Terminal. These arrangements make it convenient for cruise tourists to go sightseeing and shopping in different areas. This ensures that various areas will benefit from the growing number of cruise tourists and also enhances the appeal of Hong Kong to cruise passengers.

As regards public transport, a Kowloon green minibus route (No. 86) operates between the Cruise Terminal and Kowloon Bay every day. There is also a recreational route (No. 5R), operated by Kowloon Motor Bus, that runs between the Cruise Terminal and Ngau Tau Kok/Kwun Tong MTR station during Sundays and public holidays. The Transport Department will closely monitor the provision of public transport services and make appropriate adjustments as and when necessary to cope with the passenger demand.

When large scale events are held at the Cruise Terminal, the organizers will arrange special feeder services to cope with the additional transport demand.

- (b) The Terminal operator has received 59 applications from cruise vessels to berth for about 103 days between October this year and the end of 2016. Since the commissioning of the Cruise Terminal in the middle of this year, many cruise companies have expressed interest in berthing at the Cruise Terminal when they develop their schedules for the coming years. Indeed, there has been a steady increase in the number of days of berthing reservations. We expect that the rising trend will continue.
- (c) In designing the Cruise Terminal, we have adopted a wide span layout with fewer structural columns for the Cruise Terminal building in order to maximize the flexibility in the utilization of the Cruise Terminal. The design enables some areas in the Cruise Terminal to be used for other functions during the periods when no vessels are berthing at the Cruise Terminal.

Two car shows and a Cruise Holiday Expo were held at the Cruise Terminal in August and September which received positive feedback. We understand that various organizations are discussing with the Terminal operator the feasibility of holding various kinds of functions in the Cruise Terminal building in future.

The Terminal operator will consider applications for holding various functions, including concerts, community activities or other performances. The specific requirements and application procedures (including capacity and rental fees) for holding such

functions in the Cruise Terminal will be subject to the nature of and actual arrangements for the functions and the requirements of relevant legislation and licences.

We expect that hosting functions in the Cruise Terminal building will help the Cruise Terminal maintain a closer tie with the neighbouring districts. It will also boost economic activities (for example, retail and catering) and enhance the economic benefits brought by the Cruise Terminal to the nearby areas.

- (d) At an earlier meeting of the Legislative Council, the Government responded that "the nature, operational mode, berthing facilities and regulatory framework of the existing water taxi services around the world are all different. The Government needs to consider a variety of issues including technology, operation, cost-effectiveness, safety and legislation, and so on, to assess whether water taxis are suitable to be introduced in Hong Kong for the purpose of linking the Terminal with other districts. We also need to examine the complicated issues in the light of the actual needs and unique environment of Hong Kong." At that time, the Government set out the types of issues that need to be considered and pointed out the complexity of the matter. It did not indicate that a feasibility study for introducing water taxis was needed.

Regarding the provision of additional waterborne transport service, the Government will closely monitor the ferry trade's assessment on service demand. We will examine the feasibility of detailed proposals submitted by the ferry operators in the market, if any. To date, no operator has approached the Transport Department about its intention to introduce ferry services between the Cruise Terminal and other areas.

### **Domestic Free Television Programme Service Licences**

17. **DR LAM TAI-FAI** (in Chinese): *President, earlier, the Government announced the results of the applications for domestic free television programme service licences (free TV licences). Among the three applicants, the applications of Fantastic Television Limited (Fantastic TV) and HK Television Entertainment*

*Company Limited (HKTVE) were granted approval-in-principle (AIP) whilst the application of Hong Kong Television Network Limited (HKTVN) was rejected. This has aroused public concern and caused a large number of people to take to the streets to protest. In this connection, will the Government inform this Council:*

- (a) given that a large number of people have taken to the streets to protest against the Government's decision on granting free TV licences and that public interest is one of the considerations for vetting and approving licence applications, whether the authorities will review afresh the applications concerned; if they will, of the details; if not, the reasons for that;*
- (b) given that the Chairman of HKTVN has stated clearly that he will initiate legal proceedings regarding the Government's decision on granting free TV licences, whether the Government has assessed (i) the impact of such action on the two applicants whose applications were granted AIP, and (ii) whether it will affect the procedure for issuing formal licences; if the assessment outcome is in the affirmative, of the details; if the assessment outcome is in the negative, the reasons for that;*
- (c) given that the Chief Executive indicated at the Question and Answer (Q&A) Session of this Council on 17 October 2013 that the Government had received an application for judicial review of the decision on granting free TV licences and it was therefore inappropriate to make further comments, of the person/organization that has submitted such an application; and the reasons why the Commerce and Economic Development Bureau has, after the aforesaid Q&A Session, still repeatedly made comments to the media on the decision on granting free TV licences (for example, in response to media enquiries, a Commerce and Economic Development Bureau spokesman said on 20 October that the Government considered that if AIP of three additional free TV licences was to be granted, the healthy and orderly development of the market would be compromised);*
- (d) given that the two existing licensees of free TV licences will submit their licence renewal applications on or before 30 November this*

*year, when the Government will make a decision on such applications, and of the assessment criteria for licence renewal;*

- (e) whether the Government will take the initiative to arrange a closed meeting with the Chairman of HKTVN to explain the reasons for not granting HKTVN a free TV licence; if it will, when such a meeting will be held; if not, of the reasons for that;*
- (f) given that on the 20th of this month, the Convenor of the Executive Council (ExCo) said in response to media enquiries that the ExCo Members, who played an advisory role as stipulated under the Basic Law, had already tried their best to express their views on the issuance of free TV licences to Chief Executive, and some ExCo Members also said that the Bureau and the senior officials of the SAR Government should, as far as possible, seize the opportunities to expound to the public the considerations involved in issuing free TV licences, and they requested the Government to disclose more the reasons for not granting a free TV licence to the applicant concerned, whether the Government will consider further disclosing more details to the public; if it will, when such details will be disclosed; if not, of the reasons for that; and*
- (g) given that the Secretary for Commerce and Economic Development stated clearly at the press conference on the 15th of this month that there was no appeal mechanism for vetting and approving free TV licence applications, why the authorities have not set up an appeal mechanism; whether such an arrangement has been adopted all along; and whether any organization has ever lodged an appeal in the past against the rejection of its application?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, HKTVN, Fantastic TV and HKTVE each submitted an application for a free TV licence under the Broadcasting Ordinance (Cap. 562) (BO) between December 2009 and March 2010 (collectively as the "three Applications"). On 15 October 2013, the Government announced that, under the gradual and orderly approach in introducing competition into the free TV licences market, the Chief Executive in Council has decided to grant AIP to Fantastic TV's

and HKTVE's free TV licences applications, whereas HKTVN's application is rejected (the Decision).

My reply to the various parts of the question is as follows:

(a), (b), (c), (e) and (f)

The Government has recently on different public occasions explained the assessment criteria and the reasoning leading to the Decision. The Chief Executive in Council, having regard to all relevant factors and representations and responses in relation to the three Applications, has decided that it would be in the public interest to adopt a gradual and orderly approach in introducing competition into the free TV licences market, that is, not approving all the three Applications at this stage, while not precluding the possibility of allowing more free TV operator(s) as and when appropriate. This will not only reap the benefits of introducing competition into the free TV licences market, but also minimize any possible adverse impact on the free TV licences market as a whole.

Under the gradual and orderly approach in introducing competition into the free TV licences market, the Chief Executive in Council has assessed the three Applications against various criteria. These include financial capability, programming investment, programming strategy and production capability and technical soundness of the proposed service. Having regard to these criteria and all relevant factors (including representations/responses from the applicants, and so on), the Chief Executive in Council has formed the view that Fantastic TV and HKTVE outperform HKTVN in overall terms, and on this basis decided to grant AIP to Fantastic TV's and HKTVE's applications.

The Decision is in line with the Government's policy announced in 1998 to open up the television market. The policy, notwithstanding no prescribed ceiling on the number of licences to be issued, does not entail a blanket approval of each and every received free TV licences application that satisfies the basic criteria. Every such application has to be subject to the recommendations made by the



Communications Authority (CA) and followed by vetting by the Chief Executive in Council according to all relevant factors.

In deciding whether to grant AIP to the three Applications, the Chief Executive in Council has processed all three Applications in accordance with statutory requirements and established procedures. It has holistically considered all relevant factors and been guided by the public interest. The Chief Executive in Council as the licensing authority has granted AIP to Fantastic TV's and HKTVE's applications while HKTVN's application is rejected. The Chief Executive in Council will further review Fantastic TV's and HKTVE's applications and make a final determination thereon at a later stage. The Government emphasizes that within the confine of the ExCo's confidentiality system, it has on different occasions and as far as possible explained to the applicant concerned and the public the assessment criteria and the reasoning leading to the Decision.

As for other details of processing the three Applications, according to the ExCo's system of confidentiality, the deliberation of the ExCo meetings on any subject matter is not made public. Moreover, the details on the processing of the three Applications inevitably involve commercially sensitive information or even commercial secrets of the three applicants; and disclosure of which may cause damage to the three applicants and may even give rise to legal disputes.

The Government was notified on 16 October 2013 that a member of the public had filed an application for judicial review in respect of the Decision. A notice of discontinuance was subsequently filed to the Court on 28 October 2013. Before such discontinuance, the Commerce and Economic Development Bureau has handled the relevant media enquiries on the basis that our responses would not affect the Government's position in dealing with the litigation concerned.

- (d) The free TV licences of the two existing licensees will expire on 30 November 2015. The BO provides that the two existing licensees shall submit their applications to the CA by 30 November 2013 if they decide to apply for extension or renewal of their licences (the Applications). Under the BO, the CA shall, as soon as

is practicable after the receipt of an application and, in any case, not later than 12 months before the expiry of the period of validity of the licence, submit recommendations to the Chief Executive in Council in relation to the extension or non-extension or renewal or non-renewal of the licence, and where appropriate, the conditions subject to which the licence may be extended or renewed. Where recommendations on the application are made by the CA, the Chief Executive in Council shall consider them and as soon as is practicable extend or renew the licence to which they relate subject to such conditions as he thinks fit specified in the licence, or decide not to extend or renew the licence.

As far as we know, the CA has not yet received the Applications. The CA has already indicated that it will process the Applications, upon receipt, in accordance with the law and established procedures, which include holding relevant public consultation to gauge public views on the performance of the licensees concerned before making recommendations to the Chief Executive in Council. We believe that the CA will consider all relevant factors when processing the Applications, including the licensees' operational, financial, technical and programming arrangements, future commitments, public opinions, and will fully assess the past performance of the licensees concerned in relation to their compliance with the statutory requirements, licence conditions and codes of practice.

- (g) The Administration has to process the three Applications in accordance with the statutory requirements. The BO does not provide for any statutory channel to appeal against the Chief Executive in Council's licensing decision.

### **Land Reserved for Building New Territories Small Houses**

18. **DR KENNETH CHAN** (in Chinese): *President, in reply to a question raised by a Member of this Council on 16 October 2013, the Government pointed out that, at present, the total area of land zoned "Village Type Development" on statutory plans was 33 sq km (being approximately 3% of the total land area of Hong Kong), which could be used for low-density residential development, including New Territories small houses. Under the existing policy, each male*

*indigenous villager of the existing 642 recognized villages may apply, once in a lifetime, to the authority for permission to erect for himself during his lifetime a small house within his own village. In this connection, will the Government inform this Council:*

- (a) given that in reply to a question raised by a Member of this Council on 6 February 2013, the Government indicated that the Planning Department (PlanD), when drawing up Village Type Development ("V") zones on statutory plans, took into consideration the estimate of the demand for small houses in the coming 10 years and other factors, but it also indicated at the same time that the Government had not grasped the future demand for small houses by eligible indigenous villagers for each of the recognized villages, of the criteria adopted by the Government under such circumstances for determining the land needed to be reserved for meeting future demand for building small houses;*
- (b) given that the Lands Department (LandsD) received fewer than 17 000 applications for building small houses in the past 10 years, whether it has assessed the area of the lands involved in these applications;*
- (c) whether it has assessed the number of small houses that can be built on the sites for "V" where currently no small houses have been built; if it has, of the details; if not, the justifications for the Government to reserve about 932 hectares of land for Village Type Development;*
- (d) whether the Government will reconsider releasing some of the "V" sites for other residential development uses; if it will, of the total area of the lands expected to be released; if not, the reasons for that;*
- (e) given that, at present, quite a number of indigenous villagers of the recognized villages have already owned alternative accommodation in Hong Kong or have emigrated overseas, whether the Government has adjusted its estimate of the land demand for building small houses by indigenous villagers of the various recognized villages; if it has not, of the reasons for that; and*

- (f) *as quite a number of small houses are not occupied by indigenous villagers or their offspring at present, which is a deviation from the original policy intent, whether the Government will consider immediately launching a review of the Small House Policy (the Policy); if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, the Policy has been implemented since 1972. Under the Policy, a male indigenous villager at least 18 years old who is descended through the male line from a resident in 1898 of a recognized village in the New Territories may apply to the authority once during his lifetime for permission to erect for himself a small house on a suitable site within his own village. There are in total 642 recognized villages approved in the territory.

In general, land for building small houses is confined to areas within "Village Environs" (VE). As a general rule, VE refers to a 300-foot radius from the edge of the last village type house built before the introduction of the Policy on 1 December 1972. Applications for building small houses within this area by eligible indigenous villagers may be considered.

Consideration may also be given to an application if the site concerned lies outside a VE but is located within a "V" zone in the relevant statutory plan (that is, Development Permission Area plan or Outline Zoning Plan), provided that the "V" zone concerned surrounds or overlaps with the VE. As regards sites within a VE but outside a "V" zone, depending on the specific requirements of the land use zone on which the small house site lies, the applicant may apply for planning permission from the Town Planning Board (TPB) and the small house application may also be considered if a planning permission is granted.

Nonetheless, applications in relation to sites located within neither a VE nor a "V" zone will generally not be considered. In addition, applications for small house development within "V" zones that do not overlap with VEs at all will generally not be considered either.

Under the existing statutory plans, the planning intention of the "V" zone is in general mainly to reflect existing villages and for small house development by indigenous villagers within recognized villages. The approximately 33 sq km of land under "V" zone mentioned in the question refers to the area of "V" zone

under the existing statutory plans as provided in the reply by the Administration to the question on "sites in Hong Kong available for development" in the Legislative Council on 16 October 2013. As indicated in the preceding two paragraphs that applications for small house development may or may not be considered under different scenarios, such area is not equivalent to area available for small house development. Furthermore, existing villages and basic facilities are included in the area.

The 932 hectares of land under "V" zone also mentioned in the question refers to the areas of unleased or unallocated Government land under the respective zone by end of June 2012, as provided in the reply by the Administration to the question on "vacant government land" in the Legislative Council on 17 October 2012. The statistical figures, calculation method and map showing the geographical distribution of the land concerned have been uploaded onto the website of the Development Bureau. The relevant land is not equivalent to land area available or reserved for small house development. For example, there are still a number of land areas with irregular shapes, or passage or space between existing small houses, the width or area of which is not suitable for building small houses.

My reply to the various parts of the question is as follows:

(a), (b) and (c)

When drawing up "V" zones on statutory plans, the PlanD takes into consideration the existing villages, the VE, the estimate of demand for small houses in the recognized villages in the future 10 years and the surrounding environment, and so on, as well as other site-specific planning factors such as locality, topography and environmental constraints. For instance, areas of difficult terrain, dense vegetation, areas of ecological significance, stream courses and burial grounds are not included into the "V" zones. When drawing up the relevant Outline Zoning Plans, the PlanD would consult relevant departments including the Home Affairs Department and the LandsD.

On future demand for small houses, the Administration does not get hold of the demand for small houses from all eligible indigenous villagers in the future for each of these 600-plus recognized villages,

and did not make an aggregate assessment of such demand. Relevant Village Representatives would be consulted via the LandsD when required by the PlanD for drawing up "V" zones on a particular statutory plan or when the TPB considers planning applications for small house development. The information received would merely be one of the factors taken into account by the TPB in considering cases.

Despite the Administration's difficulty in verifying the demand for small houses in the future 10 years, the current policy enforcement is focusing on supply management. The demand for small houses is not the only factor of consideration when the Administration draws up "V" zones in the statutory plans and when the TPB considers planning applications in the "V" zones.

As a fair share of small houses are built on land under private ownership the size of which is not standardized, the LandsD does not have readily available information showing the total land area involved in all small house applications. Moreover, as aforementioned, the 932 hectares of "V" zoned land is not equivalent to the land area available for small house development; not all of the land in VEs or "V" zones is suitable for building small houses. The topography, the geographical situation, the size and distribution of individual lots, and so on, would also directly affect the use of land. Therefore, we are unable to assess the number of small houses that could be built on the land currently available for small house development.

- (d) As aforementioned, the planning intention of the "V" zone is mainly to reflect existing villages and for small house development by indigenous villagers within recognized villages. The purpose of setting up the "V" zone is also to concentrate village type developments for more orderly development.

The planning intention of the "V" zone is for the Policy in terms of building small houses. Furthermore, such zones scatter across the territory, and are generally not suitable for large-scale development because of the sporadic locations and infrastructural constraints. Similar to other rural land, even if the relatively larger sites with a

relatively higher development potential in the "V" zones are to be developed, we need to carry out comprehensive planning and engineering studies to ascertain the development feasibility, infrastructures and ancillary facilities before the development. Merely turning part of the land in a particular "V" zone to residential development with a relatively higher density is inappropriate in respect of planning, infrastructure and ancillary facilities.

- (e) In general, the LandsD would not consider a small house application if the eligible indigenous villager residing overseas applies for permission to erect a small house on Government land by means of a Private Treaty Grant is unable to prove his intention of returning to Hong Kong and residing in the village.

As aforementioned, the Administration does not get hold of the demand for small houses from eligible indigenous villagers for each of these 600-plus recognized villages, and therefore we have no means to make an aggregate assessment or a categorical estimate for indigenous villagers residing overseas. Moreover, the LandsD is unable to compile statistics on or estimate the existing number of eligible indigenous villagers that are 18 years or above in each recognized village. It is because the number changes with the birth, growth and passing away of indigenous villagers. Besides, whether or not an indigenous villager would apply for a small house grant is dependent on his own circumstances and wishes, and not all eligible indigenous villagers aged 18 years or above will submit an application.

- (f) The Administration's position with regard to the Policy has been made clear on a number of public occasions in the past. There have been significant changes to the rural setting as well as the community as a whole since the implementation of the Policy. The Administration recognizes the need to review the Policy in the context of land use planning as well as optimal utilization of land resources. Such review inevitably involves complicated issues in various aspects including legal, environmental, land use planning and demand on land, all of which require careful examination. The Administration has not come to a stance yet, and remains open to any suggestion with regard to the Policy. We will keep an open

and vigilant mind in examining every suggestion, while maintaining dialogue with different walks of life.

### **Water Supply for Residents in Remote Areas**

19. **MR TANG KA-PIU** (in Chinese): *President, according to the information from the Water Supplies Department (WSD), tap water supply is at present available to about 99.9% of the population in Hong Kong, and 6 000-odd people are not yet supplied with tap water, including the residents of Tai Long Village on Lantau Island and Po Toi Island. Some residents of Tai Long Village have complained to me that while they rely on stream water for daily consumption, the stream water dries up during dry seasons in autumn and winter. In this connection, will the Government inform this Council:*

- (a) of the names of the villages in Hong Kong yet to be supplied with tap water, and the number of households and the population of each of these villages, set out by District Council district;*
- (b) of the numbers of requests for assistance or complaints received by WSD from residents regarding unavailability of tap water in each of the past three years, and the districts involved in such complaints;*
- (c) whether the authorities have conducted any technical feasibility study and cost-effectiveness assessment in the past three years in respect of laying fresh water mains for areas yet to be supplied with tap water; if they have, of the details; if not, the reasons for that;*
- (d) given that the authorities have formulated schemes of "Water Supply to Remaining Remote Villages in the New Territories" and have arranged the supply of tap water by phases to some of the remote villages (such as Wu Kau Tang Village and Tai Ho Village), whether they have formulated any timetable for supplying tap water to all the households in the remaining villages that are yet to be supplied with tap supply; if they have, of the details; if not, the reasons for that; given that the Government has stated that if the development of the adjoining areas of remote villages makes water supply schemes more economical, it will reconsider the supply of water to the villages*



*concerned, whether the adjoining areas of the villages with no tap water supply have not undergone any development in the past decade, so that the Government has not reconsidered the water supply schemes; if so, of the details;*

- (e) of the details of the water supply services provided by WSD to residents of areas or villages that are yet to be supplied with tap water since 2003; of the amount of public money spent on such services in the past three years; whether it has taken any measure to ensure that residents of villages relying on stream water for daily consumption can still have supply of water meeting hygiene standards during the time when the stream water dries up; if it has, of the details; if not, the reasons for that; and*
- (f) whether the Government has signed any international convention to undertake that the people of Hong Kong will be provided with stable and clean water supply for daily consumption; if it has, of the details?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, at present, the coverage of the treated water supply network in Hong Kong is about 99.9%. Areas without treated water supply are mainly those remote villages with sparse population. Although these remote villages are without treated water supply, there are raw water systems supplying stream or well water for domestic consumption. These raw water supply systems have been in use for many years and are under the maintenance of the Home Affairs Department (HAD). Moreover, the Food and Environmental Hygiene Department (FEHD) regularly monitors and tests the raw water quality to confirm whether the raw water in these villages is suitable for potable consumption.

The Tai Long Village is located at the southern coast of Lantau with population of about 28. It is using a raw water system supplying stream water for domestic consumption. In the past three years, the Government has not received any complaint or request for assistance due to the dry out of the local stream course. As for the Po Toi Island, it has population of about 20. It is also using raw water system supplying stream water for domestic consumption. From 2010-2011 to 2012-2013, Islands District Office has received eight notices

from the Po Toi residents about the shortage of raw water on the Island. In response, Islands District Office has arranged the delivery of potable water to Po Toi Island for use by the residents in these occasions. The Government always concerns about and keeps under regular review the water supply in these remote villages.

My reply to Mr TANG Ka-piu's question is as follows:

- (a) Out of the 18 District Councils, 24 villages within seven District Councils are currently without treated water supply. These villages and their estimated population are listed in Annex 1.
- (b) In the past three years, the Government has received requests for treated water supply from 11 villages in four District Councils. The villages include Tung Ping Chau in Tai Po District; Nim Shue Wan (including Cheung Sha Lan), Tai Long (South Lantau), Sham Ah Shui, Yi O (West Lantau) and Po Toi Island in Islands District; Tung Ah, Tung Ah Pui, Ngan Hang and Lan Nai Wan in Southern District, and Mui Tsz Lam in Sha Tin District.
- (c) and (d)

The Government always concerns about and keeps under regular review the water supply in the remote villages. In the past 10 years, the Government has completed treated water supply systems for 18 remote villages as listed in Annex 2. Moreover, the Government has commenced the engineering design for the treated water supply system for Tung Ah, Tung Ah Pui, Ngan Hang and Lan Nai Wan villages in Southern District. The construction works are anticipated to commence in 2014 for completion in 2016. We also undertake regular review of the assessment for the provision of treated water supply to other remote villages. As these remote villages are far away from the existing government water supply system and most of them are located at high ground, the treated water supply system for these remote villages will require pump house, high level water tank, long distance water mains and the associated leak detection and monitoring facilities. Given the sparse population of these remote villages, preliminary financial

assessment reveals that the per capita capital cost for extension of the water supply system to these villages will be high. Furthermore, we have to consider other factors such as the availability of other water source, the raw water quality, cost-effectiveness, and so on. At the same time, we have to consider if the water consumption will be low and cause stagnant water inside the water mains resulting in deterioration of water quality. Should the Government decide to provide treated water supply to these remote villages in future, we will submit funding application in accordance with the current procedures for the implementation of treated water supply system.

- (e) As mentioned in the first paragraph above, there are raw water supply systems in those remote villages without treated water supply. The FEHD regularly monitors and tests the raw water quality to confirm whether the raw water in these villages is suitable for potable consumption. In the event that there is a dry out of the local stream course, the Government will provide assistance including the provision of potable water to meet the need of the residents. The HAD will also from time to time improve the raw water supply systems in the remote villages. For instance, Islands District Office has constructed water pipes and installed additional water storage facilities for Cheung Sha Lan, Tai Long Village and Fan Lau. In addition, it has provided three water storage tanks for Po Toi Island. Moreover, the Tai Po District Office has twice installed additional water storage facilities and improved water pipes and water storage facilities for the villages in Tung Ping Chau.

In 2010-2011, 2011-2012 and 2012-2013, the expenditure incurred by the Government for the improvement and maintenance of the raw water supply system and the monitoring the raw water quality in the remote villages are \$1.02 million, \$1.76 million and \$1.1 million respectively.

- (f) At present, there is no international convention on commitment to ensure that the citizens are provided with stable and clean domestic water supply.

Remote Villages Without Treated Water Supply and  
Their Estimated Population in 2013

<i>District Council</i>	<i>Village Name<sup>(1)</sup></i>	<i>2013 Estimated Population<sup>(1)</sup></i>
Tai Po	Tung Ping Chau	8
	Yuen Tun Ha	3
	Lai Chi Chong	3
	Wong Chuk Yeung	3
	Tung Sam Kei	0
	Sham Chung	0
Tsuen Wan	Luk Keng (Lantau)	4
	Tai Chuen (Northeast Lantau)	6 (including Tai Chuen, Tso Wan and Fa Peng)
	Tso Wan (Northeast Lantau)	<i>Ditto</i>
Islands	Nim Shue Wan	150
	Cheung Sha Lan	50
	Tai Long (South Lantau)	28
	Po Toi Island	20
	Fan Lau (West Lantau)	20
	Yi O (West Lantau)	0 <sup>(2)</sup>
	Upper Wong Lung Hang	0
	Sham Ah Shui	25
Southern	Tung Ah	35
	Tung Ah Pui	60
	Ngan Hang	50
	Lan Nai Wan	30
Sha Tin	Mui Tsz Lam	about 70 to 100
Tuen Mun	Tin Fu Tsai	30
Sai Kung	Tung Lung	0

Notes:

- (1) Information of the villages and their population in 2013 is provided by the District Offices. There is however no record of the number of households.
- (2) Some villagers indicate that they will return to the village after retirement.

## Annex 2

Treated Water Supply Systems Completed in  
Remote Villages/Areas in the Last 10 Years

	<i>District Council</i>	<i>Village/Area Name</i>
2003	Islands	Ngau Kwu Long, Tai Ho
2004	Islands	Pak Mong, Mong Tung Wan
	Sai Kung	To Kwa Peng, Kau Sai, Tai Long, Ham Tin, Sai Wan
	Sha Tin	Ma On Shan Tsuen
2006	Tai Po	Wu Kau Tang, Kau Tam Tso, Lai Chi Wo, Ap Chau, Kat O
2007	Islands	Pui O Au, Wang Tong
2011	Tai Po	Ta Tit Yan

### **E-textbook Market Development Scheme**

20. **MR CHARLES PETER MOK** (in Chinese): *President, applications for the first phase (Phase 1) of the E-Textbook Market Development Scheme (EMADS) launched by the Education Bureau closed at the end of September 2012. Applications from 13 organizations, which involved 30 projects on the development of e-textbooks, were approved. The second phase (Phase 2) of EMADS is now open for application and the authorities have extended the scope of EMADS to cover the senior secondary curricula. However, some e-textbook developers have relayed to me that as they have difficulties in complying with the terms of EMADS, they are discouraged from submitting their applications. In this connection, will the Government inform this Council:*

- (a) *of the number of projects completed under Phase 1 of EMADS, the curricula information of the respective projects, the number of projects of which the e-textbooks developed have been tried out by partner schools under the Partner Schools Scheme, as well as the respective numbers of schools, teachers and students involved in the field-test of each project, as at the end of September this year;*
- (b) *of the performance indicators set by the authorities for the completed projects (for example, whether they have assessed the*

*impact of the projects on students' academic performance, the degree of satisfaction of the teachers and students with the projects, and the views of the developers, and so on); whether relevant statistics are available at present; if so, of the details; whether it has, before launching Phase 2 of EMADS, made reference to the relevant indicators and data for making corresponding adjustments to EMADS so as to promote the utilization rate of such teaching materials and encourage developers to submit applications; if so, of the details;*

- (c) *as the authorities have indicated to the press that three of the successful applicants in Phase 1 of EMADS have not yet entered into an EMADS agreement with the authorities for "specific reasons", of such reasons, and the progress made by the authorities in following up with the implementation of the projects by the three applicants; and*
- (d) *given that at the present stage, Phase 2 of EMADS covers only the subjects of primary and junior secondary schools as well as six subjects of senior secondary schools (that is, English, History, Geography, Physics, Biology and Chemistry), whether the authorities will incorporate all the subjects of senior secondary schools into EMADS; if so, of the implementation timetable and details?*

**SECRETARY FOR EDUCATION** (in Chinese): President,

- (a) As at the end of September 2013, there were 20 sets of e-textbooks being developed by 10 developers under Phase 1 of EMADS, in which 15 sets covered primary education and five sets covered junior secondary education, including Chinese Language, English Language, Mathematics, Geography, Life and Society, Physical Education, General Studies and Putonghua. Each set of e-textbook was field-tested in the try-outs of not less than three Partner Schools. Eighty Partner Schools have completed the first try-outs which involved over 5 000 primary and secondary students and 200 teachers. As the e-textbooks are still under development, the

developers have to go through the second and the third try-outs and submit the final deliverables in order to complete the whole project.

- (b) The Education Bureau has set up a Steering Committee on the Selection, Quality Assurance and Review of EMADS to oversee the development and progress of EMADS, monitor the quality assurance mechanism and field-test the e-textbooks being developed through the "Partner Schools Scheme". Under the Scheme, the Education Bureau will have pre-meetings with Partner Schools and developers to discuss the pedagogical requirements in the try-outs and evaluate the quality of the e-textbooks in authentic classroom settings through lesson observations. After the lesson observations, the Education Bureau will provide feedbacks to developers for refinement in the design of the e-textbooks. Furthermore, the Education Bureau has also set up subject vetting panels for each subject set to ensure the quality of the e-textbooks. The first try-out was completed in late April. Based on the lesson observations and feedbacks from the participating Partner Schools, the try-out process was generally smooth and the feedbacks from different stakeholders were positive. Schools, teachers and students all provide positive feedbacks on the effectiveness of the e-textbooks in enhancing learning and teaching, as well as boosting students' learning motivation.

Having regard to the experience gained in the try-outs and the development of e-textbooks in these months, it was found that the project schedule was rather tight. We understand that the development of e-textbooks in Hong Kong is still in embryo, it takes time for e-textbook developers, Partner Schools and the Education Bureau to gain experience and establish collaboration. In view of this, we had allowed a greater flexibility in the first try-out in Phase 1 of EMADS that individual developers and partner schools could negotiate with the Education Bureau on the arrangement and schedule of the try-outs and we would make adjustment based on the actual situation. As the second and the third try-outs are coming, we would continue to closely collaborate with different stakeholders to overcome the upcoming challenges, thus ensuring the quality of the e-textbooks developed under EMADS. Furthermore, having regard to the above experience, we allow applicants under Phase 2 of

EMADS to choose to launch their e-textbooks in the market in either 2015-2016 or 2016-2017 school year.

- (c) Among the 13 successful applicants under Phase 1 of EMADS, the Education Bureau signed project agreement with 10 of them. As regards the remaining three applicants, the details for not being able to conclude an agreement with them in the end cannot be revealed, since commercial considerations of these three applicants are involved.
- (d) Upon the completion of the short-term stage of the review of the New Senior Secondary (NSS) school curriculum and assessment, six NSS subjects with more stable curricula have been covered in Phase 2 of EMADS. Since Phase 2 of EMADS is still being implemented, the Education Bureau does not have any plan to include all the subjects of senior secondary school curriculum in EMADS at this stage.

### **Work of Task Force on Public Consultation in Relation to Constitutional Development**

21. **MR ALAN LEONG** (in Chinese): *President, on the 17th of this month, the Chief Executive announced the formation of a task force led by the Chief Secretary for Administration to handle the tasks of public consultation on constitutional development (the task force) in relation to the method for forming the Legislative Council in 2016 and the selection of Chief Executive by universal suffrage in 2017. Other members of the task force include the Secretary for Justice and the Secretary for Constitutional and Mainland Affairs. The task force will publish a consultation document on constitutional development by the end of this year at the earliest. In this connection, will the Government inform this Council:*

- (a) *when the task force will convene its first meeting, and whether it will meet on a weekly basis thereafter;*
- (b) *of the task force's timetable for various tasks, including the time for launching the various stages of consultation, the time required for the various consultation stages and for the consolidation of findings*



*of the consultation, as well as when it will consult the public on the concrete proposals for constitutional reform; given that the "Interpretation of Article 7 of Annex I and Article III of Annex II to the Basic Law", adopted by the Standing Committee of the National People's Congress (NPCSC) in 2004, provides that the constitutional reform process must go through a "five-step mechanism", of the timetable for these five steps;*

- (c) of the budgeted expenditure and the manpower required for conducting the consultation on constitutional development; and*
- (d) whether the consultation document for the first stage consultation will consult the public on the following issues:*
  - (i) whether the Chief Executive selection in 2017 should adopt a mechanism for civil nomination of the candidates (that is, a person who intends to stand for the election is eligible for becoming a valid Chief Executive candidate if he/she has obtained the nomination by a certain number of voters); if so, of the details; if not, the reasons for that;*
  - (ii) whether the boundaries of the geographical constituencies (GCs) for the 2016 Legislative Council Election should be redrawn; if so, of the details; if not, the reasons for that; and*
  - (iii) whether the split voting system of the Legislative Council should be abolished in 2016, and whether the ratio between the Legislative Council seats returned by functional constituencies elections and those returned by the GCs through direct elections should be changed?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Chinese): President, our reply to the questions raised by Mr LEONG is as follows:

- (a) The Chief Executive has announced at the Legislative Council Chief Executive's Question and Answer Session on 17 October 2013 the immediate establishment of the Task Force on Constitutional

Development (Task Force) headed by the Chief Secretary for Administration, with the Secretary for Justice and the Secretary for Constitutional and Mainland Affairs as members, to handle the public consultation on the methods for selecting the Chief Executive in 2017 and for forming the Legislative Council in 2016. Work of the Task Force has already started and a meeting has been convened to discuss the preparatory work. The Task Force would meet on a need basis.

- (b) The Task Force is carrying out related preparatory work, aiming at issuing the consultation document around the end of this year to formally launch the public consultation on the methods for selecting the Chief Executive in 2017 and for forming the Legislative Council in 2016, with a view to preparing for the first step of the "five-step" process of constitutional development, that is, the Chief Executive to make a report to the NPCSC. The Government will reserve adequate time for the public to give their opinions on the two electoral methods. As regards the specific timetable, we will announce in due course.
- (c) The Administration has set aside about \$7.3 million (excluding staff cost) and created six time-limited posts (including one Administrative Officer, one Senior Executive Officer, one Executive Officer II and three Assistant Clerical Officers) in 2013-2014 for the public consultation on the methods for selecting the Chief Executive in 2017 and for forming the Legislative Council in 2016.
- (d) Implementation of universal suffrage for the selection of the Chief Executive in 2017 is the common aspiration of the Central People's Government, the Government of the Hong Kong Special Administrative Region (HKSAR) and the public at large. The HKSAR Government would carry out the public consultation on constitutional development strictly in accordance with the Basic Law and relevant Interpretations and Decisions of the NPCSC. Same as previous arrangements in handling consultations on constitutional development by the HKSAR Government, the current term Government would listen to views from the public on various issues with an open mind during the first stage of public consultation on the methods for selecting the Chief Executive in 2017 and for forming

the Legislative Council in 2016. At this stage, the HKSAR Government would not put forward any specific proposals on the two electoral methods.

Regarding the delineation of boundaries of the GCs, the Administration will take into consideration a number of factors, such as changes in population, when reviewing the GCs for the Legislative Council and the upper and lower limits of seats for each GC. The independent Electoral Affairs Commission will consult the public on the delineation and number of seats of each GC, according to the number of GCs and upper and lower limits of each constituency as approved by the Chief Executive in Council, and in accordance with relevant legislation.

### **Support for Children with Learning Disabilities**

22. **DR KWOK KA-KI** (in Chinese): *President, it has been reported that, at present, children need to wait for more than a year before arrangements are made for them to receive assessment at the Child Assessment Centres (CACs) under the Department of Health (DH) for identifying learning disabilities. After the assessment, most parents are issued with a simple assessment report only, while a small number issued with a detailed report. Regarding the support for children with learning disabilities, will the Government inform this Council:*

- (a) *of the following statistics in each of the past three years:*
  - (i) *the respective numbers of children referred by doctors, schools and other channels to CACs for receiving assessment;*
  - (ii) *the average waiting time for children to receive assessment;*
  - (iii) *a breakdown, by the type of learning disabilities confirmed after assessment, of the number of children who had received assessment;*
  - (iv) *the respective numbers of children issued with the simple and the detailed versions of the assessment report; and*

- (v) *the respective average time between the receipt of assessments by children and the issuance of the simple or detailed report to their parents;*
- (b) *of the criteria adopted by CACs for determining whether to issue the simple or the detailed report;*
- (c) *of the number and percentage of those children with learning disabilities at present in all school-age children in the territory, with a breakdown by type of learning disabilities; and*
- (d) *whether it will consider drawing reference from neighbouring regions (for example, Taiwan) and introducing legislation to protect the rights and interests of students with learning disabilities; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, upon consultation with the Education Bureau and the DH, my reply to the various parts of the question is as follows:

- (a)(i) The Child Assessment Service (CAS) under the DH provides comprehensive assessment services and diagnosis for children under 12 with developmental problems (including children with learning disabilities). The assessment team in CAS comprises professional staff from various disciplines. In the past three years, the number of new referral cases received by the six CACs under the CAS were 8 418 in 2010, 8 476 in 2011 and 8 773 in 2012.
- (a)(ii) Nearly all new cases were seen within three weeks at present, and assessments for over 90% of newly registered cases were completed within six months in the past three years.
- (a)(iii) The number of cases newly diagnosed by the six CACs under the CAS as having various kinds of learning disabilities for the past three years is set out in Annex.

(a)(iv)(v) and (b)

Generally speaking, after receiving assessment in the CAC, a child will be issued with an Assessment Summary on the same day. The assessment team will, having regard to the individual circumstances and needs of the child, send a detailed assessment report to the educational psychologist of the Education Bureau or the child's school, or to the relevant professionals of the rehabilitation service unit to which the case has been referred within eight weeks after the assessment. Moreover, parents may make applications to the CAS for the medical reports of their children when necessary. The application fee is HK\$560.

(c) In 2012-2013 school year, the number of students with different types of special educational needs (SEN) studying in ordinary public sector secondary and primary schools is tabulated as follows:

<i>Specific Learning Difficulties</i>	<i>Intellectual Disability</i>	<i>Autism Spectrum Disorders</i>	<i>Attention Deficit/Hyperactivity Disorder</i>	<i>Physical Disability</i>	<i>Visual Impairment</i>	<i>Hearing Impairment</i>	<i>Speech &amp; Language Impairment</i>	<i>Total</i>
17 440	1 690	4 150	4 780	380	130	690	2 130	31 390

In the same school year, the number of students, by major types of SEN, studying in special schools is as follows:

<i>Mild Intellectual Disability</i>	<i>Moderate Intellectual Disability</i>	<i>Severe Intellectual Disability</i>	<i>Physical Disability</i>	<i>Visual Impairment</i>	<i>Hearing Impairment</i>	<i>Total</i>
3 122	1 786	729	929	122	129	6 817

As the data collected by the Education Bureau covers only the number of students with SEN studying in public sector ordinary schools and special schools (that is, not including those in non-public sector schools), we are unable to provide the percentage of students with SEN among all school-age children in the territory.

(d) In accordance with the Disability Discrimination Ordinance and the Code of Practice on Education, it is unlawful for educational establishments to discriminate against a person with a disability. As such, all educational establishments are obliged to provide equal

educational opportunity for eligible students, including those with SEN. In other words, the existing legal framework in Hong Kong can basically serve as an effective safeguard for the rights of students with SEN. Concerning the proposal for legislation to be introduced to protect students with SEN, since different countries or places have different needs and context, we consider that it is more appropriate, at this stage, to explore how support measures for implementing Integrated Education (IE) can be strengthened so that more suitable arrangements can be provided for students. From an educational perspective, it will be more effective for schools to adopt a Whole School Approach to implement IE to improve their culture, policy and measures, which in turn enhances the effectiveness of support for students with SEN.

Annex

Number of Newly Diagnosed Cases by the six CACs of the CAS under the DH as Having Different Types of Learning Disabilities in

<i>Type of Cases</i>	<i>Year</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
Dyslexia & Mathematics Disorder*		710	628	518
Significant Developmental Delay/Mental Retardation		1 111	1 175	1 036
Language Delay/Disorders and Speech Problems		2 493	2 647	2 764
Attention Problems/Disorders		2 084	2 234	2 182
Autistic Spectrum Disorders		1 790	1 607	1 567
Developmental Motor Co-ordination Problems/Disorders		1 873	2 019	1 744
Physical Impairment		64	46	47
Visual Impairment (blind or low vision)		47	30	41
Hearing Impairment (moderate grade or worse)		67	97	97

Notes:

- (1) The figures only reflect cases assessed and diagnosed by the CAS of the DH of that year, but are not cumulative. A child might have more than one developmental problems/disabilities.
- (2) With changes in the definition and classification of developmental disabilities of children over the past decade, the CACs have to modify the categories and definition of cases. Hence, it is not appropriate to compare the number of cases for individual categories across the years.

\* At present, the CAS groups all cases of dyslexia and mathematics disorder under one category.

## MOTIONS

**PRESIDENT** (in Cantonese): Motions. Four proposed resolutions to be moved by the Secretary for Financial Services and the Treasury under the Bankruptcy Ordinance and the Companies Ordinance.

The first motion seeks the Council's approval for the Bankruptcy (Amendment) Rules 2013.

The second motion seeks the Council's approval for the Bankruptcy (Fees and Percentages) (Amendment) Order 2013.

The third motion seeks the Council's approval for the Companies (Fees and Percentages) (Amendment) Order 2013.

The fourth motion seeks the Council's approval for the Companies (Winding-up) (Amendment) Rules 2013.

As the four amendment rules and amendment orders under the four motions are relating to the revision of the Official Receiver's Office's statutory fees, charges and deposits regarding the provision of the relevant services in respect of bankruptcy, and that the contents are closely related, and were scrutinized by the same subcommittee, this Council will proceed to a joint debate on the four motions.

I will first call upon the Secretary to speak on the four motions and move the first motion. When the debate comes to a close, this Council will first vote upon the first motion, and then vote upon the second, third and fourth motions respectively. Whether or not the first motion is passed will not affect the moving of the remaining three motions by the Secretary.

This Council will now proceed to a joint debate. Members who wish to speak on the four motions will please press the "Request to speak" button.

I now call upon the Secretary for Financial Services and the Treasury to speak and move the first motion.

**PROPOSED RESOLUTION UNDER THE BANKRUPTCY ORDINANCE**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I move that the first motion under my name, as printed on the Agenda, be passed to approve the Bankruptcy (Amendment) Rules 2013 made by the Chief Justice on 18 June 2013.

These Amendment Rules, as well as the Amendment Orders and Amendments Rules in relation to the three motions that I will move later are made by the Chief Justice and subject to the positive vetting procedure, with the aim of revising the fees, charges and deposits for insolvency services provided by the Official Receiver's Office (ORO) in bankruptcy and winding-up cases as stipulated under the Bankruptcy Ordinance (BO) and the Companies Ordinance (CO).

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)

In respect of the statutory fees, charges and deposits levied by the ORO, our established policy is that fees charged by the Government for the provision of services should be set at levels adequate to recover the overall costs. This ensures that the costs for providing the services do not fall on the general taxpayers.

The ORO has recently conducted a review of its statutory fees, charges and deposits. After taking into account their existing levels and the ORO's actual operating revenue and costs, it is projected that the ORO will achieve cost recovery rate at 111% in the financial year 2013-2014. As such, we now propose to reduce 26 fees, deposits and charges in relation to bankruptcy and winding-up proceedings back to their levels prior to the last fee revision exercise in 1997.

Separately, regarding the levy of "realization fee" when the Official Receiver (OR) acts as the interim trustee or trustee in bankruptcy cases or as the liquidator in court winding-up cases, we propose to replace the present mechanism for charging the "realization fee" at 10% of the amount of assets realized by a fixed fee of \$170 on a full-cost recovery basis.



If the proposed fee adjustments are implemented, it is estimated that the ORO's annual revenue would be reduced by about \$17.3 million. Assuming that the proposed fee revision will come into effect before 2014, the ORO's projected cost recovery rate for 2013-2014 will be around 100%.

Regarding the first motion, the Bankruptcy (Amendment) Rules 2013 give effect to the proposal to reduce the amount of two deposits payable by the petitioner on the presentation of a bankruptcy petition. The deposit for debtor-petition bankruptcy cases will be reduced from \$8,650 to \$8,000, and from \$12,150 to \$11,250 for creditor-petition bankruptcy, that is, back to the level in 1997.

Regarding the second motion, the Bankruptcy (Fees and Percentages) (Amendment) Order 2013 gives effect to the proposal to reduce 13 statutory fees charged by the ORO for administering bankruptcy cases, and replace the mechanism of charging a "realization fee" when the OR acts as the interim trustee or trustee in bankruptcy cases with a fixed fee of \$170.

Regarding the third motion, the Companies (Fees and Percentages) (Amendment) Order 2013 gives effect to the proposal to reduce 12 statutory fees charged by the ORO for administering winding-up cases, and replace the mechanism of charging a "realization fee" when the OR acts as the liquidator in court winding-up cases with a fixed fee of \$170.

Regarding the fourth motion, the Companies (Winding-up) (Amendment) Rules 2013 give effect to the proposal to reduce the amount of deposit payable by the petitioner on the presentation of a petition of a court winding-up case from \$12,150 to \$11,250. In addition, the cost charged by the ORO for summoning a meeting of creditors or contributories in relation to the winding-up proceedings will be reduced from \$1,560 to \$1,440.

Deputy President, I would like to thank Mr WONG Ting-kwong, Chairman of the Subcommittee, as well as other members of the Subcommittee, for scrutinizing the proposed amendments in detail, and giving us their valuable opinions. I hope this motion will be supported by the Legislative Council, so that the proposal to reduce the two deposits in bankruptcy cases can be implemented by the ORO as soon as possible. With these remarks, I move the motion. Thank you.

**The Secretary for Financial Services and the Treasury moved the following motion:**

"RESOLVED that the Bankruptcy (Amendment) Rules 2013, made by the Chief Justice on 18 June 2013, be approved."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed.

**MR WONG TING-KWONG** (in Cantonese): Deputy President, I make the following report in my capacity as the Chairman of the Subcommittee on Proposed Resolutions under the Bankruptcy Ordinance and the Companies Ordinance (the Subcommittee). The Subcommittee held a total of two meetings to study the relevant proposed resolutions and receive views from deputations.

The main objective of the four proposed resolutions under the Bankruptcy Ordinance (BO) and the Companies Ordinance (CO) is to reduce the various fees, deposits and charges in relation to bankruptcy and winding-up proceedings back to their levels prior to the last fee revision exercise in 1997. With such reductions, the projected cost recovery rate of the Official Receiver's Office (ORO) for the financial year 2013-2014 will be reduced from 111% to 100%.

The Subcommittee supports the Administration's proposal to introduce the fee reduction, yet it is also concerned about whether the deposit to be paid to the Official Receiver (OR) for debtor-petition bankruptcy cases can be further reduced.

According to the Administration's explanation, the amount of the above deposit will be reduced from \$8,650 to \$8,000. The fees cover the costs and expenses incurred in handling a bankruptcy case, such as the costs of publishing the notices relating to the case in the Gazette and in the newspaper, conducting searches as well as administering the bankrupt's property, and so on. The reduced amount of \$8,000 is a reasonable level for the deposit.

The Subcommittee is concerned that some debtors with great financial difficulties may resort to illegal money lenders in order to pay the \$8,000 deposit.

Members have discussed various suggestions to help low-income debtors file for bankruptcy, such as allowing petitioners to pay the deposit by instalments, extending the bankruptcy period in case of default payment by the bankrupt, reducing the amount of deposit payable by the elderly, the disabled and persons without any income for three months prior to the filing for bankruptcy, and so on.

The Administration has stated that any reduction of the deposit to a level lower than \$8,000 will affect the full cost recovery of the ORO, meaning that the costs of service will be borne by the general taxpayers. Besides, in comparable jurisdictions such as the United Kingdom and Singapore, there is no separate mechanism to charge certain categories of persons a lower deposit for bankruptcy petitions or to waive the deposit.

Regarding the suggestion that the deposit can be paid by instalments, the Administration considers that it will give rise to a number of legal and operational issues. Under the general principle of bankruptcy law, if a bankrupt makes contribution towards his estate during the bankruptcy period, such monies will be an asset to be distributed to all creditors in order of priority. The suggestion of paying the deposit by instalments will imply that contribution made by the bankrupt should first be used to pay the deposit balance, representing a debt owed to the ORO in priority to other creditors. The Administration considers that this would affect the interests of other creditors.

The suggestion of payment by instalments will also require the ORO to change its administration system and take on new duties to track and handle the payment/non-payment of the instalments. Apart from resource implications, this will compromise the cost recovery rate of the ORO.

As regards the suggestion of putting in place a mechanism to allow further extension of the bankrupt's bankruptcy period until the full balance of the deposit is settled, the Administration holds the view that it will be difficult to justify why failure to repay one particular debt should be a ground for extending the bankruptcy period up to an indefinite period.

The Subcommittee takes the view that the issue of offering financial assistance to bankruptcy petitioners warrants further discussion from a social welfare perspective. However, members agree that the Subcommittee is not the right platform to deal with the relevant issues. They consider that individual members may pursue the matter at the meetings of the relevant Panel.

The Subcommittee supports the Administration's proposed resolutions and will not propose any amendments.

Deputy President, I will now give my personal views on the proposed resolutions.

Actually, there is not much dispute about this proposed resolution which only involves fee adjustments to allow the ORO to reduce the various fees, charges and deposits in relation to bankruptcy and winding-up proceedings, so that its cost recovery rate will be reduced from 111% to 100%. With the fee adjustments, the ORO will still achieve cost recovery for the services it provides, while the cost to be borne by applicants for services will also be reduced. Hence, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) welcomes the relevant amendment proposals and supports the proposed resolutions.

In the course of our scrutiny, the issue most concerned and discussed by members was how to provide assistance to low-income debtors who could not afford the bankruptcy petition deposit. As pointed out by some members as well as representatives of the Caritas Family Crisis Support Centre, some low-income debtors who could not secure money from families, relatives or friends to pay the bankruptcy petition deposit would often go for illegal money lenders. Apart from livelihood and financial difficulties, they were also plagued by emotional problems.

Hence, some members as well as representatives of the Caritas Family Crisis Support Centre had put forward many suggestions, which included introducing a tier system for the deposit so that different levels of the deposit would be levied according to the income level of petitioners, remitting the relevant fees for certain categories of petitioners (that is, the elderly, the disabled and the unemployed) on a discretionary basis, paying the deposit by instalments, allowing the extension of bankruptcy period, and so on. I have also mentioned these suggestions in my earlier report.

I have once expressed my views in this regard at the meeting, and I would like to reiterate them here. Fees charged by the ORO are intended to cover the costs incurred in administering bankruptcy petition proceedings, and should be separated from rendering assistance to debtors. According to the ORO, it receives some 10 000 bankruptcy petitions each year, and from 2008 to 2012,

38% of the debtors had no income and 40% had a monthly income below \$10,000.

In my view, reducing the bankruptcy petition fees is not effective in helping low-income debtors address their debt problems and livelihood difficulties. These debtors may apply for bankruptcy time and again, taking advantage of the bankruptcy petitions to resolve their perennial financial difficulties. Hence, the Government should provide appropriate assistance to those debtors with genuine livelihood difficulties, yet it is actually difficult for the ORO to identify which persons have genuine needs. Therefore, social workers should identify debtors with genuine needs and understand their difficulties, so that assistance can be provided through the social welfare system, not only to help them address their bankruptcy problems, but also alleviate their livelihood difficulties on all fronts, and help them consider their way forward. This approach is better than the stop-gap and piecemeal measures of only reducing the bankruptcy petition fees.

Therefore, we should not impede the ORO to recover the cost for providing bankruptcy services. The issue of cost recovery should be separated from the provision of assistance to low-income debtors. The question of how to help this group of people from a social welfare perspective should be referred to the relevant Panel for discussion. Nonetheless, I agree with members' suggestion that a referral mechanism can be set up through the co-operation between the ORO and the Social Welfare Department (SWD), such that the ORO can refer cases to the SWD for investigation and problems in society can thus be solved. Government departments should not just mind their own businesses. If close liaison and co-operation can be strengthened, naturally there will be less conflicts and society can be more harmonious. Hence, I hope the relevant departments can give consideration to the relevant suggestion.

Lastly, I would like to raise the problem relating to illegal debt-collection activities. From time to time, we learn about debtors and their family members being harassed by debt collectors constantly, and they have to live in great fear and pressure. Even if debtors seek help from the police, the police would only record their complaints, as there is not too much the police can do or the police are not willing to intervene. The reason is that while debtors and their family members are protected by law from being harassed in debt collection activities, the law also safeguards the creditors with certain powers in debt collection.

Hence, as harassment falls inside the grey areas, it is difficult for the police to intervene.

Therefore, I hope the authorities can study the enactment of legislation to regulate excessive harassment conduct, and explore how the police can intervene in accordance with law, so that debt collectors cannot harass the debtors and their families brazenly, and the debtors and their families can live a normal life.

Deputy President, I so submit.

**MR TANG KA-PIU** (in Cantonese): Deputy President, just now, Mr WONG Ting-kwong, Chairman of the Subcommittee, said that various government departments should not just mind their own businesses. In fact, the discussion arising from this fee revision exercise has given us an excellent opportunity for debt-ridden persons to make use of this platform of the Legislative Council to voice out the problems that are currently plaguing them.

Their problems are not limited to debt repayment, but also how to face the crisis. As a last resort, they have no other alternative but to file for bankruptcy, only to find that they have to pay a fee for filing bankruptcy. There is really no way out for them. As just mentioned by Mr WONG Ting-kwong, some debtors may borrow again in order to repay previous loans; apart from borrowing from relatives and friends, some may even approach illegal money lenders and eventually embark on a road of no return. Some choose to go into hiding, while some even commit suicide.

Hence, fee reduction itself is a good thing, and we also consider that the Administration's proposed resolutions have given us an excellent opportunity to discuss these issues. I welcome the proposed resolutions which seek to reduce the deposit for debtor-petition bankruptcy cases from \$8,650 to \$8,000, and for creditor-petition bankruptcy cases, from \$12,150 to \$11,250. By reducing the amount by \$650 from \$8,650 to \$8,000, it can indeed provide some assistance or relief to certain debtors who must file for bankruptcy to evade being harassed by creditors, but regrettably, many debtors still cannot afford the \$8,000 fee for bankruptcy petitions. Actually, they also need to pay a court fee of around \$1,000 and hence, the total amount is more than \$8,000. Even if they file the bankruptcy petitions by themselves, they still need to pay some \$9,000 under the

new mechanism before they can resolve their debt problems through filing for bankruptcy.

Hong Kong people who live in this financial city always attach great importance to personal reputation. Even if no fee is charged for filing bankruptcy petition, people will not readily take this step because once they go bankrupt, not only their way of living in the next four years will be subject to many restrictions, their personal development in future will also be affected, and they will face great difficulties in securing loans, financing and even seeking employment. Hence, even if no fee is charged, people will not file for bankruptcy casually. However, the present problem is that assuming the total amount of money required for filing bankruptcy petitions and the relevant court fee adds up to some \$9,000, it is still a big sum of money. For those who are driven to desperation and cannot, after exhausting their personal network of support, as well as that of their friends and relatives, resolve their debt problems, this huge sum of money will pose difficulties for them.

Just now, Mr WONG Ting-kwong mentioned the need to regulate debt-collection practices, in my view, another area requiring regulation is that loans can be obtained too easily. At present, loan advertisements can be found everywhere, for example, television advertisements, cold calls, newspaper advertisements, easy-mount frames, posters on the street and intermediary companies. Even when I receive a pen as a souvenir, there is a promotional message on borrowing loan. Discussion forums on the Internet are also indispensable. These promotion materials focus on low interest loans, no-income-proof loans, fast approval, "borrowed and repaid easily". Any person can obtain a loan by just making a call; anyone can secure a loan with the production of his identity card and proof of residential address. Seemingly, taking a loan is as easy as pie. All these messages convey the message of "non-repayment of loans", yet, people can easily fall into loan traps.

In some cases, the debtor may not even be the borrower, but he acts as a guarantor upon a friend's request, thinking that he needs not undertake any responsibility. However, if the borrower has disappeared, the guarantor will get into trouble. There are also cases involving consumers which have been reported in the press. The debtors have been persuaded by salespersons to pay large sums of money to purchase services from profit-making education institutions or fitness and beauty centres. The salespersons told the debtors that the whole package only cost \$10,000; interest-free credit services were provided

and the monthly payment was just \$500. Yet, it turned out that the consumer contract signed by the consumer was equivalent to the loan agreement signed with certain money lender. There are also cases in which some consumers signed the contracts under a poor mental state, for example, ex-mentally ill people have, under continuous and high-handed lobbying, signed the contracts and become heavily indebted.

Therefore, in our view, apart from problems related to borrowing and debt-collection practices, there is also the problem of getting loans too easily. Of course, credit card advertisements can be seen everywhere, and it is common that university students, who have no income proof, can apply for five to eight credit cards. Banks and credit card companies are perfunctory in their vetting, they always offer promotional products to attract new cardholders, and if the income of an applicant is lower than the required amount, they will still issue a credit card but with lower credit limit. In fact, the so-called income and repayment ability checks are just formalities. If an applicant has no income, he may have difficulty in repaying the loan; should banks and credit card companies be responsible for proper gate-keeping? The consumer cases or cases of excessive borrowing by university or post-secondary students as mentioned just are in fact great in number.

When the grassroots finally fail to bear the relevant financial responsibility, their last resort is to file for bankruptcy. To them, it is not a choice, but a means. However, when they learn that filing for bankruptcy also incurs a high cost, it becomes a nightmare for them. Caritas Family Crisis Support Centre — Concern Group on Hong Kong Personal Credit Problem (the Concern Group) is an organization formed by persons who once had such problem, and they had shared some cases at a meeting of the Subcommittee. I would like to share some stories here.

Apart from cases of university students taking out loans, consumer cases and cases involving innocent guarantors as mentioned just now, there are also the so-called "famished" cases, that is, people who live in poverty borrow money to meet day-to-day living expenses. In one case, a female member of the Concern Group lived with her son and her husband had always been in debt. At one time, she borrowed \$100,000 from the bank to help her husband repay his loan. But her husband suddenly disappeared, and she had to repay the bank loan as well as pay for the household expenses. This Concern Group member worked in a factory and only earned a monthly salary of \$6,000. Living frugally, she



managed to save up \$1,500 to repay part of the loan. When she could no longer obtain any loans, she started borrowing money from friends and relatives, and when this final network could not help her, she finally had to file for bankruptcy. However, when she learnt that the cost of filing for bankruptcy was as high as \$9,000, she was at a loss. Finally, her friends and relatives helped her for the last time. This Concern Group member said that since then, her friends and relatives avoided her on festive occasions because they were afraid to have any relationship with her.

There are many similar cases in society involving the grassroots, and as a District Council member who has been serving the grass-roots kaifongs in the community for a long time, I find that the debt problem is not merely a financial problem, but sometimes it can be death threatening. As pointed out earlier, while some people borrow money from relatives, some borrow money from illegal money lenders or the so-called loan sharks, and some people may act on an impulse because they have no other choices. Just now, Mr WONG said that some people just "treat the head when the head aches", but there are indeed people who do stupid things because their head aches so much, and no treatment is available.

According to a research entitled "Indebtedness and its effects on suicidal ideation" conducted by the Centre for Suicide Research and Prevention of the Hong Kong University in 2002, of the 1 100 suicide deaths, 24.7% was related to debts, that is, one in every four persons committed suicide for this reason. Of course, considering the background in 2002, Hong Kong suffered from an economic downturn, followed by the outbreak of avian influenza, the dot-com bubble burst and the outbreak of SARS. But the research result was a sign after all. Of the persons who committed suicide in Hong Kong, the ratio between men and women was 2:1; of the men who committed suicide, most of them belonged to the middle-age group, and the biggest reason was that they ran into financial problems.

Therefore, I speak to express my concern in this matter not only because I want to help people file for bankruptcy at a lower cost, but because I have seen many life-threatening crisis or family tragedies because of this reason. When people are driven to a corner and choose to file for bankruptcy, they still have to pay \$9,000, some would indeed do silly things because of the payment. Hence, we hope that various departments can really collaborate in handling these matters.

Some people query whether lowering the fees will in disguise encourage people to file for bankruptcy, but as I have stated at the outset, even if no fee is charged, people will not file for bankruptcy casually because his way of living will be affected in the next four years; and moreover, there are lifelong impacts, including credit rating, chance of borrowing, or even certain employment opportunities. There are other people who say that many bankruptcy cases are caused by over-spending; but is that true?

According to a survey conducted by Caritas Family Crisis Support Centre (the Caritas Centre) some time ago, of the persons who seek help from the Caritas Centre due to indebtedness, two thirds are from low-income families with heavy family burden, and they run into debts because they are unable to make ends meet. Very often people borrow money because of a crisis, such as family members are seriously ill, or family members have to spend a large sum of money, for example, enrolment in tertiary education institution. As these people hardly have any savings, they have to borrow heavily. As regards the reason of indulgence, that is, gambling or shopping, it only accounts for one sixth of the cases. In addition, 80% of the persons concerned have an education level below Secondary Five, and 60% of them are engaged in elementary jobs. The number of bankruptcy cases handled by the Official Receiver's Office (ORO) also shows that in almost 80% of the cases, the applicants' salary before bankruptcy was under \$10,000. I present all the above information in the hope of arousing the Government's concern for these people who are on the verge of life, and extending a helping hand.

Just now, Mr WONG Ting-kwong has already put forward several suggestions from the community on behalf of the Subcommittee, such as introducing a two-tier fee system or exploring the possibility of making a down payment first, with the outstanding amount to be paid up by instalments after four years, and so on. Regarding all these suggestions, I hope the Government will not reject them right away. We can also discuss whether legislative amendments can be introduced to make the ORO a first creditor so that it can recover the outstanding amount first. However, it may create a lot of controversies because the Inland Revenue Department may also demand that the outstanding tax payments be recovered first. Nonetheless, I hope the authorities will not just forget about the matter after the passage of the proposed resolutions.

Regarding the issues concerning assessments by social workers and allocation of social resources to provide support to the persons concerned, they

are actually also quite contentious, and Mr CHEUNG Kwok-che has also pressed the button and requested to speak. As the disadvantaged groups may have many needs, should the same amount of money be used to help them file for bankruptcy or buy medicines, a lot of disputes may be arisen in the social welfare sector. I very much hope that this problem can be addressed through the ORO's fee structure, so as to obviate the need for direct allocation of social resources or public money for the purpose, or else a great deal of controversy may arise.

Regarding assessments by social workers, Ms Paulina KWOK, Supervisor of the Caritas Centre, has swiftly responded and asked me to relay her views. If a mechanism is to be established, the relevant duty would invariably be taken up by the Integrated Family Service Centres eventually. The problem is that social workers in these centres may not know how to handle such cases, and if further meetings are required, the waiting time usually takes two weeks. However, for debt problems, debt collectors may contact the debtors several times a day, and the debtors are really driven to the corner and cannot afford any delays. If appointments are still made through the referral system before the persons concerned can receive counselling from senior social workers, it may be too late. Hence, here I appeal again that while social workers help others on the basis of a humanistic spirit, not all problems can actually be resolved immediately. Hence, I consider that the issue should be addressed through the more fundamental problem of the ORO's fee structure.

Lastly, Deputy President, the Hong Kong Federation of Trade Unions supports this proposed resolution. I am concerned about the problem of indebtedness of the grassroots and hope that the authorities will not just forget about this problem after the passage of the proposed resolution; instead, they should continue to examine the various proposals, so that those who are on the verge of life can get genuine help and would not take silly action, which incurs an even greater cost for society. Thank you.

**MR CHEUNG KWOK-CHE** (in Cantonese): Deputy President, the speeches just delivered by Mr WONG Ting-kwong and Mr TANG Ka-piu have more or less covered the points I want to raise and hence, I will only make a brief conclusion. I believe it is rightful to repay the debt owed, and only those who cannot repay his debts will file for bankruptcy. Although some people claim that a debtor can take advantage of the bankruptcy gap to evade repayment, how many times can he play on this trick? That said, we note that some people owe

debt not because they have borrowed money, but because they have acted as a guarantor for other people. For example, in the case just mentioned by Mr TANG Ka-piu, the wife, acting as the guarantor, had to pay off the loans borrowed by her husband and ran away; and as she also had to take care of the family, she had no choice but to file for bankruptcy.

(THE PRESIDENT resumed the Chair)

There is a special case which has just come to my attention. The family in question lives on Comprehensive Social Security Assistance (CSSA) with the father being the CSSA recipient, and he has a grown-up son with intellectual disability. One day, the son came home saying that he had helped a person. It turned out that he had acted as a guarantor for another person; obviously, the debtor ran away, and this grown-up son with intellectual disability must repay the money. Let us imagine, how can a CSSA household repay a loan amounting to tens of thousands of dollars? Finally, he sought help from a social worker and filed for bankruptcy. Originally, he had to repay \$10,000, but now he probably had to repay \$9,000. However, how can a CSSA household fork out \$9,000 within a short time?

I think no Member will oppose the amendments to the Bankruptcy Ordinance and the Companies Ordinance. Will the Government be reluctant to charge a lower fee? However, the biggest problem is that in the course of discussion by the Subcommittee, the Government had made no concession at all, that is, the Official Receiver's Office (ORO) refused to establish a two-tier fee system or waive the fees. Notwithstanding the principle of cost recovery, the Government just transfers funds from one head of expenditure to another. The Government may as well allocate a certain percentage of this year's estimated expenditure to set up a fund. As today we cannot change the reality, I can only ask the Secretary, who represents the Government in giving reply or moving the proposed resolutions, to tell us when he speaks later that the Government in fact would also consider the difficulties faced by the grassroots. Even if the ORO cannot undertake the work, I request the Secretary to relay to the relevant departments and follow up on the concerns and difficulties we have just mentioned.

If the Government does nothing to help, individual citizens can hardly cope with the problem; do you expect them to borrow again and then file for bankruptcy, repaying one loan by another loan? Hence, I think only the Government can help resolve this difficult situation. I hope the Secretary would tell us later that other government departments can in fact follow up the issue, or after following up for a short period, he would tell us that government departments such as the Social Welfare Department can in fact help these people so long as they ask for assistance and meet certain requirements. I think it is justified for the Government to impose certain requirements, but if there is absolutely no outlet for these poor people with low income to file for bankruptcy, it reflects that the Government is aware of the problem yet refuses to resolve it.

Thank you, President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to reply. The debate will come to a close after the Secretary has replied.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I would like to thank Mr WONG Ting-kwong, Mr TANG Ka-piu and Mr CHEUNG Kwok-che for their speeches.

Mr TANG Ka-piu and Mr CHEUNG Kwok-che suggested that subsidies be provided to specific categories of people by further reducing the level of deposit to be paid. According to the recent review of fees conducted by the Official Receiver's Office (ORO), if the proposed fee revision is to come into effect within this year, the ORO's projected cost recovery rate for 2013-2014 can only be maintained at around 100%. Any further reduction of deposits payable by specific categories of people will affect the full cost recovery by the ORO, meaning that tax payments made by taxpayers would be used to subsidize the relevant persons to undertake their personal bankruptcy proceedings, which is unfair to the general taxpayers. The costs of filing for bankruptcy should rightfully be borne by the debtors themselves.

Besides, as many persons who petition for bankruptcy may claim affordability problem, it is very difficult for us to design a fair reduction mechanism that is acceptable to the public and the relevant stakeholders. Hence, it is undesirable to establish a separate statutory mechanism for reducing the deposit payable by specific categories of petitioners in voluntary bankruptcy procedures.

As I pointed out in my opening speech, these four motions seek to reduce the deposits as well as other fees and charges in relation to bankruptcy and winding-up proceedings. Subject to their approval by the Legislative Council, the ORO will implement the new fees on 1 November this year.

President, the motions have been scrutinized by the Subcommittee in detail, and the Subcommittee also indicated its support for them. I now propose the motions to seek the Legislative Council's approval for the Bankruptcy (Amendment) Rules 2013, the Bankruptcy (Fees and Percentages) (Amendment) Order 2013, the Companies (Fees and Percentages) (Amendment) Order 2013, and the Companies (Winding-up) (Amendment) Rules 2013. Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the first motion moved by the Secretary for Financial Services and the Treasury be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Secretary for Financial Services and the Treasury, you may now move the second motion.

**PROPOSED RESOLUTION UNDER THE BANKRUPTCY ORDINANCE**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I move that the second motion under my name, as printed on the Agenda, be passed to approve the Bankruptcy (Fees and Percentages) (Amendment) Order 2013 made by the Chief Justice on 18 June 2013.

**The Secretary for Financial Services and the Treasury moved the following motion:**

"RESOLVED that the Bankruptcy (Fees and Percentages) (Amendment) Order 2013, made by the Chief Justice on 18 June 2013, be approved."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the second motion moved by the Secretary for Financial Services and the Treasury 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)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Secretary for Financial Services and the Treasury, you may now move the third motion.

**PROPOSED RESOLUTION UNDER THE COMPANIES ORDINANCE**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I move that the third motion under my name, as printed on the Agenda, be passed to approve the Companies (Fees and Percentages) (Amendment) Order 2013 made by the Chief Justice on 18 June 2013.

**The Secretary for Financial Services and the Treasury moved the following motion:**

"RESOLVED that the Companies (Fees and Percentages) (Amendment) Order 2013, made by the Chief Justice on 18 June 2013, be approved."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the third motion moved by the Secretary for Financial Services and the Treasury 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)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Secretary for Financial Services and the Treasury, you may now move the fourth motion.



**PROPOSED RESOLUTION UNDER THE COMPANIES ORDINANCE**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I move that the fourth motion under my name, as printed on the Agenda, be passed to approve the Companies (Winding-up) (Amendment) Rules 2013 made by the Chief Justice on 18 June 2013.

**The Secretary for Financial Services and the Treasury moved the following motion:**

"RESOLVED that the Companies (Winding-up) (Amendment) Rules 2013, made by the Chief Justice on 18 June 2013, be approved."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the fourth motion moved by the Secretary for Financial Services and the Treasury 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)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**MEMBERS' MOTIONS ON SUBSIDIARY LEGISLATION AND OTHER INSTRUMENTS**

**PRESIDENT** (in Cantonese): Members' motions on subsidiary legislation and other instruments. Three proposed resolutions to be moved under the

Interpretation and General Clauses Ordinance in relation to the extension of the period for amending subsidiary legislation.

First motion: To extend the period for amending the Post Office (Amendment) Regulation 2013, which was laid on the table of this Council on 9 October 2013.

I now call upon Mr Andrew LEUNG to speak and move the motion.

**PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR ANDREW LEUNG** (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Post Office (Amendment) Regulation 2013, I move that the motion under my name, as printed on the Agenda, be passed. The Subcommittee held its first meeting on 25 October 2013. To allow the Subcommittee sufficient time for deliberation and report to the House Committee the result of its deliberation, I urge Members to support this motion to extend the scrutiny period of the aforesaid subsidiary legislation to 27 November 2013.

**Mr Andrew LEUNG moved the following motion:**

"RESOLVED that in relation to the Post Office (Amendment) Regulation 2013, published in the Gazette as Legal Notice No. 147 of 2013, and laid on the table of the Legislative Council on 9 October 2013, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 27 November 2013."

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

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): 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.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Second motion: To extend the period for amending three items of subsidiary legislation in relation to the Inland Revenue Ordinance, which were laid on the table of this Council on 9 October 2013.

I now call upon Mr James TO to speak and move the motion.

### **PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR JAMES TO** (in Cantonese): President, I move that the motion under my name, as printed on the Agenda, be passed. At the House Committee meeting on 11 October 2013, Members decided to form a subcommittee to study the three orders made under section 49(1A) of the Inland Revenue Ordinance and gazetted on 4 October. In order to allow the Subcommittee more time for deliberation, I move, in my capacity as Chairman of the Subcommittee, that the scrutiny period of the above three orders be extended to 27 November 2013. President, I urge Members to support this motion.

**Mr James TO moved the following motion:**

"RESOLVED that in relation to the —

- (a) Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Guernsey) Order, published in the Gazette as Legal Notice No. 148 of 2013;
- (b) Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Italian Republic) Order, published in the Gazette as Legal Notice No. 149 of 2013; and
- (c) Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (State of Qatar) Order, published in the Gazette as Legal Notice No. 150 of 2013,

and laid on the table of the Legislative Council on 9 October 2013, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 27 November 2013."

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

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): 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.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Third motion: To extend the period for amending the Arbitration (Amendment) Ordinance 2013 (Commencement) Notice, which was laid on the table of this Council on 16 October 2013.

I now call upon Mr Dennis KWOK to speak and move the motion.

**PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR DENNIS KWOK:** President, in my capacity as the Chairman of the Subcommittee on Arbitration (Amendment) Ordinance 2013 (Commencement) Notice, gazetted on 11 October 2013, I move the motion standing in my name on the agenda.

As the Subcommittee is still in the process of scrutinizing the Commencement Notice, members agreed that I should move a motion to extend the scrutiny period of the Commencement Notice to the Council meeting on 4 December 2013.

I urge Members to support the motion. Thank you, President.

**Mr Dennis KWOK moved the following motion:**

"RESOLVED that in relation to the Arbitration (Amendment) Ordinance 2013 (Commencement) Notice, published in the Gazette as Legal Notice No. 153 of 2013, and laid on the table of the Legislative Council on 16 October 2013, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and

General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 4 December 2013."

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

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): 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.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

## **MEMBERS' BILLS**

### **Second Reading of Members' Bills**

#### **Resumption of Second Reading Debate on Members' Bills**

**PRESIDENT** (in Cantonese): Member's Bill. We now resume the Second Reading debate on the Professional Accountants (Amendment) Bill 2013.

**PROFESSIONAL ACCOUNTANTS (AMENDMENT) BILL 2013****Resumption of debate on Second Reading which was moved on 22 May 2013**

**PRESIDENT** (in Cantonese): Mr Charles Peter MOK, Chairman of the Bills Committee on the above Bill, will address the Council on the Committee's Report.

**MR CHARLES PETER MOK** (in Cantonese): President, in my capacity as Chairman of the Bills Committee on Professional Accountants (Amendment) Bill 2013 (the Bills Committee), I report the major deliberations of the Bills Committee.

The Professional Accountants (Amendment) Bill 2013 (the Bill) was introduced by Mr Kenneth LEUNG. The Bill seeks to amend the Professional Accountants Ordinance (PAO) to permit a sole certified public accountant (practising) to incorporate a company with only one shareholder and to register the company as a corporate practice; to prohibit a body corporate, not being a corporate practice registered with the Hong Kong Institute of Certified Public Accountants (the Institute), to use the description "certified public accountant", the initials "CPA" and the characters "會計師" in its name; and to make related technical and drafting amendments. The Bills Committee supports the Bill.

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)

The Bills Committee has asked about the Institute's consultation with its members on the legislative proposals. The Institute has advised that its members passed a resolution on the proposed amendments to PAO to allow a sole certified public accountant (practising) to register as a corporate practice at the Annual General Meeting in December 2005. As regards the proposal prohibiting the use of certain misleading description, initials or characters, it was approved by the Council of the Institute in May 2011 and members of the Institute were subsequently informed of the proposed amendment. The Institute has also informed its members about the new textual amendments included in the Bill.

Regarding the impact of the Bill on the public, the Institute has pointed out that the Companies Ordinance (CO) was amended in 2003 to abolish the requirement that a company must have at least two directors or shareholders, but no corresponding changes were made to the PAO at that time. The Bill seeks to make corresponding amendment to the PAO following the 2003 amendment to the CO. Given that the existing section 28D of the PAO already allows a sole certified public accountant (practising) to incorporate a company with a nominee shareholder and register the company as a corporate practice, the proposal of permitting a sole certified public accountant (practising) to incorporate a company with only one shareholder and to register the company as a corporate practice will have no impact on the public.

Regarding the proposal prohibiting the use of certain misleading description, initial, or characters by a body corporate not being a corporate practice registered with the Institute, the Institute has advised that this will help plug the loophole where such body corporate has attempted to mislead the public into believing that it is a practice unit under PAO and qualified to provide auditing services, and hence will protect the interest of the public.

The Bills Committee is concerned whether companies which are not corporate practices registered with the Institute under the PAO and currently using the description "certified public accountant", the initials "CPA" or the characters "會計師" in their names have to change their names after enactment of the Bill. The Institute has pointed out that after discussion with the Companies Registry (CR) a few years ago, companies not being corporate practices registered with the Institute under the PAO are no longer allowed to register their names with the CR using the above description, initials or characters unless they have obtained, and produced to the CR, the prior approval of Institute to the company name. It is the purpose of the Bill to prohibit explicitly such misleading practice in the PAO.

As regards the drafting of the Bill, the Bills Committee agrees to make technical amendments to some of the existing PAO provisions. I will move Committee stage amendments to the Bill to make the relevant technical amendments on behalf of the Bills Committee.

Deputy President, in the following part of my speech, I shall speak in my personal capacity.



Deputy President, I am glad to make amendments to the Bill introduced by Mr Kenneth LEUNG. Professionals from all sectors play an important role in Hong Kong's economic development. Therefore, I would like to point out that I wish one day I can witness the birth of an ordinance on information technology professionals.

Deputy President, I so submit.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): If not, I now call upon Mr Kenneth LEUNG to reply. This debate will come to a close after Mr Kenneth LEUNG has replied.

**MR KENNETH LEUNG**: Deputy President, first of all, I would like to thank Mr Charles Peter MOK, Chairman of the Bills Committee and all members of the Bills Committee for the time and effort they have spent on scrutinizing the Bill and their support. During the scrutiny, the legal adviser to the Bills Committee has proposed some minor textual amendments to the Bill which have been accepted by the Bills Committee. The Chairman of the Bills Committee will move those amendments later.

The proposals in the Bill were initiated by the Hong Kong Institute of Certified Public Accountants (the Institute). The Bill seeks to amend the Professional Accountants Ordinance (PAO) in two areas.

The first part of the Bill seeks to amend section 28D and other relevant sections of the PAO to enable a certified public accountant (practising) to incorporate a company with only one director or shareholder, and register the company with the Institute as a corporate practice qualified to perform audits.

Currently, under section 28D of the PAO, accountancy firms are permitted to incorporate the company with limited liability, and register the company with

the Institute to provide audit services to the public as a corporate practice. Audits will be performed by those directors or shareholders of such a corporate practice who are certified public accountants, holding a practising certificate issued by the Institute. All directors and shareholders of corporate practices must be certified public accountants, and a proportion of whom must be certified public accountants holding practising certificates.

Under the pre-2003 Companies Ordinance situation, at least two directors and shareholders were required for the registration of a limited company. As a corporate practice is a limited company, it had to meet this requirement too. To enable sole practitioner firms to opt for incorporation, and at the same time satisfy the pre-2003 Companies Ordinance requirements, the PAO allows the Institute's Council to permit a person who is not a certified public accountant or certified public accountant (practising) to become a director and nominee shareholder of a corporate practice with two directors or shareholders, if the other director or shareholder is a certified public accountant (practising).

The Companies Ordinance, Deputy President, was amended in 2003 to enable a single director and shareholder to incorporate a company. Accordingly, the requirement for a sole practising member corporate practice to appoint a non-certified public accountant as director or shareholder under the PAO has become obsolete and unnecessary. Therefore, it is proposed in the Bill to amend the PAO to enable a corporate practice to be registered with one director or shareholder who is a certified public accountant (practising), in line with the Companies Ordinance.

For the existing sole practising member corporate practices which have appointed a non-certified public accountant as director or shareholder, since such appointment was required purely to comply with the requirements of the pre-2003 Companies Ordinance, that is no need to continue with the requirement. Therefore, the Bill also proposes to require all existing sole practising member corporate practices to convert, within the one-year transactional period, to either sole practising member corporate practices with only one practising member director or shareholder or multi practising member corporate practices with at least two thirds of the directors or shareholders being practising members. The proposed amendments in the Bill are made solely for the purpose of aligning the PAO requirement with the current Companies Ordinance.

Deputy President, the second proposal of the Bill is to prohibit any body corporate, not being a corporate practice registered with the Institute, from using the description "certified public accountant", the initials "CPA" or the characters "會計師" in its name intended to cause, or which may reasonably cause, any person to believe it is a practice unit.

In recent years, it has come to the public's attention that there are companies being registered with the Companies Registry not being CPA corporate practices registered with the Institute under the PAO, which use the description "certified public accountant", the initials "CPA" or the characters "會計師" in their names, and by so doing misled the public into believing that the companies are practice units under the PAO qualified to provide audit services.

Under section 42 of the PAO, it is a criminal offence for a company, not being a corporate practice, to use the descriptions "certified public accountant (practising)", "public accountant", the initials "CPA (practising)", "PA" or the characters "執業會計師", "註冊核數師", "核數師" or "審計師" in its name which are reserved names for professionals qualified to perform audits under the PAO.

However, as the current section 42 does not prohibit companies from using the description "certified public accountant", the initials "CPA" or the characters "會計師" in their names, companies may therefore be able to use such descriptions with the intention of causing any person in the public to believe that they are practice units. Therefore, the Bill proposes to amend the relevant part of section 42 by adding a subparagraph prohibiting any company which is not a corporate practice from using "certified public accountant", "CPA" or "會計師" in its name, if the intention is to cause, or which may reasonably cause, any person to believe that it is a practice unit under the PAO.

Deputy President, the proposed amendments will help plug the loophole where a company which is not a corporate practice attempts to mislead the public into believing that it is a practice unit under the PAO, and qualified to provide auditing services, and hence will protect the interest of the public. I urge all Members in the Chamber to support the passage of the Bill.

Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Professional Accountants (Amendment) Bill 2013 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

**DEPUTY PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**DEPUTY PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

**CLERK** (in Cantonese): The Professional Accountants (Amendment) Bill 2013.

Council went into Committee.

### **Committee Stage**

**DEPUTY CHAIRMAN** (in Cantonese): Committee stage. Council is now in committee.

### **PROFESSIONAL ACCOUNTANTS (AMENDMENT) BILL 2013**

**DEPUTY CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Professional Accountants (Amendment) Bill 2013.

**CLERK** (in Cantonese): Clauses 1, 2, 5, 6 and 7.

**DEPUTY CHAIRMAN** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**DEPUTY CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 1, 2, 5, 6 and 7 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

**DEPUTY CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**DEPUTY CHAIRMAN** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

**CLERK** (in Cantonese): Clauses 3 and 4.

**DEPUTY CHAIRMAN** (in Cantonese): Mr Charles Peter MOK has given notice to move amendments to clauses 3 and 4.

**MR CHARLES PETER MOK** (in Cantonese): Deputy Chairman, in my capacity as Chairman of the Bills Committee on Professional Accountants (Amendment) Bill 2013, I move the amendments to clauses 3 and 4, as set out in the paper circularized to Members.

Having considered the comments made by the legal adviser to the Bills Committee, the Bills Committee agrees that I will make three technical amendments. The Bills Committee notes that clauses 3(4), 3(5) and 4(1) have already made some amendments to the wording of the existing sections 28D(2)(c) and 42(1)(ha) of the PAO. For the sake of consistency, the Bills Committee agrees to make corresponding amendments to existing sections 28D(3)(c)(ii)(A), 42(1)(ii) and 42(4)(a).

Deputy Chairman, I implore Members to support the amendments.

*Proposed Amendments*

**Clause 3 (See Annex I)**

**Clause 4 (See Annex I)**

**DEPUTY CHAIRMAN** (in Cantonese): Members may now have a joint debate on the original provisions of clauses 3 and 4 and Mr Charles Peter MOK's amendments.

**DEPUTY CHAIRMAN** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**MR KENNETH LEUNG** (in Cantonese): Deputy Chairman, the Institute has agreed with the above amendments and the Financial Services and the Treasury Bureau indicated on 18 October 2013 that it had no objection to the amendments. I hope Members will show their support.

**DEPUTY CHAIRMAN** (in Cantonese): Mr Charles Peter MOK, do you wish to speak again?

(Mr Charles Peter MOK indicated that he did not want to speak again)

**DEPUTY CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by Mr Charles Peter MOK be passed. Will those in favour please raise their hands?

(Members raised their hands)

**DEPUTY CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**DEPUTY CHAIRMAN** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendments passed.

**CLERK** (in Cantonese): Clauses 3 and 4 as amended.

**DEPUTY CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 3 and 4 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

**DEPUTY CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**DEPUTY CHAIRMAN** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

**DEPUTY CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Members' Bills**

**DEPUTY PRESIDENT** (in Cantonese): Member's Bill: Third Reading.

### **PROFESSIONAL ACCOUNTANTS (AMENDMENT) BILL 2013**

**MR KENNETH LEUNG** (in Cantonese): Deputy President, the

Professional Accountants (Amendment) Bill 2013

has passed through the Committee stage with amendments. I move that this Bill be read the Third time and do pass.

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Professional Accountants (Amendment) Bill 2013 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**DEPUTY PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)



**DEPUTY PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

**CLERK** (in Cantonese): The Professional Accountants (Amendment) Bill 2013.

## **MEMBERS' MOTIONS**

**DEPUTY PRESIDENT** (in Cantonese): Members' motions. There are two motion debates with no legislative effect. I have accepted the recommendations of the House Committee: that is, the movers of motions each may speak, including reply, for up to 15 minutes, and have another five minutes to speak on the amendments; the movers of amendments to a motion each may speak for up to 10 minutes; and the mover of amendment to amendment 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 Member's motion: Transgender marriage.

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

I now call upon Mr CHAN Chi-chuen to speak and move the motion.

## **TRANSGENDER MARRIAGE**

**MR CHAN CHI-CHUEN** (in Cantonese): Deputy President, I move that the motion, as printed on the Agenda, be passed. The motion that I move today is about the marriage right of transsexual people. This is a very controversial issue in Hong Kong. In fact, any issue which touches on the word "sex" will be controversial in Hong Kong. Had the issue not been controversial, it would not have become the subject of appeal in the Court of Final Appeal (CFA). Here in this Council, I would like to thank W first for the courage to come forward and initiate the legal proceedings. Through the perseverance and hard work of her

legal team over five years, victory is finally gained after the initial defeat. Finally, I would like to thank the CFA for administering justice to the transgender community.

The motion that I will move today only asks the Government to expeditiously comply with the requirements stated by the CFA in the case regarding transgender marriage in which the Court has ruled in favour of the appellant, and amend the provisions in the ordinances which have been ruled unconstitutional, so that transgender people who have completed sexual reassignment surgeries (SRS) can marry their partners. Most of the wordings of the motion have been directly quoted from the judgment of the CFA. The Chinese version may not read smoothly because it is a translation from the judgment in English and not my original work.

In fact, the people in Hong Kong know very little about transsexual or transgender people and they may even have very serious misunderstandings. Let me give you a very good example. In May this year when the CFA ruled in favour of W, a reporter asked Denise HO, lesbian singer who has come out of the closet this question, "Ah Sze (Denise), as the Court has ruled in favour of W, transsexual people can now marry. So, will you consider SRS?" Denise HO was dumbfounded. The truth is, like this reporter, many people do not know the difference between transsexual people and homosexuals and think they are the same.

Therefore, I would like to take this opportunity today to make it clear to everyone that a homosexual, whether gay or lesbian, has a sex orientation issue and is sexually attracted to people of the same sex. A transsexual person or what I call a transgender person has a gender identity issue. A transgender person identifies oneself as a woman who is imprisoned in the body of a man, or *vice versa*, as a man who is imprisoned in the body of a woman. Transgender people are "gender minorities" who have a gender identity issue while homosexuals are "sexual minorities".

A homosexual person will not undergo SRS to get married and I, for one, will surely not do so. However, the case for a transgender person is different. I have a friend who is transsexual. He was a man and was sexually attracted to women. However, as he identified himself as a woman, he underwent SRS to become a woman. After he became a woman, the woman is still sexually

attracted to women and so she becomes a lesbian. People fail to understand and say to my friend, "You were a man who loved women. Why not simply ran after women in your male body. Why do you have to turn into a woman and then a lesbian?" I mention this case to indicate to you that for transsexual or transgender people, gender identity is more important than finding a partner.

Today, I have chosen to move this motion in this Council for two reasons. First, I am worried that the Government will employ stalling tactics. Let me quote from an article entitled "Duty to legislate after the case of W" written by a columnist and it reads, "The CFA has also given clear instructions for the Government to amend the existing provisions in the Ordinances which are unconstitutional within 12 months. But so far, there are no signs that the Government will submit any specific proposal to the Legislative Council or enter into any discussion in order to proceed with amending the laws. It is also not evident that the Legislative Council will urge the Government to give an account of the progress of such work. Not much time is left before the 12-month period lapses. If the executive authorities should procrastinate, the Legislative Council will then have to legislate hastily; or is it the intention of the Government to let the time lapse and not to amend the laws in accordance with the judgment of the Court? How can the executive and the legislature take the rule of law so lightly and behave so irresponsibly?" The writer of this article is Ms Margaret NG, a former Member of the Legislative Council.

(Mr Albert CHAN stood up)

**MR ALBERT CHAN** (in Cantonese): Deputy President, since we are discussing the important question of legislating, I hope more Members will join in the discussion. Please do a headcount.

**DEPUTY PRESIDENT** (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

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

**DEPUTY PRESIDENT** (in Cantonese): Mr CHAN Chi-chuen, please continue.

**MR CHAN CHI-CHUEN** (in Cantonese): Members, thank you for your presence. As the CFA has instructed the Government to amend the relevant ordinances within 12 months after the judgment is given, which means that such work has to be completed by July next year, I cannot understand why the Government has adopted a go-slow approach. I definitely do not wish to see the Government submit a bill to the Legislative Council in April or May next year and ask my colleagues to discuss the matter urgently, amend the laws hastily and pass them quickly. Time is running out and the time stipulated by the CFA will lapse soon. Will the Secretary for Security tell us today when he will table the amendment bill to this Council, so as to avoid the unfortunate situation that the bill has not got passed by the end of the Legislative Session next year, the instructions given in the judgment of the CFA have not been followed and the Legislative Council is therefore blamed for not passing the bill?

Another reason why I move this motion is that, I hope the Government will follow the recommendations of the CFA and introduce a gender recognition ordinance or set up a similar machinery of gender recognition. To many people in Hong Kong, a gender recognition ordinance is an unfamiliar concept. In fact, in allowing the appeal of the case seeking the right of transgender persons to marry, the CFA has, in its judgment, clearly recommended the Government to introduce laws and set up a machinery similar to that of the Gender Recognition Act of the United Kingdom so that applications of gender recognition can be vetted by an expert panel. According to the Gender Recognition Act 2004, an applicant has to go through a transition period of at least two years before a certificate is issued by the panel to confirm that he or she has successfully acquired the new gender.

In fact, not every transgender person who has been certified by doctors to be suffering from gender identity disorder can undergo SRS, or what people call transsexual operation. Apart from social and family pressure, there are also the factors of health and safety. Performing an open surgery to a transsexual person who is physiologically sound to re-align the body and mind is a highly risky operation. The wound takes a long time to heal and the person suffers from excruciating pain. Although one can receive hormonal treatment, the side effects will be serious, and there is a high chance of getting cancer, and even shortening the lifespan. I would like to make it clear that enacting a gender

recognition ordinance does not mean there is no need to undergo SRS to change the gender. Changing the gender is a very complicated process which involves psychological assessment and biological change. Biological change includes hormonal treatment and surgeries. Surgeries include operations on the upper and the lower parts of the body. Operations on the lower parts of the body include excision and reconstruction.

At present, the guidelines of the Immigration Department clearly require complete removal of the reproductive organs of an applicant to change the sex entry on the identity card. However, the risks involved in such operations are very high, particularly for sex change from female to male. They require the complete removal of the uterus and the ovaries and the construction of a penis by taking small pieces of bone and tissue from the arm or the leg. If the penis is to have an erectile function, inflatable chambers have to be implanted in the operation so that they can be inflated manually when necessary. However, few people have chosen to undergo female to male surgeries because of various technical, risk, family and health considerations. For this reason, a group of transgender persons have not been legally given gender recognition and hence the respect that they deserve.

The problem of ambiguity in the interpretation of gender does not only exist in the Marriage Ordinance, but also in other areas of the law. According to the existing laws, if a male-to-female transsexual who has not undergone SRS is unfortunately assaulted sexually by a man, will the offender be prosecuted for rape, buggery or indecent assault? This example is, as the CFA has commented, actually only the tip of an iceberg. If the Government would not consider introducing a gender recognition ordinance or setting up a similar machinery, there would be many judicial reviews in the future and problems would arise in thousands of provisions in the ordinances of Hong Kong which involve an element of gender, making the Government very busy in amending them one by one.

I am very disappointed that we only have the Secretary for Security in the Chamber today. However, three Policy Bureaux will respond to Mr Gary FAN's motion later on. The question of transgender marriage does not only involve marriage registration which is handled by the Immigration Department, when we discuss on introducing a gender recognition ordinance, it should at least involve the Food and Health Bureau and the Constitutional and Mainland Affairs Bureau which deals with human rights. Unfortunately, these two Bureaux have not sent

anyone to attend this meeting and hence they would not give any response later. In fact, I was informed a long time ago that — the Secretary for Security can later clarify whether this is true — the Security Bureau had appointed a consultant to study how the requirements of the CFA could be met at minimum costs. This kind of mentality is undesirable. At the meeting of this Council on 9 October, in response to my written question about a roadmap and a timetable for introducing a gender recognition ordinance, the Government replied (and I quote): "Given the complex policy and legal issues involved in the recommendations mentioned in the judgment, the Security Bureau is working with relevant Policy Bureaux, departments and the Department of Justice on how best to follow up the matters". Which are the relevant Policy Bureaux and departments? I would also like the Secretary for Security to tell us the progress of the work concerned and whether legislation will be enacted. Transsexual people are definitely not a lifeless scientific classification; they are people who are alive, people with flesh and blood. They encounter gender problems and live in fear of discrimination day in and day out. The Hong Kong Government should not delay anymore. The wait of one day is too long for the transsexual community.

Let me share with you an example to illustrate the difficulties faced by transgender people or transsexual people, as they are commonly called. According to an article published in Volume 528 of the *Eastweek* magazine on 9 October, Angel, who had just completed SRS, said in the interview that she wanted go to the immigration office to change the sex entry on her identity card from male to female at once. However, after the operation, she suffered tearing pain in the abdomen and woke up in pain after sleeping for a short while. She could not pull her legs together when walking and she would feel pain while sitting. To lessen the pain, she had to change her positions from time to time. Every day, she had to endure the most extreme pain by inserting an instrument into the prosthetic vagina which had just been constructed in the operation to prevent the opening of the vagina from closing due to contraction. She had to insert the instrument into her body every three or four hours and pull it out after 10 minutes each time. By then, the dilators would be soaked in blood and water and this procedure had to be repeated over and over again in the coming year.

People may ask why transgender people have to torment themselves like that. The truth is, in order to convert to their originally desired gender, they would choose to receive treatment no matter how big the risk is and how serious the side effects of hormonal treatment will be, knowing full well the possibilities that the procedures may cause cancer, shorten their lives or even kill them on the

operation table. There was once a transgender person who did not undergo operation because of family pressure and committed suicide in the end. There were others who died on the operation table. My colleagues, why would you be so cruel as to make these people, whose biological conditions are apparently incongruent with their psychological make-up, resort to the riskiest and most inhumane ways which will bring the biggest side effects to recover their original sexual identity?

A colleague of the pro-establishment camp asked me today why I used the word "transgender" instead of "transsexual". I think that would be a favourable point to them because they can use it as a reason to oppose me. I want to tell you, the term "she-male" was used many years ago, but later the term "transsexual" was used instead to lessen the insult and the stigma. Nowadays, we use the term "transgender". I do not intend to expand on the ideas of this community to the extent as described by those who asked me, "Are you trying to allow cross-dressers to marry and change the sex entry on their identity cards? Are you trying to allow sissies to change such entry too? This is magnifying things infinitely to invoke the slippery slope. These people have expanded the definitions concerned in order to oppose my motion. I will be most disappointed if some colleagues should use this as an excuse later. I told the colleague concerned that if he was dissatisfied with the term, he could propose an amendment to my motion to delete the word "transgender" and insert the word "transsexual", his amendment will then get passed. However, nobody has the guts to do so. All they have done is to delete the wordings in the judgment of the CFA. Although the CFA has given its judgment and the Government of the Hong Kong Special Administrative Region has a timetable and is prepared to amend the laws in the later part of the year, a Member said, "No, Secretary, please reconsider the matter carefully. We may not have to amend the laws". Secretary, listen to what Dr Priscilla LEUNG has to say in her speech later, she may advise you not to amend the laws. If the Legislative Council should pass such an amendment to a motion — whether my motion will be passed is not really a big issue — we would be ridiculed, and it will be the biggest ridicule in the world. I prefer to save some time now and will respond to the other amendments later.

**Mr CHAN Chi-chuen moved the following motion: (Translation)**

"That the Court of Final Appeal (CFA) earlier ruled that transsexual people are entitled to marriage right; the judgment stated that the relevant provisions in the Marriage Ordinance (MO) and the Matrimonial Causes

Ordinance (MCO) restricting the criteria for ascertaining a person's gender to merely biological factors are unconstitutional; CFA also held that all circumstances relevant to assessing a person's sexual identity at the time of the proposed marriage, including biological, psychological and social elements and whether any sex reassignment surgery has occurred, need to be considered; in this connection, this Council urges the Government to expeditiously comply with CFA's judgment and amend MO and MCO, so that transgender people can enjoy marriage right and related legal rights according to the sexual identity they adopt, and to expeditiously enact a gender recognition ordinance to address the various legal problems arising from sex reassignment."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHAN Chi-chuen be passed.

**DEPUTY PRESIDENT** (in Cantonese): Three Members wish to move amendments to this motion. This Council will now proceed to a joint debate on the motion and the three amendments.

I will first call upon Ms Cyd HO to speak, to be followed by Dr Helena WONG and Dr Priscilla LEUNG; but they may not move amendments at this stage.

**MS CYD HO** (in Cantonese): Deputy President, I am very grateful to Mr CHAN Chi-chuen for proposing this extremely controversial motion today. It scares many Members because though they may want to render their support, they dare not stand out to support the sex minorities.

Deputy President, today, after Taiwan's annual gay pride parade but before Hong Kong's gay parade, we are able to sit together to review again with the community our progress in mutual respect, acceptance, love and care. How much progress have we made? Today, different amendments have been proposed. Although the Labour Party opposes two of them, we do welcome these amendments because a more extensive discussion of the issue would enable the community to gain a better understanding of the predicament of the sex minorities. Learning enables understanding, which allows acceptance.



Deputy President, the T-shirt I am wearing is printed with the words "Freedom to Love, Equality for all Families", which is the slogan of this year's gay pride parade in Taiwan. In fact, "equality for all families" is not only the wish of the sex minorities, but all of us. There is another motion debate later today which probably touches on cross-border families, and we may then talk about "equality for all families". Hence, this is not a problem of the minority, but everyone. Yet, the sex minorities are unfortunate as they have not only developed inconsistency in respect of gender identity, anatomical sex and psychological identity, but also have to confront social repulsion and discrimination.

The original motion calls on the Government to expeditiously comply with the judgment handed down by the Court of Final Appeal (CFA) and expeditiously amend the Marriage Ordinance (MO) and the Matrimonial Causes Ordinance (MCO) for the post-operative transsexuals, so as to enable them to found families under the statutory regime in Hong Kong as early as possible. While transsexuals may receive subsidized operation in public hospitals, the laws of Hong Kong have not provided complementary support. Some time after the completion of the surgery and hormonal treatment, a psychological assessment will be conducted to ascertain if the relevant person has adapted to the situation and a new identity card will be issued. However, the birth certificate will not be replaced. This is why the sexual identity of the person concerned will be challenged at the time of the proposed marriage. Problems relating to the legal status of transsexuals are not only found in marriage registration, their sexual identity may also cause troubles in customs clearance as well as the application of passports and student or employment visas.

The original motion urges the authorities to amend the MO and MCO, and also "to expeditiously enact a gender recognition ordinance", which is very essential. As I have said, the transsexuals have not only encountered hurdles in legal procedures such as marriage, divorce and matrimonial cases, but also in other policy areas, such as immigration and healthcare. They need to have official confirmation before they can live a life of ordinary citizens.

Transsexuals are the minority of the minorities, and also the minority of the sex minorities. Not only should we protect the rights of the transsexuals, but also the rights of the minority of the sex minorities. Therefore, Deputy President, in my amendment, I have quoted from the judgment the argument of Justice BOKHARY. He said "reliance on the absence of a majority consensus

as a reason for rejecting a minority's claim is inimical in principle to fundamental rights, and one of the functions ... of constitutionally guaranteed human rights is to protect minorities, especially a misunderstood minority" ("以欠缺大多數人的共識為由而拒絕少數人的申索，因為在原則上有損基本的權利，而且受到憲法保障的人權的其中一項功能，就是要保障少數人，尤其是備受誤解的少數人。"). Deputy President, as this is the Chinese translation of the English judgment, the grammar is pretty weird. The principle, however, is very clear, and that is, the right of the minority must be protected and a majority consensus is not necessary, and the Government is obliged to safeguard the equal right of the minority and protect their human rights.

As today's two motions involve discrimination, so to start with, I will first discuss the definition of discrimination. Culturally speaking, the definition of discrimination is very broad. Discrimination occurs when a person is treated differently because of his/her community characteristics, such as sex or disability. This can be extended to become legislative provisions. Another form of discrimination is the generalization of some people's poor behavior to a lowered moral standard of the society at large. This is cultural discrimination. And yet, no one would admit their discriminative acts because firstly, this is an offence, and second, this is shameful and uncivilized.

Deputy President, like last year, I have conducted a public opinion poll on how Hong Kong people look at discrimination. The first question is whether Hong Kong people generally discriminate against people of different sexual orientations. While 75.8% of the respondents answered in the affirmative last year, 79% of the respondents confirmed that there is discrimination this year, representing a slight increase.

Another question is whether the respondents themselves discriminate against people of different sexual orientations. The number of respondents who chose "a very large extent", "a large extent" and "a moderate extent" added up to a total of 26.9% last year, but it rose to 29.8% this year, representing a significant increase. In particular, the number of respondents who chose "a moderate extent" has increased and some people were shocked by the findings. How come discrimination has instead become more prevalent despite a lot of work has been done by the BigLove Alliance and the Labour Party? Relax. If we look from a positive angle, this is indeed a result of the extensive discussion of the issue. After learning what is meant by discrimination, some people engaged in self-reflection and admitted their previous discriminative acts. We hope that

people who have reflected on their past deeds would realize their previous discriminative acts, and stop being discriminative.

As a matter of fact, people who are discriminative would not admit. On this issue, we have been working with the Society for Truth and Light (the Society) for more than a decade. Despite our divergent views, we know each other well. As we may be aware, members of the Society always proclaim, "We do not discriminate against homosexuals; we accept and care about them." But I just want to ask them one question: Do they support the enactment of anti-discrimination legislation, the registration of partnership for homosexuals or their marriage to found families? In the face of these down-to-earth questions, they can no longer give abstract responses to pretend as if they care about the homosexuals. Instead, a *de facto* answer must be given. Some Christian friends said to me that religious values should be taken into consideration in enacting legislation, and they absolutely oppose to the enacting of legislation in this respect. Enactment of legislation is just a kind of secular public administration; it is the universal value that we should consider. If religious values have to be considered in enacting legislation, why do we not take into consideration that all Buddhist followers are vegetarians and hence enact a legislation prohibiting the eating of meat and mandatorily requiring everyone to be a vegetarian? Evidently, religious values and public administration are still way apart.

Deputy President, our family policy also points out that family is the cornerstone of society, and it aims to achieving the objectives of community harmony and alleviating social problems. Family care and mutual support among family members are essential for all human beings, be they homosexuals or not. How could we deny the basic needs of people of different sexual orientations or transsexuals while we implement family policy?

Deputy President, it takes a very long time to effect cultural changes. But the most important of all is we — homosexuals or not — should rise to support justice and equality. There will be a gay parade at 2 pm on 9 November at the Victoria Park, which will start off at 2 pm. I hope that all of you — it does not matter if you are gay or if you have religious beliefs — will come and show your support to justice and big love. Let us march for big love.

Thank you, Deputy President.

**DR HELENA WONG** (in Cantonese): Deputy President, I thank Mr CHAN Chi-chuen for proposing this motion today for Members to discuss the matter.

Although I have deleted a certain part of the original motion, I am as concerned about the marriage right of transsexuals as Mr CHAN Chi-chuen, and I hope that the authorities will comply with the judgment handed down by the Court of Final Appeal (CFA) and expeditiously amend the Marriage Ordinance (MO). But before giving a detailed account of my proposed amendment, I would like to give a lecture on this pretty complicated issue.

Apart from transsexuals, our discussion today also touches on transgender matters. Gender identity means how a person perceives his/her sexual identity. He may perceive himself as a woman, a man, neither man nor woman, or even an intersex person. This is called gender identity.

Over the past 10 to 20 years, people from various communities ... Mr Tommy CHEUNG just now queried why some people would undergo sex reassignment surgery for no reason. Of course, Mr CHEUNG does not have such need because in respect of his gender identity, he was born to be a man and also identified himself as a man, so he does not have similar trouble.

Yet, the gender identity and biological sex of some people may have contradiction after birth, for example, a person, who was born as a man, feels like he is a woman. These people have to face immense sufferings, as Mr CHAN Chi-chuen has just said, and some would rather endure great pain to undergo sex reassignment surgery and receive hormone injections. While some men have changed to women, some women have changed to men. Among the transsexuals, the majority are male to female. They just want to achieve gender consistency psychologically and biologically by all means and continue to live in their preferred gender identity.

Deputy President, our discussion today involves transgender people. As I have just said, transgender is a state which the gender identity is not consistent with the biological sex. Are transgender and sexual orientation the same concept then? Actually, they are independent and completely different concepts, and we should not mix them up.

Concerning the sexual orientation of transgender people, they are not necessarily homosexual or heterosexual, but can be homosexual, heterosexual,

bisexual, ambisexual, or probably asexual. Therefore, we should not discuss sexual orientation at the moment. Nor should we incorporate it into today's discussion.

The purpose of my amendment is to call on Members to urge the Government to respect the CFA's judgment on the case of the transsexual, Miss W, who was born as a man but is now a post-operative woman. Her request to marry her boyfriend as a woman was denied. Can Miss W get married before the surgery? The answer is definitely in the negative as same-sex marriage is not allowed at present. The fact that she was not allowed to get married before and after the surgery is unconstitutional because under the Basic Law and other human right laws, the marriage right is guaranteed by the constitution.

The CFA overturned the decision of the High Court and returned the marriage right to Miss W. Also, it has ordered the Government to amend the relevant laws. The judgment has actually granted a one-year grace period for the Government to complete the necessary legislative amendments. Since the CFA's judgment was handed down on 13 May 2013, it means that the Government should amend the relevant marriage ordinances by 13 May 2014, such that the transsexuals can legally get married according to their post-operative sexual identity. As the judgment was handed down by the CFA, but not District Court or High Court, the Government should therefore comply with it and make the necessary amendments.

I hope that Members should have no dispute on the marriage rights of transsexuals and support my amendment, which says "... urges the Government to expeditiously comply with CFA's judgment and amend the MO and the Matrimonial Causes Ordinance (MCO)." In the judgment, the CFA declared that "... must be read and given effect so as to include within the meaning of the words 'woman' and 'female' a post-operative male-to-female transsexual person whose gender has been certified by an appropriate medical authority to have changed as a result of sex reassignment surgery" — meaning that the physical body of the person has undergone irreversible changes — and "the Appellant is in law entitled to be included as 'a woman' under relevant provisions of the MO and MCO and is eligible to marry a man".

As to whether transsexuals who have received less extensive treatment, surgery or hormonal treatment are entitled to the marriage right, the CFA has not made any final decision but simply left open the question. In the judgment, it

only highlighted that the Government would have to amend the relevant laws on the marriage right of transsexuals within one year, and recommended the Government and the Legislative Council to refer to United Kingdom's Gender Recognition Act 2004 and set up a tribunal to decide on problems faced by the transgender people.

The case of transsexuals is relatively simpler. "Transsexuals" refers to people who have permanently and invariably changed their born biological sex through surgery or other means — which Mr CHAN Chi-chuen has already given a detailed description earlier on — and are living in the opposite sex permanently and invariably.

My amendment aims to urge compliance of the CFA's judgment and return the marriage right to the transsexuals. Nonetheless, Mr CHAN Chi-chuen's original motion has only mentioned the recommendations made in CFA's judgment. There are only recommendations but not any concrete implementation timetable. Nor has it specified the urgency or implementation details, such as the need to follow British practices. Of course, we may look into the proposed British practice and set up a tribunal.

The case of transgender people is nonetheless more complicated. This is because apart from the abovementioned transsexuals, transgender people also include "cross-dresser" (that is men dressing up as women or women dressing up as men) and "transvestite" — many people do not know how to pronounce this word. "Cross-dresser" and "transvestite" are similar, and they are mostly men dressing up as women to obtain a sense of joy.

There are also "drag king" and "drag queen". These people dressed up as a member of the opposite sex to perform in gay pubs. And yet, this is just for performance purpose. Some even dressed as hermaphrodites. From this, we can see that the so-called "gender" of these people is not invariable but can be changed without undergoing any medical treatment. There are many variables. I trust that Members do not have much knowledge about these people, thus the Government should enhance people's understanding about them and see if there is discrimination against them, with a view to examining the necessary biological or psychological counselling (*The buzzer sounded*) ... for further discussions.

I implore Members to support my amendment.

**DR PRISCILLA LEUNG** (in Cantonese): Deputy President, the theme of this motion today is "transgender marriage". My first impression of this motion was that Mr CHAN Chi-chuen has distorted the concept and expanded infinitely the judgment handed down by the Court of Final Appeal (CFA) on 13 May 2013 in respect of Miss W, a transsexual.

First of all, I would like to point out clearly that in the second paragraph of the judgment, the CFA expressly states that the judgment has nothing to do with same-sex marriage. The keynote of the judgment pertains to section 40 of the Marriage Ordinance (MO), that is, the definition of marriage as "monogamy" between "one man and one woman", and in particular, whether Miss W qualifies as a woman. The CFA's judgment holds that Miss W, who has completed sex reassignment surgery (SRS), is now psychologically and biologically a woman, and should qualify as a woman within the meaning of section 40 of the MO, and thus may get married in her new sex.

This judgment does not change the foundation of Hong Kong's marriage institution of "monogamy" between "one man and one woman". Moreover, the examination and approval process for undergoing SRS in Hong Kong is very stringent. Transsexuals who have undergone sex reassignment must live in their new sex, and there is no going back. But the situation of transgender people is very different. The main difference between transsexuals and transgender people is that transsexuals are those fully transformed into the opposite sex who have their congenital sexual characteristics excised after receiving entirely lawful SRS, and have acquired the sexual characteristics of the opposite sex through artificial restructuring, that is, people who have completely changed from male to female, or from female to male. These people appear in society in their new sex, and all their friends, family members and future spouses are well aware of their sexual identity with no uncertainty.

However, the meaning of transgender people is much wider in scope. Apart from those who have undergone SRS as mentioned just now, transgender people can also mean, in general, any persons who do not accept psychologically their own gender but have never been assessed by qualified psychologists or received SRS, and in their daily lives, they sometimes live in one gender identity and sometimes live in another gender identity. There are also people advocating the creation of a gender called Gender X, without distinction of male or female. Gender X can refer to people who have undergone full SRS, or those who have

only partially completed SRS but still possess the sexual characteristics of both sexes, that is, those who cannot be classified as male or female.

Speaking of this, I have to make it clear that if the scope of transsexual marriage is broadened to cover transgender marriage, there will be a huge impact on society. I must point out that when we consider this issue, we really cannot just consider individual cases. We also have to consider the influence of the whole system on other people.

When I was in secondary school, I got to know a female student from another school. Later, at a wedding banquet, she suddenly burst into tears and relayed her story to us. She had had a very good relationship with a female teacher for a few years, and subsequently the teacher confessed that she was originally a man. My girl friend had a breakdown after weeping and wailing. She could not take it at all. I believe that the spouses and family members of transgender people are in agony most of the time. So, when we mull a change of the entire marriage institution, or even an expansion of it to cover transgender marriage, we really cannot just consider individual cases. Instead, we have to consider the implications for Hong Kong society as a whole and for other people.

Hong Kong's marriage institution is based on "monogamy" between "one man and one woman". Some people say that it is mentioned in paragraph 18 of the judgment that transgender marriage appears to be permitted on the Mainland, but I think this is a misunderstanding stemming from inaccurate translations in some Chinese commentaries. In fact, it is very clear from the judgment that it is referring to the situation of post-operative transsexuals. What is more, we may take a look at Article 2 of the Marriage Law of China, which still enshrines a marriage institution of "one man and one woman" based on equality of the sexes.

So, in this regard, I hope that Members will focus our discussion on how we should address the institution of marriage of transsexuals at the relevant legislation and policy levels, given that the CFA has now passed its judgment.

In Hong Kong, if a person is to lawfully become a transsexual, other than the choice of undergoing surgery overseas, his or her only option left is to apply to a public hospital for receiving a psychiatric assessment for at least two years under the arrangements made by its psychiatric unit, so as to ascertain if he or she is suffering from gender identity disorder. According to published figures, one in every three hundred thousand people suffers from this disorder. During the



transitional period, the persons concerned will need to take and be injected with hormones of the opposite sex, and their changes will be placed under observation. Meanwhile, they will dress as the opposite sex in order to be tested to see if they can fully integrate into their daily lives in that sex. Eventually, those who have passed the aforesaid assessment will be referred to the SRS operation department of a public hospital and undergo SRS, which will last for over 10 hours. After many rounds of assessment, their sexual identity will be officially changed in law. According to figures for the past two decades, there are about 100 people who have completed such SRS.

SRS is a significant and irreversible operation. In other words, the person undergoing such surgery must have thought it through. Furthermore, stringent controls and assessment procedures are in place and maintained at present, so that the persons concerned are fully aware of all possible implications for their lives in future, as well as other people's recognition of their identity and gender. Thus, in my opinion, the judgment does nothing to shake the marriage institution of "monogamy" between "one man and one woman".

In fact, the Court of Final Appeal's judgment on Miss W's case clearly states that Miss W is a "post-operative male-to-female transsexual person", and that section 20(1)(d) of the Matrimonial Causes Ordinance (MCO) and section 40 of the MO should be read to include within the meaning of the words "woman" and "female" a post-operative male-to-female transsexual person whose gender has been certified by an appropriate medical authority to have changed as a result of SRS. Therefore, Miss W, who meets the relevant requirements, is now a woman and is eligible to marry a man.

As I see it, the CFA also knows very well that this subject is extremely controversial, and it involves a core family value that many Hong Kong people hold dear, that is, the institution of "monogamy" between "one man and one woman". Today, Mr CHAN Chi-chuen has specifically changed the whole subject to transgender marriage, which I think has gone far beyond the scope of transsexual marriage referred to in the judgment, because the judgment only concerns critically assessed persons who have completed SRS. There are a number of paragraphs in the judgment which touch upon the issue of legislation. This indicates that the CFA hopes that we will discuss related provisions and policies. Both paragraphs 146 and 147 of the judgment mention that the CFA is uncertain as to how the Legislative Council is going to discuss this issue. If the Legislative Council ... the Court says that "it is entirely a matter for the [Hong

Kong] legislature to decide whether such legislation should be enacted"; paragraph 147 also specifically mentions that if such legislation ... "if such legislation does not arise, it would fall to the Courts, applying constitutional principles ... and the rules of common law, to decide the questions ...".

I believe the CFA also knows that if the community of Hong Kong is to discuss amendments to the MO and MCO, we really have to act restrictively in strict accordance with the requirements of the judgment regarding transsexuals. It would be very difficult to adopt such a wide scope as suggested by Mr CHAN Chi-chuen. In addition, I believe that the Government needs to do its homework on quite a lot of areas before submitting its proposal to us for consideration, and we will then see how the policies and legislation can dovetail with each other. I am personally open-minded, but in my view, we should not confine ourselves to a review of the MO and MCO, or insist on enacting legislation. I think we should give the responsibility and role in question back to the Government, and wait for it to do its homework properly before submitting its proposal to us for consideration. We will make a decision based on its final proposal.

According to the MO of Hong Kong, Hong Kong's marriage institution is based on "one man and one woman". I believe that the majority of Hong Kong people also hope that we can maintain this institution. Actually, we are well aware that a lot of people from the sexual minorities in Hong Kong can enjoy full freedom under the existing laws of Hong Kong, which do not prohibit them from engaging in any activities. I very much hope that in this regard (*The buzzer sounded*) ... everyone can understand each other ...

**DEPUTY PRESIDENT** (in Cantonese): Dr LEUNG, your speaking time is up.

**DR PRISCILLA LEUNG** (in Cantonese): Deputy President, I so submit.

**SECRETARY FOR SECURITY** (in Cantonese): Deputy President, the motion debate proposed by Mr CHAN Chi-chuen today is about how to implement and follow up on the earlier judgment of the Court of Final Appeal (CFA) on the judicial review of W's registration of marriage. Ms Cyd HO, Dr Helena WONG and Dr Priscilla LEUNG have proposed various amendments respectively. First of all, let me spend some time introducing the background of the case.

Miss W was registered as male at birth, and was subsequently diagnosed as suffering from gender identity disorder. In 2008, she successfully underwent sex reassignment surgery (SRS) at hospitals managed by the Hospital Authority, and was thereafter issued with a letter from her attending doctor certifying that her sex had been reassigned. Later, she was also issued with a new identity card giving her sex as female from a Registration of Persons Office.

Afterwards, Miss W wanted to register her intended marriage with her male partner in her female identity. At that time, the Registrar of Marriages took the view that according to the legislative intent of the Marriage Ordinance (MO), the biological sexual constitution of an individual was fixed at birth and could not be changed by surgical means. Given the definition of marriage as the voluntary union for life of one man and one woman under the MO, the Registrar of Marriages was not empowered to celebrate the marriage between persons of the same biological sex. As a result, Miss W applied to the Court for a judicial review.

The review was dismissed by the Court of First Instance and the Court of Appeal in 2010 and 2011 respectively. Miss W then lodged an appeal with the CFA. In May this year, the CFA handed down its final judgment, allowing Miss W's appeal. The CFA held that the Registrar of Marriages had not erred in construing the meanings of "man" and "woman" in the MO by using biological sex as the basis of marriage pursuant to the English case of *Corbett*. However, as the relevant provisions in the Matrimonial Causes Ordinance (MCO) and MO denied a post-operative transsexual woman like Miss W the right to marry a man, the CFA held that the relevant provisions were inconsistent with the right to marry protected by Article 37 of the Basic Law and Article 19(2) of the Hong Kong Bill of Rights.

In mid-July this year, the CFA made orders declaring that section 20(1)(d) of the MCO and section 40 of the MO must be read to include within the meaning of the words "woman" and "female" a post-SRS person whose gender has been certified by an appropriate medical expert to have changed from male to female, and that she is eligible to marry a man in her female identity. At the same time, the CFA decided to suspend the operation of the relevant orders for a period 12 months, so as to allow ample time for the Government and the Legislative Council to discuss and make legislative amendments.

In addition to the aforesaid orders, the CFA also raised some questions in its judgment, including how to define the sex of other transgender people apart from post-operative transsexuals, and other legal issues that transgender people may face. Instead of ruling on these complicated legal, medical and social issues, the CFA suggested that the Government should draw reference from other places such as the Gender Recognition Act 2004 of the United Kingdom, and consider how to safeguard the various rights of transgender people, and clarify complex legal issues.

Deputy President, the SAR Government fully respects the CFA's judgment, and its other opinions and suggestions. We understand that transgender people face enormous pressure during their growth and in life. It is often the case that even their closest family members may not understand the pains they suffer. It is a tremendously long and arduous journey for them to receive diagnoses and treatments including "real life experience", administration of hormones of the opposite sex, and SRS. Moreover, there is much room for the community to have a greater understanding of transgender people.

In W's case, the CFA has ruled that as the legislative intent of section 20(1) of the MCO and section 40 of the MO does not allow Miss W to marry a man in her female identity, they are inconsistent with the Basic Law and the Hong Kong Bill of Rights. Therefore, we have commenced preliminary work to amend the aforesaid provisions on the basis of the CFA's judgment. We aim to introduce amendment bills to the Legislative Council in early 2014 as a follow-up to the CFA's judgment, with a view to completing the relevant legislative amendments within the one-year time frame set by the CFA.

As for other related issues faced by transgender people as referred to in the judgment, including how Hong Kong should safeguard the various rights of transgender people and the matter of enacting legislation on "gender recognition", the SAR Government, the Legislative Council and the community at large all need to gain a better understanding of them and think them over. As complex legal and policy issues are involved, the relevant Policy Bureaux and departments of the SAR Government, as well as the Department of Justice, must study them carefully so as to decide how to follow them up. I note that the original motion of Mr CHAN Chi-chuen calls for immediate enactment of legislation on gender recognition. Prior to any in-depth studies by the relevant Policy Bureaux and departments of the Government, and before different sectors of the community have an opportunity to become aware of the implications of such legislation for

their lives and rights, it is inappropriate for the Legislative Council to jump to a hasty conclusion.

Ms Cyd HO's amendment proposes that apart from transgender people, other sex minorities should also be entitled to the right to marry according to their sexual orientation. So this involves the issue of same-sex marriage. As indicated by the findings of the recent public opinion survey commissioned by Ms HO herself, 33.3% of the respondents supported the legalization of same-sex marriage, while 43.1% objected to it. This shows that same-sex marriage is still an extremely controversial topic. I must point out that W's case is about the right of a transsexual who has completed SRS to marry a person of the opposite sex in her new gender identity. The CFA's judgment clearly states that the Court does not address the question of same-sex marriage in W's case. Even Miss W herself makes it clear in her grounds for appeal that the review case in question has nothing to do with same-sex marriage. In today's motion debate, Honourable Members really should not mix up the two concepts.

(THE PRESIDENT resumed the Chair)

President, in respect of safeguarding the marriage right of transsexuals who have completed SRS, the Government has commenced preliminary work. Later, we will consult the Legislative Council Panel on Security on our proposed bill. Today, we will listen carefully to Honourable Members' opinions on the motion and the amendments, and we will respond shortly afterwards.

President, I so submit.

**MR RONNY TONG** (in Cantonese): President, over the past centuries, the common law has defined marriage as the monogamous union for life of one man and one woman who are not close relatives. It is exactly because of this that under the common law, any union involving polygamy, polyandry, close relatives or persons of the same sex is not recognized by the law. Hong Kong's marriage legislation was enacted according to a fundamental principle of the common law. Under this fundamental principle, the definition of "one man and one woman" has never been discussed in detail except in very few cases in the past. President, this is not surprising, because until recently, the definition of "one man and one

woman" has been common knowledge and beyond dispute, just like the sun and the moon. However, with the passage of time, society has changed alongside advances in science. In the present world, respect for basic human rights is a very important concept. Given the need to respect basic human rights, if any individual wants to change his or her gender biologically or psychologically, he or she should be respected, in my opinion, insofar as there is no infringement on other human rights.

Another fundamental criterion enshrined in the marriage legislation is that the most important consideration is the identity of the couple at the moment of marriage. President, what I just said is the moment of marriage, not the moment of birth. So basically, under legal principles, if a law defines such identity at a particular level and this definition can never be changed, resulting in a particular person's right to marry being affected, then obviously it is in contradiction to the concept of basic human rights in modern times. Therefore, in this regard, the judgment of the Court of Final Appeal (CFA) is not surprising at all. We must keep abreast of social changes and advances, and consider problems that perhaps did not arise centuries ago.

I am very glad that the CFA has made such a judgment, which we think is totally just. We also thank Mr CHAN Chi-chuen for bringing up this topic for discussion. However, as Mr CHAN said, any issue involving the word "sex" is likely to be very controversial, and today, a number of amendments that are very controversial have been proposed. President, I will have to leave this Chamber shortly after four o'clock, so I am afraid I may not have the chance to cast a vote. But then again, I do not want to give the impression that I am evading my responsibility on this sensitive topic without expressing my stance clearly. That is why I would like to express my views on the several amendments in my speech today.

President, let me begin with Ms Cyd HO's amendment. Basically, I fully concur with what Ms HO mentioned in her speech just now about the unfair and unjust situations in which people are discriminated against because of their sexual orientation. President, I fully concur with her in this regard. But if it is further contended that the community should accept same-sex marriage at this juncture, though I basically concur with it, I also respect the strong views of other members of the community. President, the strong views that I am talking about include not only moral views, but also religious views. On such a highly controversial topic, I think it may not be a responsible approach to make a decision forthwith at

this moment. I thus have reservations about Ms HO's amendment, and I can hardly support it.

President, regarding Dr Helena WONG's amendment, I must admit that although I listened attentively to her speech, up to this moment I still cannot understand why she proposed such an amendment, because as I understand it, the original text of Mr CHAN Chi-chuen's motion is actually based on the CFA's judgment. On the one hand, Dr WONG said that she respected and accepted the CFA's judgment, but on the other, she deleted nearly all the words except that she kept "CFA's judgment". As far as I am concerned, the most significant point is that she deleted "expeditiously enact a gender recognition ordinance to address the various legal problems arising from sex reassignment". President, if this sentence is deleted, I think it will give the false impression that it is not necessary to follow the CFA's judgment to address this issue expeditiously. In my view, this is not a proper message to be sent to the community. Therefore, in respect of this amendment, I must say that I have reservations about it, and I can hardly support it.

President, as to Dr Priscilla LEUNG's amendment, I must say that I can hardly understand the motive of Dr LEUNG, because on the one hand, Dr LEUNG said that she accepted the CFA's judgment, but on the other, her amendment states the following: "without changing Hong Kong's existing marriage institution of 'one man and one woman' and 'monogamy', consider studying whether there is a need to amend the Marriage Ordinance". President, this seems to suggest that we are not required to amend the relevant legislation, or that it is up to us to decide whether to amend the legislation or not. President, I certainly note that when the CFA mentioned this point, its choice of words showed great respect for the Legislative Council, saying that the matter should be left to the legislature. This is a distinct example of separation of powers in that the Court will always respect the Legislative Council's inclinations. That said, the orientation of the CFA's judgment cannot be clearer. It opines that we must enact legislation expeditiously to address the basic rights of transsexuals. We consider this an unshirkable responsibility that we cannot shift. President, it is also because of this reason that I have reservations about Dr Priscilla LEUNG's amendment, which I find unacceptable.

Thank you, President.

**MR KENNETH LEUNG** (in Cantonese): President, five Justices of the Court of Final Appeal (CFA) on 13 May held by four votes to one that it was substantiated that the existing provisions in the Marriage Ordinance denying transsexuals the right to marry were unconstitutional. This judgment is an important milestone for human rights in Hong Kong.

During the colonial era, in enacting the Marriage Ordinance, the legislative intent was to endorse the decision in the English case of *Corbett v Corbett* in 1970, as Secretary LAI just mentioned. It was a case 43 years ago. In this case of *Corbett v Corbett*, the English Court held in its judgment that procreative intercourse was an essential constituent of a marriage at common law, and therefore that biological factors were the only appropriate criteria for assessing the sex of an individual for the purposes of marriage, the voluntary union for life of one man and one woman.

However, the English case of *Corbett v Corbett* has become obsolete. In present-day multi-cultural Hong Kong, the nature of marriage as a social institution had undergone substantive changes and the importance of procreation as an essential constituent has much diminished. Data undoubtedly show that the birth rate in Hong Kong is now among the lowest in the world.

All along, there have been no definite statistics on Hong Kong's transgender population. Some studies have pointed out that in general, the ratio of transgender people to ordinary people is 1 : 1 000. But according to data from the Hospital Authority (HA), the number of attendances of relevant patients at the HA's psychiatric specialist clinics has increased from 46 in 2008-2009 to 95 in 2012-2013, and among them, the number of those diagnosed with transsexualism has also increased from 34 to 70. From 2008 to September this year, 27 people underwent sex reassignment surgery. Judging from this ratio of 1 : 1 000, it appears that there is still a large proportion of transgender people in Hong Kong who did not seek help, or have yet to seek help, from public hospitals.

In addition, according to a research published in May 2012 by Community Business, a non-profit-making organization, 77% of the working people surveyed indicated that they did not know what "transgender" meant at all, while 50% indicated their refusal to accept transgender people. As pointed out by the Equal Opportunities Commission in response to the judgment on W's case in relation to transgender marriage, many transgender individuals are facing enormous social pressure, and the community needs to strive to ensure that everyone lives free



from harassment because of their gender identity. This case demonstrates the need for more public understanding and dialogue in order to remove stigma and misunderstanding about diverse gender identities and to facilitate the end of discrimination and prejudice against transgender persons.

The CFA is the final appellate court. All sectors of Hong Kong society, as well as the Government, must abide by the CFA's judgments. Now that Miss W's civil appeal has been allowed, the SAR Government must review and amend the relevant legislation expeditiously to provide a clearer definition of the identity of transgender people. Apart from marriage, it should also examine relevant existing policies and ordinances concerning employment, inheritance of property and different public spheres, so as to safeguard these people's legitimate rights.

The principles of human rights stipulated in the International Covenant on Civil and Political Rights are implemented through Article 39 of the Basic Law and the Hong Kong Bill of Rights Ordinance. Article 17 of the Covenant provides for the right to privacy; whereas Article 26 contains provisions relating to protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. As far as the SAR Government is concerned, the judgment on Miss W's case can serve as an opportunity for it to examine existing policies and laws.

Regarding the original motion and the amendments proposed by various Honourable colleagues, I support Mr CHAN Chi-chuen's original motion. As to Ms Cyd HO's amendment, I must raise two questions with Ms Cyd HO. In the last two lines of her amendment, she mentions the following: "so that all sex minorities including transsexual and transgender people can enjoy marriage right and related legal rights according to their sexual orientation". I hope that Ms HO can clarify if "marriage" includes civil union when she responds later on, if she still has an opportunity to speak. Besides, as for the last sentence "so as to ensure that families founded by sex minorities are entitled to equal rights", I would like to ask Ms HO whether this part of the amendment includes the rights to adopt and foster children. I will decide on my voting preference after Ms HO has responded.

President, I so submit.

**MR DENNIS KWOK** (in Cantonese): President, the question of whether moral issues can be addressed by law is a long-standing question which is still under discussed today. Why? While law and morality certainly overlap, it does not mean that all legal matters arouse moral controversies. In many cases, controversies on legal matters have nothing to do with morality. As such, positioning legal controversies as moral or even religious issues does not help resolving the problem. Likewise, changing moral issues into legal matters also would not address the crux of the problem.

President, I do not intend to open a discussion on the relationship between law and morality. I just want to point out that while the case of W appears to involve the so-called moral or religious issues, they have no relationship at all. It is purely a legal and constitutional matter. Miss W applied to the Court for a judicial review and the Court of Final Appeal (CFA) has ruled in her favour. The crux of the entire case is whether a post-operative woman should be perceived as a woman, which is indeed a biological or and psychological issue. In the judgment, the CFA held that a post-operative male-to-female transsexual person, whose gender has been certified by an appropriate medical authority to have changed as a result of sex reassignment surgery, should be entitled to be included as a female under the Matrimonial Causes Ordinance (MCO) and the Marriage Ordinance (MO). In that case, there should be no argument of a man-man marriage under discussion as this precedent case has not changed Hong Kong's traditional matrimonial concept and system at all. We are aware that the case has aroused unnecessary moral and religious disputes in the community, which have actually missed the focus.

I noticed that Dr Priscilla LEUNG has just quoted paragraph 147 of CFA's judgment, saying that the CFA recognized that whether new legislations should be enacted is a matter for the legislature to decide. She said that this Council may decide whether or not to enact new legislations, but according to the judgment, it is the decision of this Council to enact gender recognition ordinance. The CFA went further to say that it would be preferable for us to introduce the legislation as it can handle various problems. It does not mean to say that this Council should decide whether the unconstitutionality of the MO should be dealt with. The fact is that the MO is unconstitutional, which has been clearly stated in the judgment. This is why the Government should introduce a new bill to amend it to make it constitutional. This is beyond doubt. Of course, whether Hong Kong should enact a gender recognition ordinance is a matter for the Council to decide. I hope Members will not mix up these two points. I wish to

elaborate on paragraph 147 of the judgment, which is concerned with the need to enact gender recognition ordinance.

President, nowadays, Courts have to deal with numerous medical, social and moral issues, and do not have the final say in many cases. Since people having different background and thinking may have different views on the same matter, the Courts are therefore obliged to pay the greatest respect to different viewpoints. We should not expect Judges to choose one among various viewpoints. Given that Judges are serving in a diversified society with different religious beliefs and philosophies, particularly present-day Hong Kong, Judges must not and should not attempt to become moral defenders.

After all, the common law is derived from the respect of one's moral value, the basic neutrality towards different moral values, and the malevolent tolerance for diversity, multi-culture and multi-religion. Nonetheless, being legislators, we are particularly concerned when a certain law is considered by the Court to be unconstitutional or contravenes the constitution, we must expeditiously introduce a bill to deal with the matter accordingly. Firstly, in respect of marriage, the legislature is obliged to expeditiously ascertain the gender identity of transsexuals. Secondly, it is even more important for the legislature to decide on the legal issues arising from the recognition of transsexuals, which include the need to enact gender recognition ordinance.

I am aware that in the legislative programme submitted by the Government for this Legislative Session, the bill to amend the MO will only be tabled at this Council early next year. However, we notice that CFA's judgment was handed down in May, it would therefore be preferable for the Government to enact a new legislation to deal with this constitutional issue within 12 months. But regrettably, the amendment bill would only be tabled early next year, which means that we will only have one or two months for deliberation. How can we have sufficient time to categorically scrutinize the bill? I hope that the authorities will expeditiously table an amendment bill that is consistent with the constitution to allow ample time for scrutiny. Thus, instead of delaying the work to early next year, I hope that the authorities can advance the timetable.

President, I so submit.

**MRS REGINA IP** (in Cantonese): President, I speak in support of Mr CHAN Chi-chuen's motion and Ms Cyd HO's amendment. Like a few other Members who have spoken, after listening to the speeches of Dr Helena WONG and Dr Priscilla LEUNG, I still do not quite understand the justifications of their amendments, especially that of Dr Priscilla LEUNG. She told me there is no need to amend the law and I should understand simply by referring to paragraphs 146 and 147 of the judgment. Nonetheless, I do not think that these two paragraphs are the most important. In fact, the simplest way is to refer to the Press Summary of the judgment, in which the Court of Final Appeal (CFA) has clearly explained the justifications of its ruling. After considering United Kingdom's famous case *Corbett v Corbett* of 1970, the CFA noticed that different parts of the world have changed the definition of marriage and their views on the marriage system. As many colleagues have said, present-day societies no longer see marriage as a union of one man and one woman for life. Nor is it for procreation as stated in the *Bible*. Many people decide not to have babies after getting married. Also, many common law jurisdictions have amended their laws to allow marriage of transsexuals. The CFA has ruled in favour of Miss W mainly because it held that the relevant provisions in the Marriage Ordinance (MO) and the Matrimonial Causes Ordinance (MCO) are unconstitutional for they have denied the marriage right of a person who has undergone an irreversible sex reassignment surgery. Marriage right is guaranteed by Article 39 of the Basic Law, and denying her of such right is unconstitutional. I believe all colleagues from the legal profession must have a clear understanding of this.

If I have not misunderstood the speech of the Secretary for Security, the amendment bill to be tabled next year is just an amendment to the relevant ordinances. This is because the CFA has justly stated that in the absence of consultation and societal consensus, it does not want to adopt a bright line test and define people who have undergone certain surgery as transsexuals. The CFA does not want to take up the work of the legislature. Instead, it has called on the legislature to consult on the enactment of legislation and discuss the complicated matrimonial issue. As we are ordered by the CFA to do so, the Government is therefore duty-bound to carry out a large-scale consultation on human right.

If I did not hear it wrong, the legislative amendments to be proposed by the Secretary are simple and technical in nature. This is because according to the Declaration of the CFA, the MO and the MCO must be read to include within the meaning of the word "woman", which include post-operative male-to-female

transsexuals. What about "man"? Does the word "man" include post-operative female-to-male transsexuals? The provisions have not mentioned. Will the Secretary propose the relevant amendment? I do not think so.

Let us look at other places. I have done some researches and found that relevant laws are found in 13 countries, including our Motherland and some Catholic countries. I notice that gender recognition ordinance has been introduced in the United Kingdom, where a mechanism has been put in place for the issuance of gender identity certificates and allow the marriage of transsexuals. Finland, Argentina (a Catholic country) and Australia have also enacted the relevant legislation to allow the marriage of transsexuals. Of course, similar legislation is also found in France. In the United States, while some states have enacted legislation, some have not. Both Canada and Taiwan have also enacted similar legislation, but in Taiwan, only people who have completed the sex reassignment surgery are considered as transsexuals. With regard to marriage, the issue is being considered by the Ministry of the Interior with a more open attitude. The most interesting thing is that similar legislation is also found in the Mainland, which held that with the consent of close relatives, the sexual identity of a person who has undergone sex reassignment surgery would be ascertained, who can then decide on the preferred gender and enjoy legitimate marriage. Thus, we can see that the Mainland is more advanced than Hong Kong in this respect. Similarly, Japan, Singapore and Korea (which are in close proximity with Hong Kong) have also enacted similar legislation.

While other parts of the world and many Asian countries are evolving and becoming more enlightened, our Government has only proposed a technical legislative amendment. As Mr CHAN Chi-chuen has said, I think the Government is so mean as to send only one Secretary to attend this Council meeting. Given that the MO falls within the purview of the Security Bureau and the Director of Immigration is the Registrar of Marriages, the Secretary for Security must be present. Concerning the constitutional and human right issues, the absence of the Secretary for Constitutional and Mainland Affairs implies that he has been evasive about the issue, which I think is unjust and inappropriate.

I heard many colleagues say that Ms Cyd HO's amendment has a much broader target, which does not only target the transsexuals, but also the sex minorities, and has touched on equal rights issues. Equal rights issues are definitely more complicated according to my previous contacts with the sex minorities and discussions with employers. The pursue of equal rights by the

sex minorities certainly involves welfare provision by enterprises, for example, whether families of the sex minorities or transsexuals could enjoy housing benefits, children education allowance or adopt children. These are complicated issues, and as Mr Kenneth LEUNG has said, may not be handled by the Secretary for Security alone.

In my opinion, the Government should comply with the court judgment and carry out consultation. The CFA's message is loud and clear, which states that: "It recognises that legislative intervention would be highly beneficial in various respects, including establishing a means for deciding who qualifies as 'a woman' or 'a man' for marriage purposes."

I therefore consider that the Government should accept Mr CHAN Chi-chuen's motion and Ms Cyd HO's amendment, and carry out consultation from the constitutional and human right perspectives. The community certainly has diversified views, and as Ir Dr LO Wai-kwok told me when we were having lunch just now, he worried that granting permission to the marriage of transsexuals or accepting the sex minorities' views may deal a blow to the traditional values. And yet, take a look at Japan, Korea and the Mainland, have the enactment of such laws dealt any blow to their traditional values? Argentina, a Catholic country, has also enacted the relevant law, but has its religious value been undermined? Although everyone in this world can have their own views and freedom, considering the facts presented by Mr CHAN Chi-chuen that the transsexuals and the sex minorities are suffering great pain, and a judgment has been handed down by the CFA, I think we should better carry out a consultation.

President, I so submit.

**MR MA FUNG-KWOK** (in Cantonese): President, regarding the original motion and amendments of this motion, I would like to express my views based on the judgment of the case of Miss W and the definition of the so-called "sex minorities".

Mr CHAN Chi-chuen's original motion highlighted that "... restricting the criteria for ascertaining a person's gender to merely biological factors are unconstitutional". However, looking back at the case of Miss W, the judgment

handed down by the Judge can be summarized to mean that the provisions are unconstitutional not because of "restricting the criteria for ascertaining a person's gender to merely biological factors", but because Miss W has failed to enjoy the marriage right of a female even though she has legitimately become a woman. The crux of the issue is why Miss W would be regarded as a woman.

Given that according to the judgment, "man" and "woman" are defined in the Marriage Ordinance (MO) to include "post-operative transsexuals who have undergone surgery conducted by an appropriate medical authority", thus Miss W also falls within the definition. As we are aware, a sex reassignment surgery seeks to change a person's biological sex. From this, we can see that one important precondition for the marriage of transsexuals is a biological change. As a matter of fact, a person with gender identity disorder (GID) but has yet to undergo sex reassignment surgery is generally not regarded as "a transsexual person".

Therefore, both the original motion and Ms Cyd HO's amendment mentioned "... enjoy marriage right and related legal rights according to the sexual identity they adopt", which is inconsistent with the judgment of the case. The adoption of sexual identity is a subjective and psychological decision, which does not necessarily mean a sex reassignment surgery has been undertaken. Theoretically speaking, a person's sexual identity has two elements, namely biological and psychological. If a person perceives himself to be a woman psychologically but likes his own male sex organ, or *vice versa*, then he does not fall within the general meaning of "man" and "woman", but is generally referred as a "third sex" or "transgender". We cannot say that a person is either "man" or "woman" simply because he or she has adopted either sexual identity. At the practical level, if we remove the biological restriction and determine purely on a psychological basis, then a person's sexual identity may change from time to time. This will make marriage very unstable, which runs counter to the important meaning of marriage. Therefore, I have reservation about the original motion and Ms Cyd HO's amendment.

Sexual identity carries two but consistent meanings, namely psychological and biological meaning. If either one is missing or if inconsistency arises, the terms "man" and "woman" will have to be redefined, which is a complicated and controversial issue. I do not consider it appropriate to discuss too much on how the definition of "man" and "woman" should be expanded in the light of the case

of Miss W. Rather, we should focus on the enactment of legislation for the marriage of transsexuals who have similar problems with Miss W, that is, having GID and completed sex reassignment surgery. This is what the Court ruling would like to achieve. Judging from this angle, we have to follow the judgment and take into consideration "biological, psychological and social elements and whether sex reassignment surgery has occurred". To "adopt" a sexual identity psychologically is indeed not a sufficient condition.

However, due to physical or health considerations, some people may not be able to undergo comprehensive sex reassignment surgery. I think discretion can be exercised so long as professional assessment confirms that the gender recognition is consistent both psychologically and biologically. I therefore suggest that in the course of enactment, professional assessment must be provided. Furthermore, the law must also require people who have undergone sex reassignment surgery to effect a change in their sexual identity so as to avoid legal problems. For example, if a post-operative male-to-female transsexual marries another female with her previous male identity card, it will result in a *de facto* same-sex marriage.

With regard to same-sex marriage, it has something to do with the sex minorities. Ms Cyd HO's amendment proposes to enable all sex minorities including transsexual and transgender people to get married according to their sexual orientation and the sexual identity they adopt, I think this has deviated from the objective of the ruling of the Court of Final Appeal. We should not mix this up with the marriage of transsexuals in the case of Miss W.

In the eyes of the sex minorities, the case of Miss W is a constraint that the male-female gender hegemony set for marriage. And yet, transsexuals sharing Miss W's experiences may not think so. As many of them have told the media or expressed in their biographies, they just want to rectify the inconsistencies between their minds and bodies and be an ordinary man or woman. This has not gone beyond the male-female concept. These people endured the painful sex reassignment surgery just to pursue psychological and biological consistency. Likewise, the judgment has no other meaning but aims to recognize the consistency achieved by Miss W in gender identity and post-operative sexual identity, and include this into the general meaning of marriage between man and woman. The most important of all is that we should not include other elements into the legislation to be enacted as a result of the case of Miss W. This is a



respect of the transsexuals, to prevent them from being labelled. Thus, I agree with Dr Priscilla LEUNG's amendment.

Last of all, when considering the concept of transsexuals, I think we must take into account the psychological and biological consistency of the person concerned. As a matter of fact, the Japanese Kanji for GID is "性同一性障害", in which the importance of consistency is highlighted. But due to the technical constraints, it is impossible for the sex reassignment surgery to produce female- or male-born bodies. In that case, thorough consideration should be given to the definition of "sex reassignment surgery" in the course of enactment, so as to avoid upsetting the wish of people having GID and undergone sex reassignment surgery to achieve psychological and biological consistency without any reasonable cause, and bringing psychological and biological pain to them.

With these remarks, President, I support Dr Priscilla LEUNG's amendment. As the original motion and other amendments have retained the term "transgender", I will not support them.

Thank you, President.

**MR CHARLES PETER MOK:** President, transgender persons are probably the minority among minorities, and their lives and needs are likely more unfamiliar to most of the rest of us. So, I thank Mr CHAN Chi-chuen for bringing up this quite controversial issue for debate in this Chamber.

But, President, I am blessed to know a good friend from this transgender community. Ms Robin Sarah BRADBEER is a good friend of mine, a retired academic from a local university, an outstanding and well-respected member of the IT professional institutions in Hong Kong and internationally. To me, she is no different from anyone of us, and she deserves any and all the rights we have. The only accommodation I have to make for her is that, in order to enable her to hear this without the help of interpretation, I am making this speech in English.

President, from the judgment of the Court of Final Appeal (CFA), we can see that there are a lot of legal issues still to be resolved. Just making the revisions in the relevant provisions in the Marriage Ordinance and the Matrimonial Causes Ordinance so that transgender persons are no longer barred from getting married because of their gender by birth is just a first step. Without

a broader gender recognition scheme, transgender persons still face hassles or even difficulties in daily matters like opening a bank account, renting an apartment, looking for a job, or even finding a right toilet to go to. In other words, this has to do with their rights to live with dignity, and their rights to live free of discriminations.

Indeed, there are two important points made in the CFA judgment that I want to draw Members' attention to.

First, the Justice wrote, "In addressing the question whether an individual like W qualifies as 'a woman' so as to be entitled to marry a man, the Court ought in principle to consider all the circumstances — biological, psychological and social — relevant to assessing that individual's sexual identity at the time of the proposed marriage."

Second, the Justice pointed out that, "Reliance on the absence of a majority consensus as a reason for rejecting a minority's claim is inimical in principle to fundamental rights." So, please, do not use your own moral or religious views on the matter to reject fundamental rights to a minority. That is the most immoral thing to do.

The CFA gave a year for the Government to execute the necessary revisions to the Marriage Ordinance and the Matrimonial Causes Ordinance, and we are simply asking the Administration not to procrastinate until the last minute, so that the community and this legislature will not have enough time to examine these amendments, not to mention that the Administration may shove aside the CFA's call to "expeditiously enact a gender recognition ordinance." Such delays are not just going to further deprive transgender persons of their rights and prolong their agonies, but also, it is going to induce more legal problems and potential litigations, similar to the W case. It is just going to cost us taxpayers more money.

President, I am both amazed and dismayed by Dr Priscilla LEUNG's amendment, where she added a condition to consider studying whether there is a need to amend these two Ordinances we have been talking about, as if to say that there is still room for the Administration to maneuver and ignore the order in the CFA's judgment that is most clear and direct. The additional condition to limit the right to marriage only to those "people who have biologically completed sex reassignment surgeries" is also clearly counter to the direction of the CFA's

judgment as to how an individual's sexual identity at the time of the proposed marriage should be assessed, that is, considering all the circumstances, including biological, psychological and social circumstances. Listening Dr LEUNG's speech a moment ago, for a while, I thought she was talking about science fiction, and then I realized that it is plain old bigotry, intolerance and discrimination.

Recently, The Professional Commons published a research paper entitled "It's Time for Change: Towards a Gender Recognition Ordinance for Hong Kong", led by Dr BRADBEER, Dr Sam WINTER of the University of Hong Kong, and The Professional Commons' Task Force on Transgender Law Reform. We argue for the introduction of gender recognition legislation in Hong Kong that is both comprehensive and inclusive, that is, comprehensive in providing recognition to transgender persons in all relevant areas of life, and inclusive in applying to a broad range of transgender person, without imposing unreasonable medical barriers, and using the United Kingdom Gender Recognition Act (GRA) 2004 as a starting point.

The GRA of the United Kingdom provides recognition through the issuance of a gender recognition certificate, which provides legal gender recognition in a wide range of areas, not only marriages but also in areas such as registration, parenthood, social welfare benefits, pensions, discrimination, succession, and so on. The certificate provides these recognitions to applicants based on gender identity and lived experience, regardless of medical treatment such as hormones or surgery. A Panel maintains a rigorous evaluation process, requiring the submission of medical analysis and many other documented proofs.

President, we pride ourselves in Hong Kong as a fair, just and equal society, and we should not allow the majority to find further excuses not to grant fundamental rights to the minority. It is totally unacceptable for the majority to further delay after the Court has made its judgment perfectly clear.

So, make no excuse. This motion is really about dignity to all, discrimination to none. Nothing else. So, I support the original motion by Mr CHAN Chi-chuen, and also the amendment made Ms Cyd HO. Thank you, President.

**MR TOMMY CHEUNG** (in Cantonese): President, in May 2013, the Court of Final Appeal (CFA) ruled by a four to one majority that the Marriage Ordinance

and the Matrimonial Causes Ordinance are unconstitutional in denying the marriage right of "a person who has undergone sex reassignment surgery in an authorized medical authority". This alone tells us that the crux of this case is the marriage of transsexuals.

However, in Mr CHAN Chi-chuen's original motion, the term "transsexual marriage" is nowhere to be seen. Instead, he has ingeniously used "transgender marriage" as the theme to switch the focus to the marriage right of transgender people, thereby expanding the scope from gender identity to sexual orientation. I oppose the original motion for having such an ulterior motive.

President, the Liberal Party and I oppose same-sex marriage. Undeniably, the notion of marriage has changed with the times, evolving from previously polygamy to presently monogamy. Any new notion of marriage must be thoroughly discussed, re-examined and justified before a consensus or common value is reached in society and become a social policy. It is not based on individual rights. As a matter of fact, the majority of people still support the use of family formed by the union between a man and a woman as the basic unit of society.

I certainly respect CFA's judgment on the case of Miss W, which recognizes the sexual identity of post-operative transsexuals, and have no intention to override the law, but I honestly do not quite agree with it. I am not a legal professional, but as a common man, I really do not understand how the gender of a transsexual person can be clearly defined.

What is the extent of sex reassignment surgery should a person undergo before he or she can legitimately claim himself or herself to be in the opposite sex? For example, can a person who has undergone mastectomy but retained the uterus marry as a man? What if he gives birth to a baby after getting married, which is a real case in the United States, is he still a man? Likewise, a female who is not a transsexual but has undergone hysterectomy for medical reasons and become barren does not mean that she is no longer a woman.

Some people then highlighted the importance of psychological assessment. But is a person's psychological condition a determining factor? I doubt it. While it is sufficient for a person to psychologically perceive himself/herself as in the opposite sex in certain overseas countries, just as a colleague has mentioned, the recent endorsement of a similar amendment bill by Canada's House of

Commons has aroused intense community debate. This is because under this amendment bill, a man who psychologically recognizes himself as a "woman" is allowed to use the female bathroom and toilet as a woman without having to undergo any sex reassignment surgery. Thus, this bill is also known as the "bathroom bill". Some women organizations fear that the bill might be abused by sex offenders and facilitate the commission of crime.

I understand that the CFA has suggested the authorities to, as a number of colleagues have said, model on United Kingdom's Gender Recognition Act 2004 and enact a gender recognition ordinance to cater for Hong Kong's actual situation, with a view to ascertaining the identity of the transsexuals. However, at the same time, the CFA has also decided to suspend the operation of the orders for 12 months to enable the Government to consider the possible legislation. This precisely reflects that the CFA is well aware of the complexity of the issue, and does not intend to decide on behalf of the Government or the legislature.

While I do not agree with the proposed enactment, the CFA has stressed that its ruling to accept the marriage of transsexuals has nothing to do with same-sex marriage. I therefore remind the authorities that there must be stringent and specific ways to ascertain the identity of the transsexuals in the course of enactment to avoid same-sex marriage, as this may deal a direct blow to the marriage notion of the union between a man and a woman.

At present, sex reassignment surgeries in Hong Kong are subject to very stringent processes and procedures. Simply put, the person concerned must first complete a mental health assessment by a psychiatrist lasting more than two years. The person can then attempt to reintegrate into society by cross-dressing before making a decision on whether or not to undertake surgeries to remove the relevant sex and reproductive organs for replacement by pseudo sex organs, to be followed by hormone injections. This established mechanism for confirmation is worth consideration by the Government in the course of enactment.

Hence, the authorities must be very cautious in enacting the relevant legislation. After all, Hong Kong's sex culture is quite different from that of the Western world. Although Mrs Regina IP just now said that similar legislation is also found in the Mainland, I am afraid that an overtly loose gender definition and confirmation process will give rise to many conflicts and social problems.

In fact, the many practical problems that come along with the legitimization of marriage of transsexuals must be carefully considered. For example, do we accept adoption by families of transsexuals? Can the law assure that there are ways for one marrying party to ascertain if the other party is a transsexual? As we can see, this is nothing simple and may have serious implications. I therefore do not want to see the authorities hastily enacting the law because the CFA has suspended the operation of the orders for one year. The abovementioned issues must be thoroughly and fully considered, discussed and widely consulted before a societal consensus is achieved for a final decision.

President, I so submit.

**MR LEE CHEUK-YAN** (in Cantonese): President, the T-shirt that I am wearing is made in Taiwan, and is printed with the words "Freedom to Love, Equality for all Families". But don't say that I collude with Taiwan's pro-independence forces because of this. Nowadays, people are using every means to do injustice to other people and it might be wrong to put on Taiwan-made outfits.

The motion proposed by Mr CHAN Chi-chuen today has attracted heated discussions. Mr Tommy CHEUNG just now said that Mr CHAN has ulterior motives, but I absolutely do not agree with him. Mr CHAN Chi-chuen has been upright and stated clearly that he wishes to have transgender marriage, but nothing else. His motive has been clear to all. Members may disagree with him, but they should not accuse him of having ulterior motives after he has clearly stated his position. Likewise, the amendment proposed by Ms Cyd HO of the Labour Party has also made clear our position. We want to expand the scope of today's discussion to cover not only transgender marriage or the Court judgment mentioned earlier, but also the right of the sex minorities to found families and have partnership.

The objective of our amendment is very clear. Apart from addressing the issue of transgender marriage or gender identity, consideration should also be given to cases where people cannot stand the sex reassignment surgeries due to their physical conditions, but are eager to register their partnership. In that case, is the sex reassignment surgery a must for their partnership? We hope that the community can be more accommodating and inclusive so as to allow everyone to have the right to choose. There should be equality for all families and

partnership even without the need to undergo sex reassignment surgeries. On this point, I think our amendment is clear enough.

As clearly reflected by the current world trend, actually, we do not have to talk about the world, even in Taiwan, a Chinese community, the first reading of the civil partnership bill was conducted on 25 October. The bill has now been included into the legislative agenda for scrutiny. Certainly, there is no way we can foretell if the bill can get through in the end. But as Members may be aware, according to Taiwan's legislative procedure, in order for a bill to pass the first reading for scrutiny, it has to go through a voting process. Given that the bill has been put to vote, it means that it is ready for discussion. This reflects the development of the relevant laws in the Chinese communities.

On the other hand, the British Parliament is also scrutinizing a bill for the vindication of homosexuals. If it is approved by the House of Commons, some 40 000 homosexuals who have been found guilty might be vindicated, and among them are the famous dramatist Oscar WILDE and the father of computer science Alan TURING, who were penalized for expressly admitting that they were gay. As the British authorities are working on a bill for the vindication of homosexuals, I trust that the entire world is discussing on the matter, so I hope Hong Kong society will not evade the issue.

The Labour Party opposes Dr Priscilla LEUNG's amendment because, as commented by Mr Charles Peter MOK, her amendment has no respect for the Court ruling and the separation of powers, and is filled with discriminative and repulsive wordings. However, noting that the amendment is proposed by Dr Priscilla LEUNG, we are not surprised at all as this is what we have expected.

We also oppose the amendment proposed by Dr Helena WONG of the Democratic Party for its narrow scope. It simply urges compliance with the Court judgment, but nothing more. It has not touched on other issues of wider coverage, such as transgender marriage, but only retained the part "comply with CFA's judgment".

Last of all, I have to respond to the double standard adopted by the Secretary. Just now, the Secretary quoted the findings of a public opinion poll, saying that some 30% of the respondents opposed same-sex marriage while some 40% ... it should be some 30% of the respondents have agreed but some 40% have opposed. It seems to me that a decision was made by the Government on

the basis of statistical data or public opinion. This gives an impression that the Secretary has adopted a double standard. If the same yardstick, that is, public opinion alone is used for decision-making, public opinion data has clearly shown that over 60% of the respondents opposed discrimination against the homosexuals. Then why didn't the Government enact anti-discrimination legislation? Following the logic of the Secretary, anti-discrimination legislation should be enacted right away. Has the Secretary not tended to favour the majority? This is the majority. And yet, the Government has been reluctant to conduct even the consultation. This gives us an impression that it has been evasive on the matter. If the Government claims that it has decided on the basis of public opinion poll, it should introduce an anti-discrimination legislation.

Meanwhile, I have to raise another question, and that is, should we focus on public opinion polls alone? Very often, human right issue is just a matter of the minority. Thus, the entire concept about human right is the respect of the minority's rights. If human right is about the forging of consensus, then honestly speaking, there should not be any human right problem so long as a consensus can be forged. This is because consensus represents the common aspiration of the majority. Nonetheless, if we impose the aspiration of the majority on the minority without giving due respect to their rights, there is no human right at all. I wish to remind Members that in response to the HKSAR's third periodic report on human rights, the United Nations Human Rights Committee clearly states that "Hong Kong, China should consider enacting legislation that specifically prohibits discrimination on ground of sexual orientation and gender identity, take the necessary steps to put an end to prejudice and the social stigmatization of homosexuality and send a clear message that it does not tolerate any form of harassment, discrimination or violence against persons based on their sexual orientation or gender identity. Furthermore, Hong Kong, China should ensure that benefits granted to unmarried cohabiting opposite-sex couples are equally granted to unmarried cohabiting same-sex couples, in line with Article 26 of the Covenant". In other words, the people concerned may also register their partnership. This is the concluding observations made on the basis of the International Covenant on Civil and Political Rights or the concluding observations made by the United Nations Human Rights Committee on the report submitted by Hong Kong. Why did the authorities not comply with it?

Certainly, people have divergent views on homosexuals, so I want to tell a Bible story: While a tax collector repeatedly confessed himself a sinner while praying, a Pharisee always sang praises of himself, thinking that he had not



committed atrocities or done any bad things, and was therefore better than the tax collector. In the end, Jesus asked unequivocally, "Who is not a sinner?" Only those who admit and repent from sin will be accepted by the Father. This is clear to all. We must genuinely admit and repent (*The buzzer sounded*) ... This is the responsible attitude.

**PRESIDENT** (in Cantonese): Mr LEE, your speaking time is up.

**MR LEE CHEUK-YAN** (in Cantonese): Thank you, President.

**PROF JOSEPH LEE** (in Cantonese): President, one focal point of the motion proposed by Mr CHAN Chi-chuen today is that the judgment handed down by the Court of Final Appeal (CFA) has highlighted the deficiency of the Marriage Ordinance, which has not offered any protection to the rights of the post-operative transsexuals. He therefore suggested that the authorities should enact a gender recognition ordinance to address the problem. According to my understanding, this is one of the issues highlighted by Mr CHAN Chi-chuen, which follows up on the problems arising from CFA's case.

However, during the discussion, a colleague pointed out that Mr CHAN Chi-chuen has used the word "transgender" instead of "transsexual" and the case will be different if Mr CHAN Chi-chuen used the word "transsexual". Why is that so? As different Members have pointed out earlier, there are cases of legitimate marriage of transsexuals in Asia (including China), whereas in Europe — my assistant and I have done some researches — marriage of transsexuals has been legitimized since 2000 (that is, 11 years ago). Another colleague also highlighted that in Japan, marriage of transsexuals has also been legitimized.

Nonetheless, in his motion, the focus is not "transsexuals", but "transgender people", and this has touched on the nerves of many people. Why? President, if I told you that I felt like I was a woman, and even though you kept telling me that I was a man, I insisted that I felt like a woman, then I should receive some kind of professional assessment. Irrespective of the standard of the assessment — regardless of whether one who has the uterus is a woman as suggested by Mr Tommy CHEUNG — I decided to undergo a sex reassignment

surgery on the mere fact that the assessment result also supported my decision to become a woman. And I had the operation. Later, I wanted to get married, but was denied. But now, this is no longer a problem because of the judgment handed down by the CFA. What is more, the Secretary has agreed to consult on the gender recognition ordinance, which will enable me to get married. There should not be any problem because legally speaking, my due rights have been protected. This is an important point.

Nonetheless, the issue under discussion today is "transgender". Together with sex minorities highlighted by Ms Cyd HO, there is an interesting phenomenon which fully complies with the findings of the survey believed to be conducted last month. In Asia, Hong Kong people are pretty conservative about sex. This has not only reflected that "tradition is tradition", but as Mr Ronny TONG has pointed out — he may not be able to take part in the voting — we are not talking about the law. From the legal perspective, this is indisputable as the law should guarantee equality and guard against discrimination. This is very important. If a person is entitled to something, then his ownership should be protected and safeguarded by the law. Problems may arise when moral factors or religious beliefs are involved. The question is whether I can make use of my power to deprive people of the things which they are entitled to when I am on the strong side. This is indeed discrimination. I believe nowadays in Hong Kong, many people still hold fast to their subjective views and judge or discriminate against other people on objective grounds. I do not think this should be allowed even though we may look down on people of certain sex attitudes or sexual orientation.

I just used the term "look down on" because earlier this week, I had watched an interview, during which a very good point was raised and I would like to share it with Members. The man said, "You may look down on me simply because I feel like I am a woman, but you cannot discriminate against me. This is because your discrimination, coupled with the exercise of your power, would render me unable to do many things. After all, we should be protected by the law."

Let me cite an example. As healthcare personnel, we work in hospitals. Despite my religious belief and sense of value, can I refuse to take care of the suspected HIV/AIDS patients who might have contracted the disease because of their sexual orientation? Can I ask the doctors not to treat them? If I do so, this is discrimination. Nonetheless, I may tell the patients, "I look down on your

sexual orientation because we are different, but it does not mean that I will not provide you with healthcare services in a normal way."

This motion debate has exactly reflected one point, that is, apart from discussing whether the authorities should comply with CFA's judgment and lay down specific provisions to protect people who have changed their biological sex by undergoing legitimate, reasonable and professional surgeries following the necessary procedures, we should also discuss whether a more ideal law should be put in place to protect the sex minorities or transgender people, with a view to enabling them to enjoy what they are entitled to. We should not discriminate against people whose values, moral concepts or religious beliefs are different from us, and we should not exercise our rights to deprive them of their legal entitlements. I think this is precisely the question that we need to ponder today. For this reason, today I will support Mr CHAN Chi-chuen's motion and Ms Cyd HO's amendment.

Concerning the amendments proposed by Dr Priscilla LEUNG and Dr Helena WONG, as some Members have said, I still fail to grasp the objective of Dr Helena WONG's amendment after listening to her speech, whereas Dr Priscilla LEUNG's amendment reflects a traditional and conservative attitude towards sexual orientation or identity that I cannot agree with. Thank you, President.

**MR IP KWOK-HIM** (in Cantonese): President, the subject of today's motion is highly controversial. The general public have all along considered that marriage institution is the voluntary union of one man and one woman. Who is a man and who is a woman, the sexual identity is inborn. This is the Chinese traditional concept, moral value and understanding of marriage, which cannot be changed all of a sudden for reasons that Hong Kong is a melting pot of the east and the west, or we should have more modern or more advanced thinking. The marriage institution of "one man and one woman" is not a so-called conservative or prim institution but rather the moral values firmly held by Hong Kong society. To recognize the heterosexual marriage is not to disregard the minorities' right but rather to uphold the basic interest of the absolute majority in Hong Kong.

However, today with rapid advances in science and technology and also medical science, there is a slight difference in our concept about man and woman. Regarding Ms W as mentioned in the motion today, she is recognized by the Court of Final Appeal (CFA) as a "woman" within the definition of the Marriage

Ordinance and the Matrimonial Causes Ordinance and is eligible to marry a man. As the judgment of the CFA — it is a decision made by the CFA — is legally binding, the authorities must grant those people who have successively undergone sex reassignment surgery the right to marry according to the CFA's judgment while not changing Hong Kong's existing marriage institution. The Government must do so; it has no choice but to comply.

Although the CFA has slightly changed society's notion of man and woman and the definition in law, it has stated clearly from the outset that it has no intention to change the marriage institution of the voluntary union of one man and one woman and that the case of Ms W has nothing to do with same-sex marriage. Even though the CFA has stated its position very clearly, it has still given some Members the reverie to extend the right to marry and other rights to couples of non-heterosexual relations.

President, I must point out that to maintain the heterosexual marriage institution of "one man and one woman" is the Chinese traditional concept and the bottom line of Hong Kong people's moral values. I am adamant about this and I will not back down on this issue. Therefore, I state clearly on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) that the DAB opposes the indefinite extension of the interpretation of the marriage institution to cover all sexual minorities (certainly including transgender people), which will distort society's understanding of marriage institution and values in general, as well as undermine the entire social system, the concept of family, as well as the rights of marriage and adoption.

At the same time, I would like to quote the dissenting view of Justice Patrick CHAN. When compared to the CFA judgment, his views are closer to the genuine marriage institution of Hong Kong and the real moral values of Hong Kong people that DAB is aware of.

Justice CHAN pointed out that the "man" and "woman" joined together by marriage were biologically able to procreate and that was the general concept as well as the definition adopted in dictionaries in general. He considered that there was no evidence that Hong Kong people had changed their interpretation of "man" and "woman", neither was there any evidence that social attitudes in Hong Kong had changed to the extent of abandoning or fundamentally altering the traditional concept of marriage. If the CFA saw the need to invoke its

constitutional power to recognize the transsexual marriage, it must first consult the public. This is the view of Justice CHAN in the four votes to one judgment.

Regrettably, before the CFA handed down the judgment, it had not consulted the Hong Kong society on its views on marriage. I believe that even if a consultation had been conducted, the absolute majority of people in Hong Kong would still support and recognize the marriage institution of "one man and one woman".

President, the DAB sympathises with transsexual persons for the difficulties they faced with. It also understands that these people have made tremendous efforts and endured excruciating pain in undergoing the difficult and complicated sex reassignment surgeries. Mr CHAN Chi-chuen has described the conditions of these people. I have great respect for their determination. Based on humanism and its constitutional duty, I hope that the Government will study how to legislate for the protection of the legal rights of the transsexual people to allow them a new life with a new gender and a new identity.

President, the contents of Dr Helena WONG's amendment is closer to DAB's views but on account of (*The buzzer sounded*) ...

**PRESIDENT** (in Cantonese): Mr IP, your speaking time is up.

**MR IP KWOK-HIM** (in Cantonese): Thank you, President.

**MR ALBERT CHAN** (in Cantonese): President, I have expected Mr CHAN Chi-chuen's motion to be passed unanimously in this Council, with nothing exciting during the process. This is because Mr CHAN Chi-chuen has basically quoted the wordings in the judgment handed down by the Court of Final Appeal (CFA) and maintained its spirit in his motion, in the hope that the Government will base on the spirit of the rule of law in Hong Kong, comply with the CFA's requirement to amend the law promptly within the specified time, so that transgender people can enjoy the basic right of marriage. As mentioned by many Members, the CFA's judgment has clearly pointed out the Government's refusal to grant the transsexuals the legal right of marriage is unconstitutional and has violated their basic rights.

President, three phenomena have arisen in today's discussion and I have to voice them out. First, Dr Helena WONG's ridiculous amendment in which she has deleted all the wordings in Mr CHAN Chi-chuen's motion quoted from the CFA's judgment. I am extremely surprised to see a Member from the Democratic Party delete all the wordings quoted from the CFA judgment. If Mr Martin LEE is still a Member of this Council or the president of the Democratic Party, I believe that he would surely break out into curses.

In her amendment she has deleted two parts of the CFA's judgment quoted by Mr CHAN Chi-chuen, that is, "; the judgment stated that the relevant provisions in the Marriage Ordinance ('MO') and the Matrimonial Causes Ordinance ('MCO') restricting the criteria for ascertaining a person's gender to merely biological factors are unconstitutional; CFA also held that all circumstances relevant to assessing a person's sexual identity at the time of the proposed marriage, including biological, psychological and social elements and whether any sex reassignment surgery has occurred, need to be considered; in this connection".

These two parts are essential to the entire motion. Unless she disagreed to the interpretation of Mr CHAN psychologically, physically and mentally, she would not have deleted those words. The original motion quotes from the CFA judgment the rationale regarding transsexual people's basic right to marry and it is absolutely ridiculous that the Democratic Party has actually deleted it. To the CFA, it is an insult and to anyone who upholds the rule of law, it is an insult and an offence.

When reading the deleted parts in her amendment, I thought of the scene when Members of the Democratic Party entered the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG). They always talk about "democracy", but eventually they betray democracy. Now, she talks about supporting the CFA judgment and its spirit but deletes all the relevant wordings. It is no different from slapping the CFA twice, as in the case when the Democratic Party entered the LOCPG.

All the lawyers of the Democratic Party are not present here. I just do not understand why members of the Democratic Party and Legislative Council Members who followed Martin LEE into politics, especially those from the legal sector — Dr Helena WONG joined the political arena halfway — would allow her to delete all the wordings of the CFA judgment. It is absolutely ridiculous.

Another strange phenomenon in today's debate was that Dr Priscilla LEUNG acted as if she was a deputy to the Standing Committee of the National People's Congress (NPCSC). The NPCSC has the authority to interpret the law and when she presented the so-called "legal basis", she became the NPCSC to interpret the relevant ordinances and override the CFA judgment. Her true qualities as a lawyer have been fully exposed, but she has become a laughing stock in the end. If Hong Kong's rule of law is to be controlled by this bunch of people and if Hong Kong is to be under their governance, the rule of law in Hong Kong will be doomed.

The third absurdity is Mr IP Kwok-him's speech. He said that the CFA had not consulted the public before handing down the judgment. It turns out that the so-called "spirit of the rule of law" as interpreted by the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) is the "co-operation among the three powers", namely Executive, Legislative and Judicial, as the Central leaders said earlier. It implied that the CFA had to execute the orders from the highest echelon of the Communist Party and consult the public before making a judgment. He could not support Mr CHAN's motion eventually perhaps because he had to execute the order from the highest echelon in the Communist Party to implement the "co-operation among the three powers". Obviously the CFA did not put into force the so-called "co-operation among the three powers" as directed by the senior echelon of the Central Government. It did not consult the public, nor did it hand down the judgment according to the instruction of the Communist Party.

As I have pointed out at the beginning of my speech, compared with other social issues, the subject put forward in Mr CHAN Chi-chuen's original motion is not so serious in nature; yet, to many people it is a heresy or it challenges Hong Kong's core values or the traditional notion of "society controlling the court". However, please note that among the five CFA Justices, four supported the judgment.

I hope that the Government will, for the sake of the rule of law in Hong Kong ... Actually the number of people impacted by the original motion is small. In proposing this motion, Mr CHAN Chi-chuen does not get any political gains or secure more votes. Instead, he will be criticized by the public. However, this motion is an indicator of how the rule of law in Hong Kong is manifested and implemented. If the Government bows down to political pressure and makes all

sorts of excuses not to take any action in relation to this issue, it is a serious warning of the demise of our rule of law.

I call upon the Government to hold fast to its post and amend the ordinances as soon as possible. Thank you.

**MR ALAN LEONG** (in Cantonese): President, the Court of Final Appeal (CFA) handed down the judgment of the case *W v The Registrar of Marriages* on 13 May 2013 and a supplementary judgment later on 16 July. During the two-odd months in between, the CFA gave both parties the chance to lodge written submissions on how to execute and take the legal position of the Court forward. In the supplementary judgment delivered on 16 July, the CFA accorded the Government 12 months to rectify its unconstitutional act.

President, the Secretary has certainly read the judgment and supplementary judgment. The CFA clearly pointed out that after careful consideration of the submissions of both parties, it decided that 12 months was sufficient. Although the CFA stated in the 16 July supplementary judgment that should there be compellingly exceptional reasons, the Court might consider extending the 12-month period but only under very exceptional circumstances. The CFA warned the Government not to assume that an extension would be viewed favourably.

President, what is the significance of this 12-month period? In the 13 May judgment, the CFA made two Orders. The first Order: W was entitled to be included as a "woman" and a "female" within the meaning of section 20(1)(d) of the Matrimonial Causes Ordinance (MCO) and section 40 of the Marriage Ordinance (MO). The second Order: the terms "woman" and "female" in the MCO and MO should include post-operative male-to-female transsexual person whose gender has been certified by an appropriate medical authority to have changed as a result of sex reassignment surgery. These two Orders mean that the current MCO and MO are unconstitutional.

Actually the CFA had other options, for example, it could have solemnly declared in the 13 May judgment the Government's present act unconstitutional. However, a more normal or usual approach of the CFA was to point out to the Government that its act was unconstitutional, and as it might be possible that it was the first time for the Government to learn about that, the CFA thus gave the



Government a chance to make corrective enactments within 12 months. Hence, the Government has no choice but to make corrections as ordered by the CFA.

I agree with the Member who has pointed out just now that from a certain perspective, one can interpret Dr Priscilla LEUNG's amendment as disrespect to the principle of separation of powers. The CFA has given the final word in the judgment that the MCO and MO are unconstitutional, and the judgment is final. If the Government respects the principle of judicial independence and the spirit of the rule of law, it has only one option. Besides, by not declaring immediately that the present act of the Government is unconstitutional and ordering it to act accordingly, the CFA has given the Government the chance to make corrections.

Therefore, there is no room for the Government not to act in accordance with the CFA judgment to include W or similar transsexuals within the meaning of the MCO and MO. I have to make this point very clear lest in future someone will get the impression when reading the record of the Legislative Council's debates that we are way below par and that we do not respect the final judgment of the CFA. In that case, we will be in great trouble.

President, some Members spoke against the original motion and their reason mainly concerns the difference between "transgender" and "transsexual" people. I cannot act as the spokesperson of Mr CHAN Chi-chuen but I can make a guess from what I heard from his speech and the wording in the original motion why he has not used the term "transsexual" in the part after "this Council urges the Government". I think that is due to his respect for the wording used by the CFA. For example, to what extent is a transsexual person considered having "completed sex reassignment"? Furthermore, in paragraph 141 of the judgment, the CFA questioned if a male person was married to a woman and later the male person changed his gender to female, what impact it would have on his children. Moreover, before that person completes the sex reassignment process, how are his rights to be handled? Therefore, the CFA suggested making reference to the United Kingdom's Gender Recognition Act 2004.

Perhaps because Mr CHAN hopes that Members will act in accordance with the CFA's recommendation, he uses the term "transgender people". Besides, if Members have read the wording of his motion carefully, they would have found the phrase "according to the sexual identity they adopt". I think that even though he uses the phrase "they adopt", there is no implication that it will "complicate things" or include the same-sex marriage in this motion that

colleagues are worried about. Therefore, I think that colleagues have no need to be over-worried.

**DR KWOK KA-KI** (in Cantonese): President, I speak in support of Mr CHAN Chi-chuen's motion. As we all know that after the Court of Final Appeal (CFA) has made the final judgment on the Marriage Ordinance and Matrimonial Causes Ordinance, the Government is duty-bound to make relevant arrangements in accordance with the CFA judgment. But unfortunately, since the handing down of the judgment, the Government has done little to follow up, to which we are quite disappointed.

Mr CHAN Chi-chuen has also mentioned another disappointing fact, that is, the Secretary for Food and Health has not attended this motion debate. His input would be important in enriching and perfecting this motion debate because in medical science, a transgender person can have a broad as well as a narrow sense. The narrow sense of course refers to a person who has completed the sex reassignment surgeries and technically the person has irreversibly changed his/her gender, as stated by the CFA. However, there is another definition which has a broader sense and is generally accepted in medical science. When a person reaches adulthood, he/she is clear about his/her sex orientation and understands that his/her chosen sex orientation is different from the sexual features that he/she was born with, and that he/she belongs to the other gender. In medical science, at least in the realm of psychiatry, this is a well-established and reasonable concept.

There is not much meaning to argue that this judgment only covers some rather technical aspects in medical science, such as changing from male to female which involves a 100% change of the sexual organs or other sexual features; or changing from female to male which includes going through some subsequent plastic surgeries to achieve the complete change in gender. The reason is simple. That is because in medical science, when it is decided to perform such surgeries, very often not all the surgeries are performed without variation as prescribed by law, including artificially building a male or female sex organ. As a matter of fact, technically or according to the choice of the relevant person, that person may not have to go so far as described by Mr CHAN Chi-chuen in his speech, such as completely turning the female sex organ into a male one, or *vice versa*, like creating an artificial vagina. A transgender person has the right to choose how far to go. Besides, there are also technical restrictions, for example,

the level of the medical service available in the place where the person resides. In the face of such technical restrictions, the person needs to make a major decision which is not merely subject to the willingness of the person concerned, the public or the transgender population.

For example, if the surgeries cannot be performed in Hong Kong, is it possible to bar all those who have decided to change their genders from leading the life in the other gender? It is of course impossible. Members may know that at present there is only one public hospital in Hong Kong that offers sex reassignment surgeries with only one doctor in charge of these surgeries and he is about to retire. These are well known facts in the medical sector. If owing to some reasons, this service is ultimately no longer available in public hospitals in Hong Kong, what will happen then? Will those people lose their right to become truly transgender or transsexual as prescribed by law? It must not be so. These people have undergone very thorough assessment physically and psychologically before the surgeries. We know that one has to wait a long time to receive these surgeries owing to, first, the resources of public hospital; and second, the time needed to go through the thorough assessments. These assessments have to be conducted to ensure that the right decision is made before the surgeries which are hardly reversible, not absolutely impossible but extremely difficult. Therefore, the Government must consider the actual situation when making the decision, and we do have worries in this respect.

Under the present arrangement, after the doctor retires in one or two years, the service will be transferred to Prince of Wales Hospital. However, we all know that the treatment of all the precedent cases were not done in Prince of Wales Hospital and the medical personnel in that hospital have to learn afresh how to perform the surgeries and there will be difficulties in the process. But it is unreasonable if the Government does not allow appropriate and relevant amendments to be made to the law on grounds of technical difficulties.

We have to understand that these transgender people or those who have decided to change their genders are under tremendous pressure from their families, and also psychologically and socially. The Government should not further extend this process, creating more unnecessary pain and pressure for them. Therefore, I think that the original motion today deserves the support from all Members and I also hope that after this debate, the Government will make relevant and proper arrangements promptly to complete all the necessary

legal process, so that transgender people can receive the legal protection granted by the CFA judgment.

I so submit. Thank you, President.

**MS EMILY LAU** (in Cantonese): President, I speak in support of Dr Helena WONG's amendment to the motion proposed by Mr CHAN Chi-chuen. For many years, I have been a keen supporter of equal rights for people of different sexual orientations and I understand why Ms Cyd HO and other Members said it is shameful that these people should suffer so much insult. Therefore, we hope the authorities would make their best effort to take actions expeditiously, so as to comply with judgment of the Court of Final Appeal (CFA), as stated in the motion, and enable people of different sexual orientations to really enjoy equal rights. I am glad that Dr York CHOW, Chairman of the Equal Opportunities Commission, has recently spoken many times in support of these people. I hope that there will be mutual understanding among different sectors of the community and people can understand that people of different sexual orientations have suffered various forms of discrimination for many years. I hope that we people of Hong Kong, as a civilized society, can eliminate such discrimination together.

The amendment proposed by Dr Helena WONG is actually very simple, as we hope that the authorities can expeditiously comply with the judgment of the CFA. As Mr Alan LEONG has correctly pointed out earlier, a transsexual person and a transgender person may not be completely the same, we have our worries. In fact, Mr CHAN Chi-chuen is right in pointing out that once the word "sex" is mentioned, there will be a lot of controversies, and I would not conceal the fact there are also different views among members of the Democratic Party. That is not surprising at all, as members of many families may have different views too. I would try to persuade Members of the Democratic Party to lend their support. I believe it would not be too difficult because we all support equal rights; and the question only lies in the extent of support. Some people worry that the amendment may lead to same-sex marriage. However, our current concern is to give transsexual people the right to marry and I do not think we have to or should jump to the question of same-sex marriage all at once.

Therefore, many problems have to be handled by Hong Kong and the Legislative Council step by step and I also hope that the authorities can proceed

with their work expeditiously. However, one key point in our discussion today is that since the CFA has already given its judgment, we hope that the authorities will give due respect to it. I am not sure if I have heard Dr Priscilla LEUNG correctly just now. Since she is a member of the legal profession, she would not show disrespect to judgments made by the CFA; but she said consultation was needed, what does that mean? Since the CFA has clearly stated in its judgment that the authorities were to amend the Marriage Ordinance and the Matrimonial Causes Ordinance, we hope the Secretary will delay no more. Although the Secretary often does not pay heed to what is said in the Legislative Council, the authorities have to follow the instructions of the CFA this time. The Democratic Party therefore supports expeditious handling of the matter.

I hope that Mr CHAN Chi-chuen can understand our difficulty, namely, the problem mentioned by Mr Alan LEONG earlier. Although Mr LEONG said we do not have to worry, some Members of our Party do have this worry. However, I am in total support of equal rights for people of different sexual orientations and I will wear red clothes on the ninth of next month in support of the procession initiated by them. As Dr York CHOW has said, I urge everyone in Hong Kong to come forward to give their support. I also hope that we can send the Government the message that it has to abide by the law and comply with the judgment of the CFA.

I so submit.

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

**MR WONG YUK-MAN** (in Cantonese): President, this motion today reveals once again that some Members in this chamber are shameless, I cannot describe them conservative. I call them shameless because first, being intellectuals and legislators, they show no respect for law. Let us look at Dr Priscilla LEUNG's amendment. Many Members have criticized her already.

Being a professor of law in a university, how dare she request the Government to "consider studying whether there is a need to amend" two relevant ordinances? What made her think that the Government could "consider studying whether there is a need"? Secretary, just try to "consider studying whether there is a need" as stated by her. You must amend the ordinances, right? Nod your

head. Is it necessary to amend the ordinances? Why don't you nod? Nod now. After the Court of Final Appeal (CFA) handed down this judgment, must you not amend the ordinances? I want to ask her how she could request the Government to "consider studying whether there is a need". It really baffles me. She is a professor of law in the university! How can I describe her as "conservative"? The judgment has made the point very clear. I do not want to waste time quoting from it. I have printed the judgment in my script.

Moreover, just now many Members have kept mixing up this case or today's motion with same-sex marriage in their speeches. Some Members have even voiced their support for equal opportunities for people of different sexual orientations. Are we discussing equal opportunities for people of different sexual orientations now? That subject should be left for discussion next time when someone proposes the enactment of anti-discrimination ordinances again. Right now the subject of discussion is very clear.

The CFA will suspend the execution of its orders made in the judgment for 12 months starting from the date of the delivery of the judgment. The aim of granting the 12-month period was not for the Secretary to "consider studying whether there was a need". Secretary you must respond later on. I asked you to nod just now but you were not willing to do so. Frankly speaking, Dr Priscilla LEUNG was playing with words in saying the contrary that the Government could consider studying whether there was a need. What made her think that the Government could do so? As a matter of fact, the Government can refuse to legislate. It can do so but it has to bear the consequence of not legislating. This is very clear.

Some Members have confused this motion with same-sex marriage. If they were well-prepared, they would have noticed that the Transgender Resource Center has made an announcement after the CFA handed down the judgment, stating: first, W fought for her right of (heterosexual) marriage to marry (a man) in the identity as a woman; second, the CFA granted W the legal right of (heterosexual) marriage in recognition of her gender identity as a woman after sex reassignment; third, homosexuals will not change their own genders and physical features in order to get married; and fourth, the medical professionals in Hong Kong will carefully and thoroughly assess the various conditions, needs and suitability of the people who request for gender change and it is a very prudent medical decision.

Some Members have obscured the facts and linked this subject to some unrelated issues and then voiced their opposition. Some Members pretend to have very high morals, claiming that Hong Kong's marriage institution is the union of "one man and one woman". Is the W case not a union of "one man and one woman"? Are we discussing the unions of "man and man" and "woman and woman"? Although I support those unions, that is not the subject of this motion debate.

There is an important element in this motion, which is to request the Government to expeditiously enact a gender recognition ordinance. This is a very creative proposal. The first part of the original motion puts forward the argument which is equivalent to saying, "Mothers are women." What makes the Government refuse to amend the law? In respect of whether to amend the law or not, there is no room for argument. On the contrary, the proposal to enact a gender recognition ordinance is controversial and there is room for discussion. I hope that Members will analyse it rationally, present their viewpoints with reasons. They should make good preparation, collect relevant information and study the practice of various parts of the world, rather than keep harping on the same old string like some Members do.

The United Kingdom passed the Gender Recognition Act in 2004 which mainly aim at helping transsexuals to gain society's acceptance of their acquired gender to prevent unreasonably different treatments, for example, in respect of their rights of marriage and succession. However, in certain aspects, for example in sports and athletic competitions, because the change of gender may give rise to unfair competition or danger, participants cannot enter the competitions in their acquired genders. To apply for sex reassignment, one must meet certain conditions. Owing to time constraint, I will not elaborate here.

Let me go back to the judgment. The following part of the judgment is very important. Some Members have accused Mr CHAN Chi-chuen of cheating by including that part in the original motion but the CFA judgment has indeed stated the following: "[this Court leaves] it open whether and to what extent others who have undergone less extensive surgical or medical intervention may also qualify ", which is a fact, but, "[this Court considers] legislative intervention would be highly beneficial [in areas which] involve establishing the means for deciding who qualifies as 'a woman' or 'a man' for marriage. Although the court may formulate some tests for deciding the sex acquired of the parties of a marriage, the enactment of legislation similar to the United Kingdom's Gender

Recognition Act 2004 would be distinctly preferable ... The Act provides a practical model for possible approaches to dealing with legal issues which could arise from the recognition of the acquired gender ... This Court [recognizes that] it is entirely a matter for the legislature to decide whether such legislation should be enacted."

Under the principle of separation of powers, the CFA will certainly make the aforesaid comments but its judgment has clearly mentioned the proposal put forward by Mr CHAN Chi-chuen who has been accused of cheating and the proposal is to "expeditiously enact a gender recognition ordinance". That is exactly because of this proposal, many Members dare not support the original motion. In her amendment, Dr Helena WONG has also demonstrated such a mentality.

The aim of the debate in this Council is to inspire Members, unlike what has happened now, a lack of quorum, even though I have finished speaking.

President, please summon the Members back to the Chamber.

**PRESIDENT** (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

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

**PRESIDENT** (in Cantonese): Dr LEUNG Ka-lau, please speak.

**DR LEUNG KA-LAU** (in Cantonese): Are you asking me to speak now? Sorry, I do not request to ring the bell to summon Members back. (*Laughter*) It is Mr WONG Yuk-man who made the request.

When we talk about transgender marriage, the starting point is a medical question. Why is that so? Gender is a very interesting thing. We speak of "an assigned gender" and why can gender be assigned? When a baby is born, the doctor will say "it is a boy" or "it is a girl", and so gender is assigned by doctors. What then is a male or a female from a medical point of view? Many



steps are involved in answering this question. First, we have to find out whether the pair of sex chromosomes is XX or XY. If it is XX, it is a female; if YY, it is a male. However, factors other than chromosomes have to be considered too. If a problem occurs with the hormonal secretions of the mother during the development of the embryo, the baby with the chromosomes XX (a baby girl) will be born with the appearances of a boy. In the opposite case, a baby with the chromosomes XY will be born with the appearances of a girl. If the doctor is confused, he will probably take the boy as a girl. Besides, for some unknown reasons, some children may identify themselves as a gender other than what the doctor has described during their development stage. Therefore, although gender is a very simple thing to many, it is a rather complicated matter to a small group of children or adults.

When one reads Mr CHAN Chi-chuen's motion or the other amendments, certain definitions and concepts have to be made clear. First, transsexual or transgender is different from homosexuality. Transsexuals or transgender people identify themselves as a gender which is different from what the doctors have described. Homosexuals, however, do not have any doubts about their gender; they are just sexually attracted to people of the same sex. In other words, sexual orientation and gender identification are two different things. Sexual orientation concerns whether one is sexually attracted to men or women and gender identity concerns whether one identifies oneself as a man, a woman or neither.

Second, the most important issue about this motion is: Is transgender the same as transsexual or are they two different conditions? In fact, the two are different which may cause some confusion. I had an argument with Mr CHAN Chi-chuen earlier. After I have heard Dr KWOK Ka-ki's speech, I think they have interpreted things the other way round. What do I mean? In a broad sense, transgender people include transsexuals and people who identify themselves as a gender which is different from what the doctors have described but have not undergone sex reassignment surgeries (SRS). However, in a narrow sense, it seems that both Mr CHAN Chi-chuen and Dr KWOK Ka-ki think that a transgender person is the same as a transsexual person. Although I am not a psychiatrist, I have obtained information which indicates that transgender people in a narrow sense refer to those who have not undergone SRS and so transsexuals are excluded.

The original motion of Mr CHAN Chi-chuen uses the word "transgender" in the title as well as the contents. Whether the word is interpreted in a broad or narrow sense, it will have the effect of including same-sex marriage. However, the Court of Final Appeal (CFA) clearly stated in its judgment of the case that it was dealing with the question of transsexual marriage. The fact that doctors will perform SRS for transsexual persons proves that they agree with this point. I agree that the rights of transsexuals should be protected and the Government should really amend the existing Marriage Ordinance and the Matrimonial Causes Ordinance in response to the judgment of the CFA.

However, if we adopt what Mr CHAN Chi-chuen said and agree to transgender marriage on the ground that the CFA has ruled in favour of the transsexuals, we would be agreeing to same-sex marriage, no matter whether we have adopted a broad or narrow interpretation. That would be taking advantage of the CFA. Medical practitioners are often very tolerant and I myself have no objections to homosexuality or same-sex marriage. I do not have any special view on the issue and I think it all depends on whether the society has reached any consensus. However, I think we have to be more meticulous when the matter is brought up in a debate in the Legislative Council. If you want to say, "I hope the Government will introduce legislation to make homosexuality or same-sex marriage legal", then say it. Do not take advantage of the situation.

With regard to the original motion and the amendments to the motion, I have a problem with the definition of the aforesaid term and so I will abstain from voting on Mr CHAN Chi-chuen's motion. I will also abstain from voting on Ms Cyd HO's amendment because it is also taking advantage of the situation of transsexual people. Dr Helena WONG's amendment simply states what has happened and does not express any moral stance. It only proposes to follow the approach stated by the CFA to protect the marriage right of transsexuals and so I will give my support. With regard to Dr Priscilla LEUNG's amendment, I have no problem with the expressions of "marriage institution of one man and one woman" and "monogamy", but what is the meaning of "people who have biologically completed sex reassignment surgeries"? There is no clear-cut definition. I think once transsexuals have commenced SRS, they should be protected by law. Therefore, I will also abstain from voting on Dr Priscilla LEUNG's amendment. Thank you, President.

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

**MR PAUL TSE** (in Cantonese): Sorry, President, I do not mean to play around, it is just that I am not well prepared and in fact, it is a very interesting and complicated ...

**PRESIDENT** (in Cantonese): I thought you were saying you had not completed the surgeries.

**MR PAUL TSE** (in Cantonese): President, I have not completed the surgery on my thoughts. President, I would like to make a few points clear. First, I am very grateful to Dr LEUNG Ka-lau for his previous clarifications. Let me make it clear from the outset that the judgment of the Court of Final Appeal (CFA) is not concerned with same-sex marriage at all. It merely concerns the legal right to marry of a male-to-female transsexual who has undergone certain permanent and irreversible medical surgeries. Therefore, as Dr LEUNG Ka-lau has suggested just now, if any colleague or anyone should use this judgment or precedent and try to extend its applicability to any other possible scenarios, including same-sex marriage, it would be most inappropriate.

Second, President, I would like to point out that with regard to the precedents of the CFA, we should not read the aforementioned judgment of the CFA on its own. Although it is a legally binding case, the matter should be looked at comprehensively. The case has been considered by Judges of different tiers of the court system, including three Judges of the Court of Appeal and the trial Judge. As these are renowned Judges who are very cautious in their judgment, each judgment is worthy of consideration. In this case, four Judges of the CFA, namely, Chief Justice MA, Mr Justice RIBEIRO, Mr Justice BOKHARY and Lord HOFFMANN ruled in favour of the appellant. The Judge who ruled against the appellant is Mr Justice CHAN. In the Court of Appeal, the case was heard by Mr Justice TANG, Mr Justice HARTMANN and Mr Justice FOK who are extraordinary talents in the legal professional. The trial Judge, Mr Justice Andrew CHEUNG, is also an outstanding Judge who is now President of the Court of Appeal. Since all the Judges have analysed the legal principles properly, the score was 4:4 on the whole. Therefore, we have to consider the issues involved very carefully.

In addition, I would point out that the judgment concerned clearly stated that there was no problem with the original definitions. The definitions provided in the Marriage Ordinance and the Matrimonial Causes Ordinance were in order and there was no problem of construction. The definitions which reflected the initial legislative intent and drafted with reference to the statutes and precedents of the Court of Appeal of the United Kingdom (including the Corbett case) were appropriate. However, with the promulgation of the Bill of Rights and the Basic Law and the judicial development in other countries, a majority of the Judges of the CFA considered that when dealing with protection of human rights, a new interpretation was required in construing the old legislation.

Certainly, the conclusion is that the provisions are probably unconstitutional and do not offer full protection of the right in question. To resolve the problem, we can take one of the following options: First, striking down all of the provisions concerned, that is, abolishing the provisions so that they will have no effect. Second, adopting a remedial interpretation, as what the Court has done this time. This approach interprets the provisions in an appropriate way so as to bring a remedial effect instead of rendering the provisions legally ineffective. The advantage of this approach is to save the need for the government officials and departments concerned and even this Council to amend the laws. The problem will then be dealt with theoretically. Two methods are involved with this approach, as Dr LEUNG Ka-lau said. First, making a declaration which clearly states that the circumstances of the person concerned comply with the requirements of the existing Ordinances and they fall within the definitions of "woman" or "female" in the existing Ordinances. The other method is a broader approach. As the wordings used in the Ordinances do not comply with the requirements of the Basic Law and the Bill of Rights, the definitions of the words "woman" and "female" would be given new meanings to include people who have been certified to have completed the relevant surgeries. Since the applicability of the judgment is narrowly confined, we should not abuse Members including Dr Priscilla LEUNG, like what some colleagues have done, and criticized them that they have stepped out the line and paid no respect to the Court. In fact, if one is to read the judgment of the Court carefully, one would know that Dr Priscilla LEUNG is not completely wrong; it is just that she has said certain things which may have made some people unhappy.

President, Members have expressed many opinions, for example, the Government is given 12 months to amend the laws and that has to be done. In

fact, the Court has considered why a period of 12 months is to be allowed. The reason is that not only W herself, many others in society will also be affected. Therefore, the Court would like to give some allowance in connection with the time from which the declaration in the case is to take effect. However, even if the Government does not do anything and does not amend the laws, the right of W will not be affected.

The Court has pointed out that a number of factors have not been adequately considered. What do they include? To give some examples, if the transsexual has a previous marriage, what will be the positions of his wife and children? How should the right to inherit of these people be dealt with? What about the right to divorce? Or does the law require the person concerned to disclose the procedures and history of his or her sex reassignment? Are sex reassignment surgeries and marriages which are performed and registered overseas recognized in Hong Kong? Since we have to deal with a series of legal questions carefully, with the short period of time that we have on this occasion, I do not think we can digest and process all the relevant requirements and issues involved. I certainly hope the Government will carefully deal with these issues, but simply asking the Government to amend the laws in 12 months is, in my view, not what the Court has prescribed. Furthermore, amending the laws to bring about changes to the position of marriage of homosexuals or sexual minorities is, all the more, not what the CFA has intended to achieve. I hope that more time will be given for detailed discussion on the various issues arising from the judgment of the CFA.

Thank you, President.

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

**MR ABRAHAM SHEK** (in Cantonese): President, many colleagues have criticized Dr Priscilla LEUNG and described her as totally disregarding the role of the Court of Final Appeal (CFA). In fact, Dr Priscilla LEUNG has clearly said in her speech ... and I am grateful to Paul who has given an explanation of the judgment of the CFA. President, Dr Priscilla LEUNG has only said that her amendment sought to conduct studies before legislating because it was not merely a matter of legislating, it was also a matter of policy and corresponding changes had to be made in many respects.

In addition, Dr Priscilla LEUNG has also clearly explained that under the common law, even if the Government does not introduce legislation in relation to the matter, the case of W has a certain degree of legal standing. According to paragraph 147 of the court judgment, and let me read it out, President, "If such legislation does not eventuate, it would fall to the Courts, applying constitutional principles, statutory provisions and the rules of common law, to decide questions regarding the implications of recognizing an individual's acquired gender for marriage purposes as and when any disputed questions arise. That would not, in our view, pose insuperable difficulties." In other words, even if we cannot amend the laws within 12 months, there would be no problem with the case of W. The reason is that the Basic Law has been applied, it has become a binding principle and cases will be handled in this way in the future.

Dr Priscilla LEUNG has only suggested that more time be given for studies and she was not suggesting that we should not legislate. She was only saying that studies should be conducted on how the relevant legislation was to be introduced and how the policies concerned were to be formulated. Therefore, I hope my colleagues will support her amendment and understand its contents. I hope they will not criticize Dr Priscilla LEUNG only because of who she is, without understanding her speech and without studying the contents of the judgment.

Thank you, President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr CHAN Chi-chuen, you may now speak on various amendments. The speaking time limit is five minutes.

**MR CHAN CHI-CHUEN** (in Cantonese): I am gay and I support same-sex marriage.

The motion that I move today does not pose any challenge to the marriage institution of "monogamy" and "one man and one woman". I have made it clear

in my first speech that this motion does not include same-sex marriage and I have also explained the difference between homosexuals and transgender persons or "transsexuals", as they are commonly called. This is the first point.

Second, I urge the Government to adopt the recommendation of the Court of Final Appeal (CFA) and expeditiously enact a gender recognition ordinance. Secretary, I am not asking the Government to legislate "immediately". I have to clarify because the Secretary said earlier that I asked the Government to legislate immediately. No, I am only asking the Government to enact such an ordinance expeditiously. However, the Secretary told us that he has no intention to legislate or at least, he has no such intention at this stage. This is my second point.

Third, I have not played around with concepts. Dr LEUNG Ka-lau said earlier that we have misunderstood the term "transgender". Regarding Dr LEUNG Ka-lau's definition — I do not know where he got such definition, perhaps from the Internet — if it is from the Internet, how accurate is it? The definition provided by Dr LEUNG Ka-lau can be a definition out of many. Given the diversity of gender, there may be many different definitions for the term "transgender".

The variety of definitions has actually made it necessary for the Government to enact a gender recognition ordinance and set up a committee so that applications of changing the sex entry from male to female or *vice versa* on the identity card can be processed according to certain objective criteria.

The more we are concerned about this issue, the more we should ask the Secretary for Security to expeditiously bring the matter up for discussion in this Council. The more we are concerned about the issue, the more we should enact a gender recognition ordinance. After the enactment of a gender recognition ordinance, the relevant restrictions would not be relaxed, but would be tightened instead. If the Government considers a two-year observation period not long enough, it can make it three years when enacting the legislation; if a period of three years is not long enough, it can make it 10 years. There is no reason why it cannot do so. On the issue of enacting a gender recognition ordinance, we can have open discussion; regarding the criteria to be adopted, I do not have any established stance.

I am grateful to Ms Cyd HO, Dr Helena WONG and Dr Priscilla LEUNG for proposing their amendments, despite the fact that "Pik-wan" has deleted 70% to 80% of the contents of my original motion and only kept a few words intact. Although "Mei-fun" does not agree with the judgment of the CFA in her mind, she cannot say it out and has to accept it reluctantly. However, I really have to thank her. If everyone is indifferent to the original motion, does not propose any amendments or speak on it, or listen to the speeches made by others, and only votes against it or abstains from voting and shows no interest in the motion, it will be very sad indeed. If Members have taken the above options, it will add more insult to the motion and the transgender community.

I am also grateful to the 18 Members who have spoken. The motion I move today is narrowly drafted; it only includes certain quotations from the judgment of the CFA and does not discuss the marriage right of the sexual minorities.

Ms Cyd HO's amendment has expanded the scope of our discussion. Although the CFA said in the judgment of *W v Registrar of Marriages* that the case concerned a union between "one man and one woman", the judgment also contained the view that "the institution of marriage has evolved so that in contemporary society, the importance ... to procreation as the essential constituent of a ... marriage has much diminished". This view will have a positive effect when we strive for the enactment of a homosexual partnership ordinance in future.

Some Members have criticized Dr Priscilla LEUNG earlier, but I have to give her commendations. Dr Priscilla LEUNG is very wise indeed and she is possibly one of the "shrewdest" in the legal profession of Hong Kong. I have to give her a plaque which reads "Top Lawyer". Although the CFA has given its judgment and the Government has agreed to amend the laws, Dr Priscilla LEUNG noticed the possibility of not dealing with the matter for the moment. She said it might not be necessary to amend the laws and a decision could be made only after certain positions had been clarified. She also suggested to the Secretary that it might not be necessary to amend the laws.

Has Dr Priscilla LEUNG given advice to the Secretary and said it was possible not to amend the laws? She should take the place of Director of Immigration; no, she should take the place of Secretary for Security; no, she should actually take the place of Secretary for Justice. Everyone in the



Department of Justice failed to notice the possibility of not amending the laws, only Dr Priscilla LEUNG did. Only Dr Priscilla LEUNG considers that there will be no problem in not amending the laws for the moment because transgender people can simply marry now. Only Dr Priscilla LEUNG notices that even if the Government does not amend the laws, there is nothing that these people can do. Secretary LAI Tung-kwok can discuss with Secretary for Justice whether there will be no problem in not amending the laws.

Let me say that today I am not playing with words, exploiting loopholes in the laws or engaging in oral arguments with Members. I just want to tell you that transgender people — or "transsexuals" or any other name which people call them — are in dire straits and they have suffered tremendously. Since the CFA has given its judgment, I urge the Government to expeditiously amend the laws and enact a gender recognition ordinance according to the recommendation of the CFA.

I think the more you are concerned that the judgment will relax the restrictions imposed on anyone — suppose you are concerned that I shall apply to change the sex entry on my identity card to "F" and marry a man — the more there is the need to enact a gender recognition ordinance. We can have further discussion when the time comes for us to enact a gender recognition ordinance and it is possible to make the provisions very stringent.

**SECRETARY FOR SECURITY** (in Cantonese): President, I am very grateful that more than 20 Members have spoken on today's motion, and many of them share the same view and goal with the Government. Hong Kong is a diversified, free and open society, and should therefore accommodate, accept and care about different communities. Earlier, a number of Members have mentioned the difficulties and hurdles encountered by transgender people in society, of which I am fully aware.

As I have explained to Members in my opening speech, the Court of Final Appeal (CFA) handed down a judgment on the case of W in July 2013. We are therefore expected to submit a report to the Legislative Council Panel on Security and table the relevant amendment bill at the Legislative Council in early 2014 to give an account of how the Matrimonial Causes Ordinance (MCO) and the Marriage Ordinance (MO) will be amended to enable Miss W and people of similar situation to get married in their new gender. Meanwhile, the relevant

Policy Bureaux and the Department of Justice will also look into the other recommendations in the judgment. After listening to Members' views, I would like to make a brief response.

Mr CHAN Chi-chuen's original motion urges the Government to expeditiously enact a gender recognition ordinance. Some Members have expressed their support, but some have reservation about it.

Here, let me share with Members again some important points about the gender recognition ordinance. United Kingdom's Gender Recognition Act 2004 has not only defined the sexual identity of transgender people, but has also laid down specifically the status of such identity in different legal perspectives. Apart from marriage, there are specific provisions on other areas such as family relationship, anti-discrimination, inheritance of estate, social security, pensions as well as the participation in sports events and honours.

According to the British law, the criterion for determining sexual identity is pretty loose: After at least two years of real-life experience, a transgender person may apply for a change in sexual identity without having to undergo any surgery.

We opine that before discussing on the need to enact gender recognition ordinance, our society must have a good understanding and knowledge of the relevant issues, including the problem faced by transgender people, how the sexual identity of people who have not completed sex reassignment surgeries would be determined, the legal status of transgender people who have successfully changed their sexual identity, as well as the implications on transgender people and society at large. After that, there will be a thorough discussion on the way forward.

I believe Members may recall that when we debated on the motion on "Equal rights for people of different sexual orientations" last year, religious bodies had expressed strong views and grave concern. Although the topic under discussion today only involves gender identity but not sexual orientation, we still have to be very cautious. If we proceed too hastily, it may be even more difficult to achieve any progress.

I wish to point out that the legislative process of United Kingdom's Gender Recognition Act 2004 had dragged on for more than six years from policy planning, consultation, drafting, endorsement to final implementation. We can

therefore see that achieving social consensus is an important cornerstone which, if fail, may be counter-productive.

Today's discussion is a very good start, but many people still have much misunderstanding about transgender people, and do not know much about them. Nor have they ever considered what should be done to help these people enjoy the protection provided to them in the social and legal aspects. The society needs to obtain a greater understanding of, for example, the sex reassignment surgeries, before we can remove the hurdles for them.

The SAR Government has attached great importance to CFA's opinions and recommendations, and will look squarely at the issue of gender identity. The relevant Policy Bureaux and the Department of Justice are exploring the follow-up actions to be taken. It is inappropriate to hastily jump to any conclusion at this stage. Therefore, we cannot accede to the request made by Mr CHAN Chi-chuen in his original motion to expeditiously enact a gender recognition ordinance.

At present, the Commissioner of Registration allows people who have undergone sex reassignment surgery to change the sexual identity on their identity cards, and relevant guidelines have been formulated on the basis of medical advice. This arrangement is in line with the situation of Miss W in the judicial review case. According to CFA's judgment, and as a number of Members have agreed, transgender people who have biologically completed the sex reassignment surgeries may change the sexual identity on their identity cards and marry someone of the opposite sex with the new identity. This is indisputable.

Different parts of the world have adopted different policies and statutes to deal with problems concerning people who have not undergone or have not completed the sex reassignment surgeries and the issue of gender identity. For example, Japan, South Korea, Singapore and Taiwan have required transgender people to first undergo sex reassignment surgery before they are allowed to change the sexual identity of their household registration. Contrarily, European countries such as the United Kingdom and Germany accepted all applications for gender change from people confirmed to have gender identity disorder regardless of whether they have undergone or completed the relevant surgery. So far, not many countries have enacted comprehensive legislation on the gender recognition system.

As a Member has said earlier, there is a need to carefully examine the usage of public facilities by the relevant people in their daily living, such as changing rooms or toilets, the different rights and duties prescribed in the laws, as well as the protection and restriction pertaining to them and other people.

The SAR Government does not have any preconceived views about the gender identity of transgender people who have not undergone or have not completed the sex reassignment surgeries. And yet, before we have done all the necessary preparations and researches, and enabled the community to have a good understanding of the relevant issue, it is more desirable to remain *status quo*.

I believe when Members discuss the major topic about how gender identity should be dealt with in the future, they can consider in conjunction with how the gender of different types of transgender people should be determined in the law.

Regarding the protection of the sexual minorities and same-sex marriage, many Members just now said that consideration should be given to prevent discrimination against transgender people.

It is the policy of the SAR Government to protect anyone from being discriminated on any ground (including sexual orientation or gender identity). It is our established belief that everyone is born equal and should enjoy equal opportunities and treatment. Also, we encourage the society to foster the culture of accommodation and mutual respect.

To eliminate discrimination and promote equal opportunities for people of different sexual orientations and transgender people, the Government has been promoting the relevant message through public education and publicity throughout the years, such as approving the Equal Opportunities (Sexual Orientation) Funding Scheme and subsidizing meaningful community activities, with a view to promoting equal opportunities for people of different sexual orientations and transgender people, or providing support to the sex minorities. In future, the SAR Government will increase the provision for the Scheme and provide financial assistance for the relevant community activities organized by interested institutions and groups. The SAR Government will publicize and promote the message of equal opportunities through different channels and media, and has planned to step up its effort in this regard by, for example, producing television APIs.

Furthermore, in order to examine and look into the discrimination against the sex minorities (including transgender people) in a more focused manner, the Secretary for Constitutional and Mainland Affairs has established the Advisory Group on Eliminating Discrimination against Sexual Minorities in June 2013. The Advisory Group advises the Secretary on matters relating to concerns about discrimination faced by the sex minorities in Hong Kong, notably the aspects and extent of discrimination faced by the sex minorities in Hong Kong, and the strategies and measures to tackle the problems identified with a view to eliminating discrimination and nurturing a culture of diversity, tolerance and mutual respect in the community. Members of the Advisory Group include representatives of the sex minorities and different stakeholders, including representatives of transgender people. Since its establishment, the Advisory Group has held two meetings and decided to carry out focused studies on the discrimination against the sex minorities, with a view to holding further discussions in light of the actual situation. It is believed that through members' interactions, the Advisory Group will come up with practicable recommendations. The SAR Government will actively co-operate with the Advisory Group and strive to create a more friendly and accommodating society.

However, as I have said in my opening speech, Ms Cyd HO's amendment involve the granting of marriage right to sex minorities according to their sexual orientation, it has nothing to do with the case of W and therefore should not be discussed together. Undoubtedly, the judgment did say that reliance on the absence of a majority consensus as a reason for rejecting a minority's claim is inimical in principle to fundamental rights. However, I must reiterate that the crux of the case of W has all along been whether a person who has completed sex reassignment surgery can register marriage with a person of the opposite sex in the new gender. Miss W requested that she should be recognized as a female, but not the biological sex of a man, in her marriage registration with another man. Both the CFA's judgment and Miss W have reiterated that the judicial review case has not ruled on same-sex marriage. I therefore call on Members to oppose Ms Cyd HO's amendment.

President, to sum up, the SAR Government respects the CFA's judgment and proactive actions will be taken to follow up. The most pressing issue is to amend the MO and the MCO to enable Miss W and other people who have completed sex reassignment surgery like her to expeditiously exercise their marriage and other legal rights conferred on them by the CFA. I hope Members will support our work in this respect.

Meanwhile, we are actively considering how to follow up on other recommendations made in the judgment on gender identity, as well as the difficulties and challenges faced by transgender people. Over the past few months, the relevant Policy Bureaux and the Department of Justice have looked carefully into the matter and the SAR Government will report on the way forward in due course.

Last of all, I call on Members to oppose the original motion.

President, I so submit.

**PRESIDENT** (in Cantonese): Ms Cyd HO, you may move your amendment.

**MS CYD HO** (in Cantonese): President, I move that Mr CHAN Chi-chuen's motion be amended, and claim a division.

**Ms Cyd HO moved the following amendment: (Translation)**

"To delete "Court of Final Appeal ('CFA') earlier ruled" after "That the" and substitute with "fundamental principle of Hong Kong's family policy is to recognize and promulgate that family is the cornerstone of the society, with a view to achieving the objectives of family harmony, community harmony and alleviating social problems; yet, the legislation in Hong Kong does not recognize sex minorities' right to register their partnership or their marriage to found families; and the Court of Final Appeal ('CFA') also ruled in May this year"; to add "as pointed out in the judgment, reliance on the absence of a majority consensus as a reason for rejecting a minority's claim is inimical in principle to fundamental rights, and one of the functions — perhaps by far the most important one — of constitutionally guaranteed human rights is to protect minorities, especially a misunderstood minority; regarding transsexual people's marriage right," after "to marriage right;"; to add "all sex minorities including transsexual and" after "so that"; to add "their sexual orientation and" after "according to"; and to add ", so as to ensure that families founded by sex minorities are entitled to equal rights" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Cyd HO to Mr CHAN Chi-chuen's motion, 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)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Ms Cyd HO rose to claim a division.

**PRESIDENT** (in Cantonese): Ms Cyd HO has claimed a division. The division bell will ring for five 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:

Prof Joseph LEE, Mr CHEUNG Kwok-che, Mr Charles Peter MOK and Mr Kenneth LEUNG voted for the amendment.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Miss CHAN

Yuen-han, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr TANG Ka-piu, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted against the amendment.

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Dr LAM Tai-fai, Dr LEUNG Ka-lau, Mr Dennis KWOK, Mr IP Kin-yuen and Mr POON Siu-ping abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Cyd HO, Mrs Regina IP, Mr Albert CHAN, Mr WONG Yuk-man, Mr CHAN Chi-chuen and Dr Fernando CHEUNG voted for the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr James TIEN, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted against the amendment.

Ms Emily LAU, Mr Paul TSE, Mr Alan LEONG, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Dr KWOK Ka-ki, Mr SIN Chung-kai and Dr Helena WONG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 30 were present, four were in favour of the amendment, 18 against it and eight abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, eight were in favour of the amendment, 11 against it and nine 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 negated.



**MR ANDREW LEUNG** (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Transgender marriage" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): 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.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion on "Transgender marriage" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Dr Helena WONG, you may move your amendment.

**DR HELENA WONG** (in Cantonese): President, I move that Mr CHAN Chi-chuen's motion be amended.

**Dr Helena WONG moved the following amendment: (Translation)**

"To add ", as" after "That"; to delete "; the judgment stated that the relevant provisions in the Marriage Ordinance ('MO') and the Matrimonial Causes Ordinance ('MCO') restricting the criteria for ascertaining a person's gender to merely biological factors are unconstitutional; CFA also held that all circumstances relevant to assessing a person's sexual identity at the time of the proposed marriage, including biological, psychological and social elements and whether any sex reassignment surgery has occurred, need to be considered; in this connection" after "to marriage right"; and to delete "MO and MCO, so that transgender people can enjoy marriage right and related legal rights according to the sexual identity they adopt, and to expeditiously enact a gender recognition ordinance to address the various legal problems arising from sex reassignment" immediately before the full stop and substitute with "the Marriage Ordinance and the Matrimonial Causes Ordinance"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr Helena WONG to Mr CHAN Chi-chuen's motion, 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)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Ir Dr LO Wai-kwok rose to claim a division.

**PRESIDENT** (in Cantonese): Ir Dr LO Wai-kwok has claimed a division. The division bell will ring for one minute.

**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:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Dr LEUNG Ka-lau, Ms CHAN Yuen-han, Mr KWOK Wai-keung, Mr IP Kin-yuen and Mr TANG Ka-piu voted for the amendment.

Dr Joseph LEE, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG and Mr Dennis KWOK voted against the amendment.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Christopher CHEUNG, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE abstained.

Geographical Constituencies:

Ms Emily LAU, Mr WONG Kwok-hing, Mr WONG Kwok-kin, Mr Paul TSE, Mr WU Chi-wai, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Cyd HO, Mr Alan LEONG, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr Gary FAN, Mr CHAN

Chi-chuen, Dr KWOK Ka-ki and Dr Fernando CHEUNG voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mrs Regina IP, Mr James TIEN, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Dr CHIANG Lai-wan and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 30 were present, eight were in favour of the amendment, five against it and 17 abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, seven were in favour of the amendment, 11 against it and 10 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): Dr Priscilla LEUNG, you may move your amendment.

**DR PRISCILLA LEUNG** (in Cantonese): President, I move that Mr CHAN Chi-chuen's motion be amended.

**Dr Priscilla LEUNG moved the following amendment: (Translation)**

"To add ", in the light of an earlier judgment of" after "That"; to delete "(CFA)' earlier ruled that transsexual people are entitled to marriage right; the judgment stated that the relevant provisions in the Marriage Ordinance ('MO') and the Matrimonial Causes Ordinance ('MCO') restricting the criteria for ascertaining a person's gender to merely biological factors are unconstitutional; CFA also held that all circumstances relevant to assessing a person's sexual identity at the time of the proposed marriage, including biological, psychological and social elements and whether any sex reassignment surgery has occurred, need to

be considered; in this connection, this Council urges the Government to expeditiously comply with CFA's judgment and amend MO and MCO, so that transgender people can enjoy marriage right and" after "Court of Final Appeal" and substitute with "over transsexual people's entitlement to marriage right, this Council considers that the Government may, without changing Hong Kong's existing marriage institution of 'one man and one woman' and 'monogamy', consider studying whether there is a need to amend the Marriage Ordinance and the Matrimonial Causes Ordinance, so that people who have biologically completed sex reassignment surgeries can enjoy"; and to delete "according to the sexual identity they adopt, and to expeditiously enact a gender recognition ordinance to address the various legal problems arising from sex reassignment" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr Priscilla LEUNG to Mr CHAN Chi-chuen's motion, 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)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr WONG Yuk-man rose to claim a division.

**PRESIDENT** (in Cantonese): Mr WONG Yuk-man has claimed a division. The division bell will ring for one minute.

**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:

Mr Abraham SHEK, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Miss CHAN Yuen-han, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr POON Siu-ping, Mr TANG Ka-piu and Ir Dr LO Wai-kwok voted for the amendment.

Mr Albert HO, Mr James TO, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr Vincent FANG, Dr Joseph LEE, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen and Mr CHUNG Kwok-pan voted against the amendment.

Dr LAM Tai-fai, Dr LEUNG Ka-lau, Mr NG Leung-sing and Mr Tony TSE abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Paul TSE, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted for the amendment.

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Cyd HO, Mrs Regina IP, Mr Alan LEONG, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr James TIEN, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN

Chi-chuen, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 30 were present, 14 were in favour of the amendment, 12 against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 11 were in favour of the amendment and 17 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 amendment was negatived.

**PRESIDENT** (in Cantonese): Mr CHAN Chi-chuen, you may now reply and you have 49 seconds.

**MR CHAN CHI-CHUEN** (in Cantonese): President, my heart broke when I heard the Secretary urge Members to vote against my motion in his last sentence. I think transgender people who have come here today to observe the meeting are heart-broken too. Although the Government opposes my motion, Mrs IP, Member of the Executive Council, continues to give it support and that is really remarkable. Even if my motion cannot be passed today, the Government has promised to amend the laws and Dr Priscilla LEUNG was incorrect when she said the Government was still considering whether it would amend the laws. The difference is whether the Government will work at a faster or slower pace, or will make more or less efforts. Certainly, we hope that it make more efforts at a faster pace, and only make certain technical amendments. It should conduct a comprehensive review.

Finally, I would say that I have exercised much constraint when drafting this motion and all of the wordings used follow those of the Court of the Final Appeal (CFA). If my motion is negative today, the public, the society and the international world will think that the Legislative Council does not agree with the judgment of the CFA, and so is the SAR Government.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHAN Chi-chuen 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 IP Kwok-him rose to claim a division.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

**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 Joseph LEE, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK and Mr IP Kin-yuen voted for the motion.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Miss CHAN Yuen-han, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr TANG Ka-piu,



Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted against the motion.

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Dr LAM Tai-fai, Dr LEUNG Ka-lau and Mr POON Siu-ping abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Cyd HO, Mrs Regina IP, Mr Alan LEONG, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr Gary FAN, Mr CHAN Chi-chuen, Dr KWOK Ka-ki and Dr Fernando CHEUNG voted for the motion.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr James TIEN, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted against the motion.

Ms Emily LAU, Mr Paul TSE, Mr WU Chi-wai, Mr SIN Chung-kai and Dr Helena WONG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 30 were present, six were in favour of the motion, 18 against it and six abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 12 were in favour of the motion, 11 against it and five 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.

**PRESIDENT** (in Cantonese): Second Member's motion: Adhering to the need to "put Hong Kong people first" in formulating policies.

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

I now call upon Mr Gary FAN to speak and move the motion.

### **ADHERING TO THE NEED TO "PUT HONG KONG PEOPLE FIRST" IN FORMULATING POLICIES**

**MR GARY FAN** (in Cantonese): President, my motion involves a wide range of matters.

President, 16 years after the handover of sovereignty, both China and Hong Kong have changed, and the promise that Hong Kong shall remain unchanged for 50 years has not been honoured. In various aspects, including political, economic and social, Hong Kong is subject to erosion by the Communist Party of China (CPC) and the Mainland community, and "one country, two systems" has been undermined, thus a sense of local consciousness among Hong Kong people, especially young people, has started to gain momentum since 2003. It started from the action to protect the Star Ferry Pier and the Queen's Pier and oppose the Express Rail link, to the protest against "doubly non-permanent resident" (DNR) women, the protest against parallel traders and smugglers snapping up powdered formula, the criticism against inferior Mainland culture, the request for cancelling multiple-entry permits, the protest against brainwashing education, as well as the objection to the Northeast New Territories development plans. These social movements are mostly based on the resistance to mainlandize Hong Kong and the local consciousness to defend Hong Kong, our home.

Why is there the proposal to "put Hong Kong people first"? This is because we notice that China-Hong Kong conflicts are intensifying. President, who are Hong Kong people? Certainly, we will not define the identity of Hong Kong people simply based on the place of birth. Hong Kong and Mainland China have been developing in different directions for more than a century in the past. Many people chose to leave the Mainland because of political and social turmoils, they came to Hong Kong for development and became Hong Kong people. The history of East meets West in the past century or so has established

the subjective identity of Hong Kong people. On the one hand, we accept modern industrial civilization, capitalism and universal values, and on the other hand, we preserve the Cantonese culture and Guangdong traditional conventions. Hence it is incorrect to say that Hong Kong is a borrowed place in a borrowed time with the lack of subjectivity. President, the identity of "new Hongkonger" is not established by new immigrants coming from various Mainland provinces nowadays, as depicted in the *People's Daily*. The identity of Hong Kong people hinges on whether they uphold the core values of Hong Kong, respect the rule of law, uphold human rights and freedom, and strive for democracy.

Unfortunately, President, these core values of the identity of Hong Kong people is now being openly opposed and strongly suppressed by Mainland officials time and again. Hong Kong people are anxious and perplexed because they worry if the Mainland Government has any political objectives by exporting immigrants to Hong Kong in a planned manner. Does it intend to undermine the relative advantages of the institutions and systems of Hong Kong? Does it intend to change the original core values of Hong Kong, and turn Hong Kong into a Mainland province or city, as in the case that the CPC sent people to settle down in Xinjiang and Tibet since the 50s in a planned manner, with the purpose of changing the outlook of those places?

President, communist countries make good use of the word "new" in politics. After the CPC liberated the Mainland in 1949, it named China "New China"; after the Soviet Communist Party established the Soviet Union, it publicized extensively the "new Soviets". Recently, the *People's Daily* invented the term "new Hongkonger", which would undoubtedly intensify a sense of mutual exclusion between old and new Hongkongers, as well as between Hongkongers and Mainlanders. This is the usual tactic of the CPC to put people in opposing camps. The *People's Daily* even accused Hong Kong people of being xenophobia and discriminatory, smearing us arbitrarily.

President, Mr Martin LEE, Founding President of the Democratic Party, wrote an article on 15 October in *Ming Pao* on "New Hongkongers", and it reads as follows: "The mouthpiece of the CPC has tried hard to sell the idea of 'New Hongkongers', it seems that the One-way Permit (OWP) quota is an important means for intervening in Hong Kong's affairs by the CPC. First of all, a large number of national security personnel are exported to Hong Kong to carry out underground activities ... arrangements have also been made for relatives of these national security personnel to become 'ghost voters' to secure iron votes for the

pro-communist camp. Furthermore, the CPC hopes to turn Hong Kong red through colonization, similar to the policy of subduing Tibet under the rule of the Han race. The CPC simply does not want new immigrants to integrate into our society and accept our values. On the contrary, they try to erode step by step our core values through colonization and the existing undemocratic political system".

Has Mr Martin LEE been discriminative? The amendment of Mr IP Kwok-him from the Democratic Alliance for the Betterment and Progress of Hong Kong is no different from the comments of the CPC's mouthpiece. The pro-establishment camp will certainly endorse the CPC as most of them lack independent thinking. When Dr Fernando CHEUNG and Mr Albert HO from the democratic camp remind people in their amendments not to make discriminatory remarks, do they understand the pain suffered by Hong Kong people? As a greenhorn in this Council, I notice that there are China-Hong Kong conflicts and the public is very concerned about the allocation of resources, fearing that the advantages of our systems will be ruined. I would like to ask senior Members if they have proposed any specific and feasible policies to deal with the problem of DNR children competing for resources on education, welfare and healthcare which should originally be allocated to Hong Kong people? Have they proposed any policies for reference by Hong Kong people and implemented by the Government? I very much hope that they would hear my questions.

In order to be politically correct and avoid touching upon the issue of resources, I would like to ask the SAR Government and Members how they would respond to the appeal to "put Hong Kong people first"? Should mature political parties and politicians only talk about vision or principles, without putting forward any policy initiatives or taking actions? When we speak profusely about virtue and morality, and ask Hong Kong people to be accommodating and not discriminate against the disadvantaged groups, I hope Honourable colleagues would propose some practical options for our debate. For example, I hope they would propose population policies that comply with local interests, safeguard the interests of new immigrants, and preserve the existing way of life of Hong Kong people.

President, I am going to raise some policy initiatives on behalf of the Neo Democrats, covering five policy areas, namely population policy, education, housing, labour and tourism.

Concerning the population policy, we must take back the right to vet and approve OWP applications, so as to establish a comprehensive and autonomous immigration policy; otherwise, our population policy will simply be "false, big and empty". I wish to emphasize one point, in taking back the right to vet and approve OWP applications, we may not necessarily reduce the quota for family reunion. The objective is just to give Hong Kong the autonomy to adjust the quota in order to tally with the bearing capacity of our population. Proposing and formulating immigration policies will not constitute discrimination. No matter how open a society or a country is, it cannot possibly receive new immigrants from all over the world or from all parts of China. Only by formulating a population policy that is reasonable, meets local expectations and development needs can we prevent unnecessary grievances or even hostility.

President, the Government has cited Article 22 of the Basic Law to point out that Hong Kong does not have the right to approve OWP applications. However, such an arrangement has not been explicitly specified in the Basic Law. The relevant provision only specifies: "For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval. Among them, the number of persons who enter the Region for the purpose of settlement shall be determined by the competent authorities of the Central People's Government after consulting the government of the Region." Therefore, the Government can make relevant changes without having to amend the Basic Law or request for interpretation of the Basic Law. The Hong Kong Government should vet the OWP application documents to determine if the family members claimed by the applicants really exist; it should also check whether these applicants have committed serious crimes in Hong Kong, and report accordingly to the Mainland authorities.

President, I respect the major principle of family reunion, but I think Hong Kong should take back the approval right of OWP to avoid some back-door manoeuvres and plug the loopholes, so as to genuinely help new immigrant families in attaining reunion. The Government should also allocate more resources to help new immigrants integrate into our big family, learn about the local culture and uphold our core values. President, learning from history, I share Dr LIAN Yi-zheng's view that it is entirely possible for new immigrants to become supporters of our core values, as well as core members of the public safeguarding our main interests.

Furthermore, President, I very much hope and I have repeatedly asked the Government to activate the mechanism to amend Article 24 of the Basic Law, so as to solve at root the various problems arising from DNR pregnant women giving birth in Hong Kong. Only in this way can we effect a permanent cure. DNR children have profound implications on Hong Kong in various areas such as healthcare, education, housing and social welfare in the future. This year, the LEUNG Chun-ying Government implemented the policy of "zero delivery quota" for DNR pregnant women. Public and private hospitals no longer accept appointments for delivery by DNR pregnant women. Yet, President, there are also measures to circumvent the policies devised. DNR pregnant women can, through deceptive means such as fake marriages, fake study and fake immigration, still give birth in Hong Kong, leading to the failure of the "zero quota" policy. The data submitted by the Government to this Council also confirmed that, as at October this year, about 500 DNR pregnant women gave birth in Hong Kong; thus, I have made this proposal.

President, in respect of education policies, recently there have been long queues outside many kindergartens in the North District, Tuen Mun and Yuen Long, and among the people standing in the queue are parents of DNR children. The Government has all along ignored the enormous pressure exerted by DNR children on education in Hong Kong. The Neo Democrats urges the Education Bureau to follow the principle to "put Hong Kong people first", and ask kindergartens to admit students from the same district. As regards admission to primary schools, the Neo Democrats also suggests that the Education Bureau should allocate the estimated surplus Primary One places in various school nets to the new 37th school net for selection by DNR children, so that Primary One students in Hong Kong would not have to attend school in other districts.

President, in regard to tertiary education, 28 000 local students met the minimum entry requirements of publicly-funded universities this year, but as there are only 12 000 JUPAS university places, 16 000 Hong Kong students who met the entrance standards were not admitted to universities. At the same time, there were 11 000 non-local students attending the programmes funded by the University Grants Committee (UGC) last year; among these students, 9 000 came from Mainland China, and they accounted for more than 80% of the total number. The existing problem with tertiary education is that it is internationalization in name, but mainlandization in reality. While universities are using resources from Hong Kong taxpayers for training Mainland students, a large number of

Hong Kong students cannot be admitted to universities, which is not fair. Thus, the Neo Democrats asks the Government to examine how to limit the maximum number of non-local students to be admitted to various publicly-funded programmes of the UGC-funded institutions, or even revert the number back to the 2008 level, that is, 10% of the approved number of student, with a view to give priority to local students in the use of education resources in Hong Kong.

President, about the housing policy, although I support the implementation of the Buyer's Stamp Duty, it remains to be seen whether this duty can effectively restrict people outside the territory from participating in property speculation. Recently, it has even been disclosed that parents or guardians of DNR children can buy flats by using their children's identity. The Government must plug this loophole. In addition, the effect of the policy on "Hong Kong property for Hong Kong residents" is very insignificant. After putting up for sale two sites in the Kai Tak Development Area for development of "Hong Kong property for Hong Kong residents" early this year, no new sites for such purpose have been included in the Land Sale Programme for the next quarter. Hong Kong people worry that this policy may not be sustainable.

President, there are two more areas. On labour policies, the Neo Democrats considers it necessary to give priority to protecting the interests of local workers, and we object indiscriminate importation of workers. Even if workers are imported, it definitely cannot become a long-term policy and priority must be given to the employment of local workers. The Government must increase professional training for young people, and make early projection on the vacancies in different industries and different positions. Moreover, it should provide in-service training to low-skilled workers currently working in the construction, catering, retail and nursing services, in order to ensure that recession in individual industries will not lead to a considerable increase in the unemployment rate, and that skilled workers will be available to fill certain positions.

President, I will say a few quick words on tourism. I request the SAR Government to explore Hong Kong's coping capacity and set an upper limit on the number of tourists travelling under the Individual Visit Scheme. The most urgent issue is certainly to cancel multiple-entry permits, thereby to solve the problem of parallel traders engaging in smuggling activities in Hong Kong.

President, my motion involves China-Hong Kong conflicts; the identity of Hong Kong people, social policies and resources allocation, which is highly controversial. I hope Honourable colleagues would speak in response to the motion, so that we can draw on collective wisdom and give extensive views on the policy of "putting Hong Kong people first".

Thank you, President.

**PRESIDENT** (in Cantonese): Mr FAN, please move the motion.

**MR GARY FAN** (in Cantonese): President, I move that the motion on adhering to the need to "put Hong Kong people first" in formulating policies.

**Mr Gary FANG moved the following motion: (Translation)**

"That this Council urges the Government to proactively handle China-Hong Kong conflicts, and to adhere to the need to 'put Hong Kong people first' in formulating policies."

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

**PRESIDENT** (in Cantonese): Seven Members wish to move amendments to this motion. This Council will now proceed to a joint debate on the motion and the seven amendments.

I will first call upon Ms Claudia MO to speak, to be followed by Mr Kenneth LEUNG, Mr Michael TIEN, Mr Albert HO, Mr IP Kwok-him, Mr LEE Cheuk-yan and Dr Fernando CHEUNG respectively; but they may not move amendments at this stage.

**MS CLAUDIA MO** (in Cantonese): In my view, Mr Gary FAN's motion on "adhering to the need to 'put Hong Kong people first' in formulating policies" is not controversial at all, and no problems are involved, because every society



gives priority to the welfare and interests of its local people. As such, why is it still necessary for us to discuss this issue? Just now, I heard people say that this issue is very controversial. What are the controversies? After all, the contention is that the LEUNG Chun-ying Government is now trying hard to make Hong Kong degenerate into one of the small cities on the Mainland under the pretext of China-Hong Kong integration. This is unacceptable to Hong Kong people. If we do not wish to become the last generation of Hong Kong people, we must stand up and voice loudly our views.

The amendments of Members from the pro-establishment camp very often say that we need not care or we need not pay attention, while the amendments of democratic Members also raise strong opposition to discrimination. Will anyone in the world say that discrimination is right? That is not possible. The opposition to discrimination is just like saying "the Pope is Catholic". Nevertheless, why is such a remark raised now? This is because the present situation of Hong Kong is queer; some people can suppress freedom of speech and freedom of expression in Hong Kong at any time in the name of discrimination.

Regarding new immigrants and new Hongkongers, I have not discussed with Mr Gary FAN, but I notice that Martin LEE, a very famous senior barrister in Hong Kong, had expressed in an article in *Ming Pao* on 15 October that the One-way Permit quota is an important means for the Communist Party of China (CPC) to intervene in Hong Kong's affairs. In what aspects will there be intervention? There are two main aspects: first, a large number of national security personnel will be sent to Hong Kong to collect black materials, which may also include black materials about you, President. Second, vote planting in Hong Kong through the relatives of these national security personnel, and such votes will be iron votes for the pro-establishment camp. He also said that "the CPC can also turn the SAR red through colonization, similar to the policy of subduing Tibet under the rule of the Han race. The CPC simply does not want new immigrants to integrate into our society and accept our values. On the contrary, they try to erode step by step our core values through colonization and the existing undemocratic political system". I am really interested to learn how Honourable colleagues of the pan-democratic camp will respond to these viewpoints of Martin LEE, Founding President of the Democratic Party, expressed in black and white.

While we are saying that we should "put Hong Kong people first", many people suddenly decide to focus on discussing the plight of new immigrants. New immigrants certainly have difficulties, but I think we must also talk about the ethnic minorities. Oddly, some disagree to mention ethnic minorities, saying that the discussion should be more focused. There is a court case in which a Philippine woman was married to a Hong Kong resident. She got married in 2001 but she was only granted the right of abode in Hong Kong in 2011. It took 10 whole years for her application for right of abode to be approved. She filed applications for three times, but was rejected. The reason given by the Immigration Department was that her husband was unable to support her in Hong Kong.

This is also a case of family reunion, but under the system of "one country, two systems" in the HKSAR, family reunion can be "one city, two systems". Is family reunion an international human right? Why are Chinese people and Philippine people treated differently? Concerning the court case of this Philippine woman, there is another problem to be handled. She wants to apply for the \$6,000 allowance under the Community Care Fund, but it turns out that she does not meet the definition of new immigrants.

The plight of new immigrants is certainly a major issue. Are there anyone who show concern about the slogan: "Include, not exclude"? This is the slogan of Unison. The Unison has been fighting for the interests of ethnic minorities for more than 10 years in Hong Kong, but not many people care.

On education, the United Nations Committee on the Rights of the Child has been saying that ethnic minority children in Hong Kong cannot learn Chinese well. The Secretary for Education is well aware of this situation and I have repeatedly reflected this situation to him. Establishing designated schools for ethnic minority children is to isolate them, but the officials claim that this is the parents' choice. Yet, the parents have told me that they dare not send their children to mainstream schools because it is written in black and white that they may be excluded. They basically cannot keep up with the learning progress.

The United Nations Human Rights Committee also asked the Government to consider legislation in March this year. Even if legislation is not enacted, we should try our best to improve Chinese education for the ethnic minorities. At that time, Fermi WONG, Campaign Director of Unison also had doubts about Dr York CHOW, Chairman of the Equal Opportunities Commission (EOC), and she

considered that the EOC lacked independence. Fermi WONG doubted if Dr York CHOW had the determination and capability, and most important of all, whether he had a sense of righteousness.

Chinese is a second language for ethnic minority students. When LEUNG Chun-ying ran in the Chief Executive election, he promised to develop a curriculum and assessment criteria for "Chinese as a Second Language". Has he honoured his promise? The Secretary for Education said there were immense difficulties and he instead asked us what level did we want ethnic minority students to achieve in learning Chinese; did we want them to learn Chinese for casual conversation, or did we want them to grasp some slangy expressions like "turn tail", or some poetic expressions like "Moonlight reflects off the front of my bed", or did we want them to attain such a level that they would meet the requirements for university admission or even pursue a doctoral degree in the Chinese language? It is definitely unfair for him to say so.

Many of us here are parents. When our children were learning English in kindergartens years ago, say "A for Apple; B for Boy", did someone ask why children learn English, did they want to be cleaners in future, or to enrol in Oxford or Cambridge in the United Kingdom, or Harvard or Stanford in the United States? There are international curriculum standards regarding the learning of a second language, please do not engage in the art of double-talk.

My speaking time is very limited. The ethnic minorities in Hong Kong has always been neglected and nobody pays attention to them. This is a homogeneous city which mainly uses a single language, and people must know how to speak Cantonese. Nowadays, Hong Kong people must also know how to speak Putonghua and read simplified and traditional Chinese characters. Otherwise, some will regard them as foreigners which have nothing to do with other people in Hong Kong. If the Government is to "put Hong Kong people first", it must make sure that ethnic minorities are included.

In addition, it is stated in my amendment that we must defend Cantonese. Of course, children should learn the written language, such as "I love strawberries". The written and spoken English languages are the same, and we can write down what we say. But the Chinese language is different. Spoken Cantonese and written Chinese are different. Nonetheless, I trust that we must defend Cantonese. We are not going to exclude Putonghua and simplified Chinese characters, but they are essentially political languages and tools for

united front purpose. Hong Kong's culture cannot be cleansed. I am sure that I will not discriminate against Putonghua. President, I hold the certificate for the Test of Advanced Proficiency in Putonghua conducted by the Hong Kong Examinations Authority; and please note the word "Advanced".

Thank you.

**MR KENNETH LEUNG** (in Cantonese): President, in my opinion, the conflicts in Hong Kong today are definitely caused by the policy blunders of the last-term Government under the leadership of Mr Donald TSANG. In 2001, there were only 7 810 babies born to Mainland women in Hong Kong, and the number included "singly non-permanent resident babies" and "doubly non-permanent resident babies". The number of "singly and doubly non-permanent resident babies" increased continuously during the Donald TSANG era from 2005 to 2011. At the peak in 2011, there were 43 982 babies born to Mainland women in Hong Kong while there were 51 469 babies born to local women in the same year. This was the result of the wrong decision made by Mr Donald TSANG at the time to vigorously develop the healthcare industry.

The housing problems which plague many people is also caused by the Government's wrong assessment of housing needs. The Government suspended the construction and sales of Home Ownership Scheme (HOS) flats in 2003, and the resumption of HOS flats was only announced in the 2011-2012 Policy Address. The actual production of public rental housing (PRH) units substantially decreased from 2004-2005 onwards, from 24 682 PRH units in 2004-2005 to only 13 114 PRH units in 2012-2013.

President, the concept of "putting Hong Kong people first" has been explicitly stated in Article 106 of the Basic Law. It is specified that "The Hong Kong Special Administrative Region shall use its financial revenues exclusively for its own purposes". The financial revenues should certainly be used to meet the needs of Hong Kong people, and this basic principle of "putting Hong Kong people first" is established and emphasized in our mini constitution. When this concept is reflected in the actual policy, only permanent residents of Hong Kong who have ordinarily resided in Hong Kong for a continuous period of not less than seven years have the rights to public housing and Comprehensive Social Security Assistance, and also the rights to vote at elections. Evidently, the

principle of "putting Hong Kong people first" has been specified in our constitution and reflected in our policies.

Many people think that the current One-way Permit (OWP) policy is an important factor causing China-Hong Kong conflicts, but we must understand that the objective of the OWP policy is family reunion. According to Article 23 of the International Covenant on Civil and Political Rights, "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State." It is also stated in Article 10 of the Convention on the Rights of the Child that "applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner." The family is an important component unit of society and the rights of all members of the family are the basic rights protected under these two conventions. As a State Party of these two conventions, Hong Kong absolutely has the political and moral responsibilities to protect Hong Kong people's right of family reunion.

Under Article 22 of the Basic Law, "For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval. Among them, the number of persons who enter the Region for the purpose of settlement shall be determined by the competent authorities of the Central People's Government after consulting the government of the Region." On 26 June 1999, Article 22 of the Basic Law was further interpreted at the Tenth Session of the Standing Committee of the National People's Congress. According to Instrument 17, the "approval procedure" refers to the application procedures of the relevant national authority. When we consider Article 22 together with Instrument 17, we find that it has actually not been specified that the relevant national authority has the absolute right of approval. As a matter of fact, I very much support that Hong Kong should take back the right of approval of OWPs. However, owing to political reality, the authorities may say that this cannot immediately be achieved. However, in light of the spirit of Article 22 of the Basic Law, there is no need to amend the Basic Law as we can make adjustments to the approval procedures of OWPs. For instance, we can reject the entry of certain people into Hong Kong and we can ask the competent authorities to give priority to handling the applications filed by certain people. It has been clearly stated in Article 22 that the SAR Government has the right to advise the competent authorities of the daily quota. The SAR Government also has the parallel right of approval. We wish to take back the right of approval if we can further consult the Central Authorities.

Let us look at the macroscopic environment and data. According to Government estimates, the problem of an ageing population will become increasingly serious, and the working population will start to decline in 2018. This will not only affect our economic power but also our tax base. I definitely understand that Honourable colleagues do not want to broaden the tax base. A low birth rate and an ageing population will make our society more vulnerable to the impact of the inflow and outflow of people, and the public will become more sensitive to the allocation of social resources. Therefore, the Government should properly deal with the population policy and make appropriate long-term plans.

There are fairly obvious examples which indicated the disappointing Government's performance in enhancing human resources in Hong Kong. Hong Kong currently has fiscal reserves amounting to \$689.9 billion and it definitely has the resources to provide relevant supporting measures. President, first of all, I would like to talk about education and I will focus on the allocation of education resources. The enrolment rate of local universities is only 18%, the lowest among the Four Asian Dragons, or even close to the low level of developing countries. Among the students enrolling in research degree programmes in research institutes, 65% of students are from the Mainland. President, it is 65%; 7% of students are from other countries, and local students only account for 27%. This situation has aroused our concern on the sustainability of local academic standard, and whether our resources have been appropriately used.

Since the Government has huge fiscal reserves, it should actively provide assistance to new arrivals. According to the report on "A Study on New Arrivals from Mainland China" released by the Central Policy Unit in January 2013, over 95% of adult new arrivals and child new arrivals had not used facilities and services such as computer rooms, employment service, counselling services, family services or childcare service in the six months before the interviews, which reflect that the new arrivals in Hong Kong still lack social support and they do not even know how to seek help. I hope the community would adopt a positive attitude towards these new immigrants, so that they can integrate into our society and uphold our core values. Only when they can successfully integrate into society and have good quality of life will they become a new force to contribute to our society.

The last and most important point is related to our population policy. I am disappointed with the consultation document on population policy published

by the Government a few days ago because there is more talk than action in encouraging child birth. As I have said in this Council before, Hong Kong people dare not have children because of two major problems: housing and education. The day after the consultation document on population policy was released last week, the headline of *The Standard* used the pun "too tight for sex". What exactly does it mean? It means that our living environment is so crowded that there is no space for making love.

President, has the Government considered implementing a more aggressive policy to give preferential treatment to family with young children? For instance, it can consider giving priority to households with new born children in the allocation of PRH units or the purchase of HOS flats, so that Hong Kong people would consider having children and introduce new blood to the local population.

President, I so submit.

**MR MICHAEL TIEN** (in Cantonese): President, first of all, I would like to thank Mr Gary FAN for proposing the motion. The original motion comprises only two clauses: "This Council urges the Government to proactively handle China-Hong Kong conflicts, and to adhere to the need to 'put Hong Kong people first' in formulating policies." I agree that the Hong Kong Government should adhere to the need to "put Hong Kong people first" in formulating policies. But under the "one country, two systems", I hope the Hong Kong Government and Hong Kong people can be happy with contentment and be more accommodating. Apart from satisfying their own needs, they should at the same time learn to be tolerant and care for the country. Therefore, I have added a clause in my amendment to make it read: "while adhering to the need to 'put Hong Kong people first' in formulating policies, to also consider the possible impact of the policies on the country".

It is undeniable that an anti-Mainland mentality has all along existed among Hong Kong people. For example, in the early years, we teased Mainlanders with all sorts of discriminatory nicknames. Such conflicts between Mainlanders and Hong Kong people have existed all along. But now Hong Kong people begin to realize that the political and economic roles of the two places have somehow swapped after the reunification, and as a result our economy has to rely on the Mainland. At the same time, there has been

increasing interaction between Hong Kong people and Mainlanders due to the Individual Visit Scheme (IVS), and conflicts have thus arisen more and more often.

With a population of 7 million, Hong Kong can hardly be compared with the country that has 1.2 billion people. The Pearl River Delta Region alone has a population of 40 million. A slight move of the Mainland, the "big elephant", can already cause earthquake to Hong Kong. Take the demand for powdered formula as an example. Any one of the provinces or cities in the Mainland can indeed snap up all the powdered formula of Hong Kong and cause a tight supply. It is reasonable and understandable that Hong Kong needs to protect itself by implementing the policy of "putting Hong Kong people first". While we need to ensure that Hong Kong mothers can purchase powdered formula for their babies, we also have to consider whether Mainland mothers have many other channels to purchase powdered formula in Hong Kong. I think we should try to understand the reasons behind the situation. There are views that this is none of our concern as it is a matter concerning the country's food safety. It is their own business as the country fails to handle the problem properly. However, as a parent, I think we should understand parental love of children or their sentiments.

If there is sufficient supply of powdered formula in Hong Kong and Hong Kong mothers have no problem in purchasing the product, can we take one more step forward in formulating our policies? For example, Hong Kong may act as an entreport for re-export to Mainland. Or adjustment can be made to the "powdered formula restriction order" by setting the restriction to, say, two to 20 cans of powdered formula, so that the Government can impose macro-economic control according to local needs. By doing so, we need not implement the policy at one time, and abolish it at another time; and we need not consider the consequences after the abolition.

Recently there have been many reports on the scramble for kindergarten places and queuing up overnight by parents in the North District. The spearhead is directed at the "doubly non-permanent resident" (DNR) children. Subsequently many people propose the principle of "vicinity in admission". This concept sounds good but on second thought, what exactly is the principle of "vicinity in admission"? Take the primary school net as an example. The North District comprises areas such as Sheung Shui and Fan Ling which are within the boundary of Hong Kong. It is impossible for those children born to Hong Kong residents who live near Shenzhen to get admission in the vicinity.



As such, should Shenzhen be included as part of the North District in order to achieve the principle of "vicinity in admission"? If this is the case, no matter how many kindergartens there are, they are not enough to meet the demand.

Moreover, DNR children are also Hong Kong people and are entitled to receive education in Hong Kong. Why should we maintain such a double standard? For this reason, I have written to the Standing Committee of the National People's Congress proposing to set up government primary schools in the Mainland. In fact, the Central Government has already given green light and urged the Governments of both places to carry out studies. In my view, as the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link will soon commission, more and more Hong Kong people will live in the Mainland, by then, how can the principle of "vicinity in admission" apply? Therefore, the Governments of both places should conduct a joint study on setting up "through-train" government kindergartens and primary schools. Or schools can be set up in Shenzhen to facilitate separate admission. We should really think clearly about similar ideas.

I have mentioned earlier that the space for retail industry of Hong Kong has not expanded while business turnover has a two-fold increase in the past decade. This will indeed lead to overcrowding in urban areas. Many local brands and retail shops are also forced to cease operation in order to give way to international brands. Similarly, while the IVS is definitely beneficial to Hong Kong, it has brought negative impacts. But if large hotels or integrated hotels and shopping malls can be built in Northwest New Territories and North Lantau Island, the Hong Kong Government can in fact achieve a win-win situation, thereby reducing China-Hong Kong conflicts.

Some netizens describe Mainlanders as "locusts" while some community groups have jointly raised the discriminatory idea of "reducing population at source". I feel deeply upset and miserable about Chinese people discriminating against Chinese people. Some politicians often put forward the idea of "refusing to turn red" which promotes hatred and extremism. Indeed I do not condone such idea.

I hope that the colleagues who propose the motion and amendments today can see clearly the meaning and definition of Hong Kong people. In my view, Hong Kong people are not confined to those born in Hong Kong. As long as a person holds a Hong Kong Identity Card, irrespective of his race, background and

colour, he should enjoy equality before the law. No matter whether a person is a DNR child born in Hong Kong, or a new arrival holding One-way Permit for reunion with his family, he should be recognized as a member of the Hong Kong community and entitled to the same rights and treatment, instead of being discriminated.

President, I so submit.

**MR ALBERT HO** (in Cantonese): President, the Hong Kong-Mainland relationship has been full of conflicts over the past century, with political conflict being the most prominent. This is because Hong Kong as a free society has been challenging the autocracy or even totalitarianism of the Mainland (particularly after 1949). Nevertheless, for most of the time, no social confrontation or conflicts between the two places were seen. It is only until recently, in particular after the reunification, that serious social conflicts have emerged. According to my observation, the conflicts mainly arise from the right of abode. At that time, although we considered it improper to interpret the Basic Law, the problem had been shelved for the time being. Then in 2011 and 2012, the Government mishandled the issue concerning "doubly non-permanent resident (DNR) babies" born in Hong Kong, which has indeed caused serious problems. The number of DNR children who are granted the right of abode has surged by more than 100 000 in just a few years. As a result, there are many cross-boundary students, causing a tight supply of school places. Some parents have to queue up overnight for admission application. Public indignation is thus resulted.

Moreover, another policy blunder is the failure of the Administration to make proper assessment of Hong Kong's capacity to receive tourists. As tens of thousands of tourists come to Hong Kong, many problems have arisen, such as traffic congestion, overcrowding of train/bus compartments. There is also the situation of parallel trading activities. All these problems, which have caused disgusting feeling among the public, should be addressed. The Government should also review its policies in these regards.

Furthermore, some people have pointed out the problems of insufficient social resources and unequal resource allocation. Land and housing are not sufficient to meet the needs of the public. The Government's blind scramble for land, as reflected in its obstinate development plans in Northeast New Territories,

has led to outbursts of public grievances. However, should we attribute these problems to a particular group of people in our society, saying that new arrivals are burdens and have brought about these problems? I think this is certainly unjustified because all these problems are caused by policy imbalance of the Government. In particular, the suspension of land auctions in 2002, the cessation of public rental housing (PRH) and Home Ownership Scheme (HOS) production, as well as the halting of new land development have caused numerous problems.

Regarding the situation faced by us today, firstly, in respect of Hong Kong-Mainland relationship, we note that cross-boundary marriages still account for 30% of new marriages each year. We have to respect individuals' freedom to choose their spouses and the rights for family reunion.

Secondly, many Hong Kong people were indeed born in the Mainland who migrated to Hong Kong in the 1970s and 1980s. Even for young people born in Hong Kong, their parents or grandparents were largely born in the Mainland. When people migrated to Hong Kong, they have undeniably become a member of Hong Kong, be they old or new arrivals, they are Hong Kong people. Why should we distinguish between old and new Hong Kong people? Once they become part of our society, they are entitled to receive social services and welfare. At the same time, the new arrivals have provided new manpower resources to the ageing community of Hong Kong, either as labourers, professionals or talents. Therefore, we have to look at the issues from both sides instead of only focusing on the negative impacts and burden brought about by the new arrivals. We think such view is lopsided or even discriminatory.

President, while the resources of Hong Kong should be reasonably shared among the public, we also agree that the Hong Kong Government has the responsibility to ensure that local people are given adequate safeguards and can enjoy their due rights by implementing the policy of "putting Hong Kong people first".

Therefore, regarding the policy of "putting Hong Kong people first" proposed by Mr Gary FAN today, I have listened carefully to his speech just now and agreed to the various ideas advocated by him. For example, priority should certainly be given to meet Hong Kong people's needs in public hospital services. Regarding land and housing, we should also attach importance. In fact, influx of capital from external sources have engaged in speculative activities and pushed

up the land prices, making it difficult for young people to acquire their own homes. As we can see, there is an inadequate supply of land in the short run, in particular, we do not have land for building PRH units and HOS flats to accommodate the grassroots.

Therefore, we need to look after the interests of Hong Kong people by, for example, stepping up the policy of "Hong Kong property for Hong Kong residents". Regarding education, we notice that more than half of the subsidies for postgraduates are in fact given to foreign students, not just students from the Mainland, but Mainland students take up a large proportion of about 60% to 70%. This is also a problem that should be addressed. Our resources should first be used to support local students so that they can receive appropriate training. Just now some colleagues have mentioned that local workers should be accorded priorities in employment and therefore we oppose an arbitrary importation of foreign workers. All these are objectives that should be fulfilled.

To fulfil these objectives, we certainly need to fight for our involvement in approving One-way Permit (OWP) applications or a full approval right on such applications. We may also review whether the policy of "multiple trips daily" should be cancelled. However, I would like to stress that the whole policy of "putting Hong Kong people first" is not directed against a certain group of people in our community, nor should it be targeted at new arrivals from the Mainland. We should not adopt an exclusive or even discriminatory attitude towards them, just like what some people do.

President, what makes me most upset is the recent remarks which remind me of the anti-Chinese riots in Indonesia and the Philippines in the 50s and 60s. For example, I have read a news report about a female student from the Mainland named LIU Han studying at the University of Hong Kong who was hit by a car while crossing the street. Indeed we should feel sorry for her tragic death in the accident. However, there are some cold-blooded and disgusting comments on the Internet, saying that as Mainlanders have come to Hong Kong to snatch our resources, the driver has done a good job by giving LIU a fatal hit. What sort of remarks are these? Are these remarks made by human beings?

A couple days ago, I read from the newspaper some criticisms against a female leader in social movements named YIP Po-lam. People queried that she was born in Heilongjiang, but not in Hong Kong. As far as I know, she was born in Hong Kong, but does it matter where she was born? Why is she being

queried? Will she be disqualified to care for Hong Kong's affairs and participate in our social movements if she is from the Mainland?

Lastly, I would like to talk about a recent advertisement published by, among others, our colleagues. I believe that neither Mr Gary FAN nor Ms Claudia MO has the intention to hurt anybody. But what will one feel after reading that advertisement? One of the paragraphs reads, "A large number of Individual Visit Scheme visitors have plagued Hong Kong. In MTR train compartments, various urban areas, Tuen Mun and Sheung Shui, there are many Putonghua-speaking people. With a different cultural quality, they have ruined the civilization and upset law and order of Hong Kong". Such a remark will indeed hurt everyone and should not be advocated in Hong Kong, no matter it is made intentionally or inadvertently. As for the comments of Mr Martin LEE, while I share some similar views with him, we differ in some other aspects, but he would never give such remarks to hurt others' feelings.

**MR IP KWOK-HIM** (in Cantonese): Following the reform and opening up of China, the reunification, and the implementation of the Individual Visit Scheme (IVS), it can be said that the increasingly frequent contact between people of the two places has become the general trend. However, due to the differences in culture and life-style, as well as the limited space and capacity of Hong Kong, while the interaction between the two sides has brought about various opportunities, it has also inevitably given rise to misunderstanding or conflicts. Nonetheless, Hong Kong is a diversified, open and tolerant society. We should not allow people to utilize the conflicts arising from the interaction between the two sides to agitate xenophobic ideas, such as calling Mainlanders "locusts", or even dragging the new arrivals into the mire by publicly advocating the discriminatory concept of "reducing population at source". Just now Mr Gary FAN and Ms Claudia MO even gave the disgusting remarks about the colonization of Hong Kong by Beijing. Hong Kong people should see the true faces of these people clearly.

President, in view of the limited local space and resources, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) considers it practical and reasonable for the Government to adopt the principle of "according priority to local people in allocating local resources". Having said that, the DAB firmly believes that the idea of "putting Hong Kong people first" does not mean ostracism, and it should not be used to discriminate against new arrivals.

However, recently some people, including Mr Gary FAN and Ms Claudia MO who propose the motion and amendment respectively, published an advertisement in local and overseas newspapers to agitate ostracism and discrimination on the pretext of land and housing policies. The advertisement has adopted an approach of tarring everyone with the same brush by describing all IVS visitors from the Mainland as people plaguing Hong Kong, ruining our civilization and upsetting law and order of the city. Just now Mr Albert HO has already commented on this. While the headline of the advertisement is against social dissension, it actually advocates polarization and confrontation.

In his motion today, Mr Gary FAN is holding aloft the banner of "putting Hong Kong people first". But as joint petitioner of the advertisement, he has blatantly discriminated against new arrivals who come to Hong Kong on One-way Permit (OWP) for family reunion, and attributed the decreasing living space of Hong Kong people to new arrivals, who are also Hong Kong people. He has even borrows the idea of "reducing waste at source", a common terminology in environmental protection, to put forward the insulting idea of the so-called "reducing population at source".

Just now Mr Gary FAN has made a big fuss over the word "new" and made rash comments in his speech. However, I hope Mr FAN would not forget that the name of his political organization also starts with the word "Neo" (which means "new"). I believe he may need to rename his organization after delivering his speech; otherwise the organization will have no prospect.

Mr FAN often criticizes people for fiddling with "hypocritical rhetoric", but it turns out that he himself is a master of double-talk. When the sophistic idea of "reducing population at source" has provoked a public outcry, Mr FAN defends that the number of people who have come to Hong Kong on OWPs has reached 700 000 since the reunification and has exerted pressure on Hong Kong's population. He also alleges that this is an objective fact in our society. However, is this really the fact?

Apart from people coming to Hong Kong on OWPs, there are also other people who come to Hong Kong under various schemes and visas, including General Employment Policy, dependant visas, foreign domestic helper visas, admission schemes for talents and professionals, and the Capital Investment Entrant Scheme, and so on. For example, according to the information obtained from the Immigration Department, in the decade between 2000-2001 and

2009-2010, about 20 000 applications under General Employment Policy were approved each year while some 16 000 people came to Hong Kong on dependent visas each year. In these 10 years, the number of the above two groups of new comers had reached 360 000. If we are talking about objective facts, why not bring up this fact, instead of simply mentioning the people on OWPs? Why are new comers on OWPs being singled out for exerting pressure on Hong Kong's population? Will other foreigners coming to Hong Kong not exert any pressure? If we target a particular group of people and promote the idea that reducing the number of such people from coming to Hong Kong can solve the housing problems, this is downright discriminatory, is it not?

Furthermore, Mr Gary FAN hypocritically says that he does not oppose family reunion and only requests to reclaim the right to approve OWP applications. However, the real purpose of reclaiming the approval right is to "reduce population at source", that is, to reduce the OWP quota. In my view, the remark of "not discriminating, but unwelcoming" is a kind of bandit logic. Even though Mr FAN does not consider the new comers as Hong Kong people and tries by all means to reduce their number, their family members in Hong Kong are literally Hong Kong people. In advocating the idea of "reducing population at source", has Mr FAN taken into consideration the rights of these Hong Kong people who have been waiting for family reunion?

In the view of the DAB, while the wordings of "put Hong Kong people first" used by Mr Gary FAN in today's motion appear to be reasonable and justified, his ulterior motives are actually exclusivism against Mainland visitors and the discriminatory idea of "reducing population at source" targeted at new arrivals. We are annoyed by such exclusive and discriminatory acts, which will lead to confrontation and division in our society, and are contrary to the values of diversity, openness and tolerance of Hong Kong. Hence I have to propose an amendment to express my opposition to such a discriminatory standpoint.

Moreover, given the geographical, ethnic and cultural connection between Hong Kong and the Mainland, interaction between the two places is a natural development. Despite some misunderstandings or even conflicts in the process, we should proactively address them because we are an open city. For example, when the problem of a bottle neck in coping capacity is identified, we should explore ways to improve the situation. Earlier, the DAB has proposed setting up a commercial centre in Lok Ma Chau South near the border area. This can on

the one hand divert visitor flow and ease the problem of overconcentration of visitors, and on the other hand, provide more retail facilities and create local job opportunities. Of course, before local capacities are enhanced, policies regarding the interaction between the two places should first be reviewed to ascertain which aspects of these policies need adjustment or enhancement, followed by discussion with the Central Authorities. I believe these measures can work in complement with the concept of "putting Hong Kong people first".

President, in the little time left, I would like to respond to the amendments of Ms Claudia MO and Mr LEE Cheuk-yan. Ms Claudia MO suggests encouraging the use of Cantonese and traditional Chinese characters. But I notice that when she speaks in this Council, she uses English from time to time, or even a mix of Cantonese and English. Therefore, it is ironical that she encourages others to speak in Cantonese while she does not set a good example by herself. I believe Ms Emily LAU also recognizes this point.

As Hong Kong is an international city, it is unobjectionable to use foreign languages for visitors and use simplified Chinese characters when we meet Mainland visitors as well as Singaporean and Malaysian Chinese. The local culture of Hong Kong is formed by a blend of Chinese, Western and even Japanese elements. There are great diversities in the use of language. If an in-depth study is conducted to find out what exactly our local dialect is, I believe the answer may be the Hakka dialect rather than Cantonese.

Regarding Mr LEE Cheuk-yan's amendment, we consider the wordings extreme, abusive and tantamount to making clamours. The accusations of "arrogant with their wealth", "indiscriminately introducing preferential economic policies" and "relinquishing Hong Kong's high degree of autonomy" are not consistent with the facts and are unjustified. As such, the DAB opposes his amendment.

Thank you, President.

**MR LEE CHEUK-YAN** (in Cantonese): President, except for the last part of his speech opposing my amendment, other statements made by Mr IP Kwok-him against discrimination are actually quite acceptable. Nonetheless, we have to vote in abstention for his amendment. At the time of the "167 tragedy" back then, that is, when it was claimed that 1.67 million Mainlanders would migrate to



Hong Kong, what did he say at that time? He likened the situation at that time to the subsidence of Hong Kong, which was totally different from what he said today. Hence, we will vote in abstention and hope that he will stop his acts of hypocrisy from now on.

Let us go back to the original motion proposed by Mr Gary FAN. The Labour Party's platform is clear, and that is "justice". "Justice" invariably means anti-discrimination, and we are against any form of discrimination, including discrimination against any persons, be they foreign domestic helpers, ethnic minorities, new arrivals or foreigners. We consider that as an international city, Hong Kong must be pluralistic and anti-discriminatory. Nonetheless, Ms Claudia MO pointed out that any discussion about anti-discrimination was just like saying that "the Pope is Catholic" because it needs not be discussed. However, the current situation is not like that, and a discussion is necessary. While we do not intend to dwell on the subject, the truth is that a new kind of argument and atmosphere has emerged in society which discriminates against new arrivals. We opine that such atmosphere should not be encouraged and hence, we should be tolerant to all immigrants and people of different ethnic groups. Tolerance is so important that we must make an express statement.

Some people say that I should also respond to the remarks made by Martin LEE because he opposed allowing national security personnel and spies to come to Hong Kong; he opposed vote planting and colonization. Of course, I oppose spies and vote planting as mentioned by Martin LEE, and it is most saddening that they are real facts. Therefore, we must strive to get back the power of vetting and approval, so as to stop spies and national security personnel from entering Hong Kong and we should also prohibit vote planting. However, I oppose to the word "colonization" used by Martin LEE. New arrivals coming to Hong Kong should not be regarded as "colonization" because the persons concerned fell in love, get married, and then come to Hong Kong for the sake of family reunion. Therefore, I hope Martin LEE will stop using this word from now on, but we of course oppose allowing spies and national security personnel coming to Hong Kong.

Just now, Mr Gary FAN asked rhetorically if we are aware of the suffering of Hong Kong people. Of course, we are aware of their plight. When we conduct district visits, we often hear complaints from Hong Kong people and we understand their resentment. People bitterly resent Mainlanders coming to Hong Kong to snap up powdered formula, compete for school places, jobs, and so on,

while property and commodity prices have soared due to their buying spree. Nonetheless, I still have to tell Hong Kong people why are they so miserable? Their misery is not caused by new arrivals or influx of tourists into Hong Kong, but due to the fact that the Chinese and Hong Kong Governments keep dwarfing Hong Kong and currying favours with consortia, which result in extremely unfair distribution of resources and ultimately, everyone suffer. We have to tell Hong Kong people clearly the actual cause of their misery, so that they would not put the blame on the disadvantaged groups and new arrivals.

In fact, since 1997, Hong Kong people generally feel snubbed and uneasy. Over the past few years in particular, many Hong Kong people feel that Hong Kong has been regressing in the political, economic, cultural and social arenas, and this of course brings resentment and frustration. Why does this situation happen? It is exactly because under the current "mainlandization" policy, democracy and the rule of law in Hong Kong have been regressing. We witness the phenomena of senior officials engaging in graft and corruption, vote planting in elections, police officers becoming public security officials and the media engaging in self-censorship; of course we are angry as our highly treasured values are being eroded. But I must reiterate here that our resentment is caused by the Chinese Communist regime and the SAR Government, but not the disadvantaged groups and new arrivals, and we should not vent our anger on them.

Indeed, it is frustrating to see Hong Kong being dwarfed, and it is now rather obvious that LEUNG Chun-ying is good at visiting Beijing frequently, giving people an impression that Beijing has bestowed great favours to us, and has given us many "candies". Is the Individual Visit Scheme a piece of "candy"? Of course not. It is a mutually beneficial policy to facilitate Mainland tourists visiting Hong Kong, and at the same time allowing Hong Kong people to benefit from receiving these tourists. This is a mutually beneficial arrangement rather than a piece of "candy". Another benefit which is said to be bestowed upon us by Beijing is allowing Hong Kong to become a pilot point for Renminbi (RMB) trading, but this measure is basically premised on Beijing's consideration of its own financial security. As Hong Kong Government is so obedient and can be manipulated easily, the Central Authorities might as well allow RMB to be freely convertible in Hong Kong. This measure is by no means "benevolent", but just mutually beneficial, yet Hong Kong has been dwarfed and people naturally feel snubbed.

Another problem lies with "being planned". Under the conflicts between China and Hong Kong, the Government and the business sectors are best at looking to our Motherland in the North and making fast money and, as a result, as I just said, many measures were perceived to be preferential measures bestowed upon us by Beijing. Moreover, preferential measures are not only limited to those implemented in Hong Kong, but also those enjoyed by Hong Kong businessmen doing business in the Mainland. In that case, we can no longer sustain an outward-looking vision, and the entire economy must rely on China; as a result, Hong Kong gradually loses its uniqueness as an international city, and Hong Kong people feel that the local economy as a whole is increasingly subject to the Mainland's control. In the past, planning was made to build the Hong Kong-Zhuhai-Macao Bridge, and now study is under way to build the third runway at the airport, but as some people have already pointed out: what is the point of building the third runway? Because after the commissioning of the Hong Kong-Zhuhai-Macao Bridge, people can go to Hong Kong directly from the Shenzhen Airport, and Hong Kong will also lose its advantage in this respect. If Hong Kong wants to maintain its local characteristics, it should not get into the position of "being planned" in respect of the construction of many infrastructural projects, particularly as Hong Kong is "being planned" by both Governments for the benefit of consortia or for some political interests.

The second major cause of Hong Kong people's suffering is that everything is premised on the benefits of consortia, such that there is regression in all aspects of people's livelihood. Take for example the housing problem. At present, property prices and rental are at exceptionally high levels, and the waiting time for public rental housing (PRH) is exceedingly long; some people attribute the cause to the excessive number of new arrivals to Hong Kong and they wait for PRH allocation. The root cause can be clearly seen from this table. According to information in this table, only a total of 30 000 PRH units were built from 2003 to 2012; by comparing this amount to the production of 80 000 units previously or close to 70 000 units before 1997, it is well evident why we now have a short supply of housing. That is because the Government has not built any PRH at all, while the production of private housing is also on the low side and hence, the blame should not be put on the excessive number of new arrivals to Hong Kong.

On the other hand, for the sake of promoting the healthcare industry, the Government had strived to encourage "doubly non-permanent resident (DNR)

pregnant women" coming to give birth in Hong Kong. I think Secretary Dr KO Wing-man also knows clearly that we have all along queried why the authorities do not make proper arrangements for "singly non-permanent resident pregnant women" to give birth in Hong Kong as the babies are children born to Hong Kong people, but the Government just allowed DNR pregnant women coming to give birth in Hong Kong for the purpose of promoting the healthcare industry, which had given rise to the problem of DNR. In addition, some people blame the Individual Visit Scheme (IVS) for the rising commodity prices, but let us not forget that The Link — which is also planned by the Government — has driven up the prices of vegetables and commodities in shopping arcades across the board. The snapping up of powdered formula is attributed to the Mainland Government's "letting off" of the unscrupulous businessmen who manufactured the tainted powdered formula, and as a result, all Mainlanders have no confidence in the local product and hence they come to Hong Kong to buy powdered formula. All these are caused by the Chinese Government and the Hong Kong Government being biased towards the consortia.

Regarding the way out, the Labour Party considers that the SAR must, first and foremost, firmly uphold its autonomy, which has also been mentioned in my amendment. First, we consider that the power of vetting and approval should be vested in Hong Kong. Second, the IVS policy should be implemented taking into account our receiving capacity, instead of leaving the door wide open. On the other hand, we also oppose the importation of foreign labour, but I will not discuss this issue today because I have already talked about it too much lately. Moreover, we must steadfastly safeguard Hong Kong's core values so that it will continue to be a pluralistic, inclusive and anti-xenophobic society. Lastly, we should identify the root causes of the problems clearly, instead of putting the blame wrongly on the innocent and discriminating against the new arrivals.

Hence, President, I think it is good to raise this matter for discussion today. I also consider that most of the time, we do not have much difference policy-wise, yet the problem lies in whether we can express our views with a more accommodating attitude, and avoid making discriminatory remarks as far as possible. I think it would be nice if we could do so.

Thank you, President.

**DR FERNANDO CHEUNG** (in Cantonese): President, I amend Mr Gary FAN's motion today not because I think it is wrong to "put Hong Kong people first", it is rightly justified to "put Hong Kong people first" and use Hong Kong's resources on Hong Kong people. This is a principle we would always agree. However, with soaring xenophobia, we can see that society has already reached an irrational state or even harbours blatant hatred toward the new arrivals — it has already gone beyond discrimination and ostracism to outright hatred. Earlier, a Mainland student attending university in Hong Kong died after being run down by a car when crossing the road, and we note that some people had reacted to the incident by saying, "Hurray! Another locust died. Let's celebrate with champagne." Such a response is totally inhuman. By raising the proposal to adhere to the need to "put Hong Kong people first" in formulating policies at this moment, I think it will not only fail to clarify the matter, but also incite the xenophobic sentiments further.

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)

I became acquainted with Mr Gary FAN in the United States. We both studied there and have lived in the country for some time. As I studied social work programmes in the United States, I also engaged in social services during my study in the country in helping new arrivals, especially new immigrants who are Chinese or new arrivals from other Asian countries, to fight for their rights. As I had provided many social services in this regard, I am particularly sensitive to the new arrivals. Being a new arrival in the United States, I understand the difficulties of integration into local communities, and that people living away from their own home country are prone to discrimination. Today, as the subject is raised in the Council, we can see that many conflicts have arisen in society, targeting inadequate resources in all aspects and keen contest for everything; however, is the crux of the problem really lies with these immigrants coming to Hong Kong and snatching our things? That is a direct impression.

Last Sunday, I took part in a gathering organized by the Fan Ling branch of the Hong Kong Professional Teachers' Union as well as the Sheung Shui and Fan Ling Mothers' Club to condemn the Education Bureau's planning blunders which resulted in their staying up overnight as hundreds or even thousands of people queued up outside kindergartens. However, the Government was still indifferent, claiming that queuing was normal. Those parents burst into tears as

they spoke, saying that some people in the queue did not speak Cantonese, and their hygiene behaviour and culture in various aspects differed greatly from ours. Being agitated, they queried whether they were now living in a place called Hong Kong, and why this situation had happened. Those who interviewed for kindergarten places all spoke Putonghua, what has gone wrong? The sentiments of people competing for school places are understandable. Even if we walk around in Causeway Bay, or if we go shopping in a goldsmith shop because a relative is getting married, we will also have a sense of uneasiness, and such feelings are very direct.

We often muddle together the problems relating to Individual Visit Scheme (IVS), parallel traders, Mainland big spenders scrambling to buy properties and luxury flats in Hong Kong and hence pushing up property prices. We then say, we have had enough, we need to put Hong Kong people first. Those people keep coming to Hong Kong, they live in our flats, enjoy our welfare benefits and very soon, they will take over our jobs. Regarding these sentiments, it is exactly what we, as opinion leaders and representatives of public opinion, must explain clearly to the public. We have to tell them that the crux of the problem is neither that nor the "doubly non-permanent resident (DNR) children", who are innocent; the crux of the problem is the policy blunder made by the Government back then to open our door widely. As Donald TSANG wanted to develop the healthcare industry and thought that obstetrics was the healthcare industry, he welcomed DNR parents to give birth in Hong Kong so long as they had the money. This policy blunder was made by him and the SAR Government single-handedly. At that time, many people including myself in this Council had warned the Government against this policy, because this was a case of "you do business and Hong Kong people foot the bill" which was absolutely undesirable. It was also wrong to open up publicly-funded public hospitals to the DNR continuously, yet the Government had deliberately turned it into reality.

Now we are left with this awful mess, yet we now say that the crux of the problem lies in those people, it is wrong to say so. It is a policy blunder made by the Government. Thereafter, the Government ignored another reality again, that is, it has made absolutely no planning for and ignored the needs of society. Now, these DNR children have come to Hong Kong, and problems have arisen not only in kindergartens, but housing and healthcare as well, and these children will attend primary school in due course. There are indeed many problems, which must be dealt with today. However, the crux of the problem is not to target or oppress these children; indeed, they are innocent, just like the new

arrivals who come to Hong Kong under the quota of 150 One-way Permits (OWPs) for family reunion; they are also family members of Hong Kong people, why do we oppress them? Why do we say that it is disastrous for them to come to Hong Kong?

Honestly, I think Mr Gary FAN should know best because both of us had been new immigrants. When we were in the United States, we exactly had the experience of being scorned by local people, "Why do you do that? What is your culture? How come China Town is so dirty? How come your roast meat is so disgusting? How come you put everything into your mouth, and put a cooked pigeon on the table!" That is right. We have different cultures and we are different in many aspects, but should we oppress the new arrivals just because these Chinese people are bad? The focus is wrong. Is shortage in housing supply due to the new arrivals? The problem of shortage in housing supply is the result of planning blunders, well evident by the figures just stated by Mr Kenneth LEUNG; Mr LEE Cheuk-yan has also stated the problem clearly — and he has given me the figures as well — this fact has actually been substantiated by objective figures. All problems related to housing, education and healthcare are caused by the Government's policy blunders; why do we, as opinion leaders, raise this subject and pinpoint these powerless people as the crux of the problem or the culprit? New arrivals who have come to Hong Kong for seven years are still ineligible to apply for CSSA or public rental housing. Many of them become single parents after divorce with their husbands or due to the death of their spouses, and they have to live on CSSA payments of their children. If we visit "sub-divided units" in Yau Tsim Mong or To Kwa Wan, we can see that many residents are new arrivals; these people who are at the lowest stratum of society are living the most difficult life, yet they are also the most hardworking. Why then do we move a motion in the Council at this juncture which indirectly creates an impression on Hong Kong people that our resources have been taken up by these people? Do we really lack resources? As just mentioned by Mr LEUNG, we have some 600 billion or 700 billion of fiscal reserves, not to mention other accumulated surpluses; do we not have enough money? No, it is not that we do not have enough money; the crux of the problem is the planning blunders of the Government. Is the daily quota of 150 OWPs too many? At present, the waiting time for Mainlanders coming to Hong Kong for family reunion with their spouses is about three or four years on average; is that period too short? Shouldn't we safeguard the most basic human right of family reunion?

Hence, I am sorry, Mr Gary FAN; I think we share many core values, and we had previously worked seamlessly when opposing the North East New Territories New Development Areas. We also notice that a lot of planning in Hong Kong is indeed made for the benefits of the North, that is, for the interest groups in the Mainland rather than Hong Kong people, but those people are not new arrivals. Regarding the new arrivals, we should support them as far as possible, so that they can integrate into Hong Kong society, become part of our society and make contributions to Hong Kong. Thank you, Deputy President.

**SECRETARY FOR EDUCATION** (in Cantonese): Deputy President, first of all, I would like to thank Mr Gary FAN for proposing this motion on "putting Hong Kong people first", as well as Ms Claudia MO, Mr Kenneth LEUNG, Mr Michael TIEN, Mr Albert HO, Mr IP Kwok-him, Mr LEE Cheuk-yan and Dr Fernando CHEUNG for their amendments.

In recent years, economic and social exchanges between Hong Kong and the Mainland have become increasingly frequent as their ties become closer and closer. The relationship between both sides, being bilateral, bidirectional and mutually dependent, has brought us more advantages than disadvantages. However, with the increase in people's flow, it is natural that certain problems may arise which affect the livelihood of local people. For example, the supply of resources in some districts of Hong Kong may become stretched. The SAR Government is well aware that in some districts, certain inconvenience may be caused to people's daily life and hence, giving rise to feelings of anxiety and uneasiness on the part of some local residents.

In this connection, the Chief Executive has already stated clearly that for areas prone to shortages, the current-term Government will adopt the measure of "putting Hong Kong people first". Hence, last year, the SAR Government announced the "zero delivery quota" policy to curb "doubly non-permanent resident pregnant women" giving birth in Hong Kong; and, after getting the support of the Central Government and the relevant parties of the Shenzhen Municipality in the Guangdong Province, suspended the implementation of "multiple-entry Individual Visit Scheme endorsement" for non-permanent Shenzhen residents. A number of measures have also been taken by the law-enforcement departments to combat parallel goods traders and improve the order at railway stations and boundary control points in order to safeguard people's daily life. Apart from implementing the "Hong Kong property for



Hong Kong people" measure, the Government also introduced the Buyer's Stamp Duty when property prices were soaring in order to suppress the demand from non-locals. The Education Bureau has also announced the revised arrangement for Central Allocation, so as to alleviate the problem of tight supply of Primary One school places in the North District as a result of increasing cross-boundary students through diversion arrangements. We will also closely monitor the demand and supply of kindergarten places and increase the supply when necessary.

In fact, it is the standard practice of the SAR Government in formulating its policies to consider all relevant factors comprehensively, so as to ensure that the policies implemented are in accordance with constitutional and legal principles, reasonable and rational; pay heed to public sentiment; strike a balance among different sectors; and are premised on the overall interest of the community and people of Hong Kong as well as the need for long-term development.

Regarding the cross-boundary issues mentioned above, the majority of people in the community are very understanding, and they face the issues with an open and accommodating attitude, but there are also a handful of people who resort to unwarranted words and actions to express their views of ostracism. In fact, normal exchanges between the two places are beneficial to Hong Kong's economic and social development and hence, I hope the mutual understanding between people of the two places can be deepened through a rational and accommodating attitude. The SAR Government will continue to keep in view and monitor these issues relating to cross-boundary matters and take effective actions when appropriate to respond to the public's concerns.

Since the reunification, Hong Kong has been faithfully implementing the principles of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" in accordance with the Basic Law. As a special administrative region of the country, Hong Kong has given full play to the advantages of "one country, two systems", while maintaining its characteristics as an international city, steadfastly safeguarding the rule of law, maintaining openness in society, promoting diverse development, as well as strengthening our status as an international contact point.

Deputy President, the SAR Government, as represented by the Secretary for Transport and Housing, the Secretary for Food and Health and me today, will

listen to the views of Members from different perspectives. We will respond to the views of Members specifically later.

Thank you, Deputy President.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Deputy President, Mr Gary FAN's motion and the amendments proposed by other Members have put forward many views on the concept of formulating government policies according to the "putting Hong Kong people first" principle. Here I will focus on giving an overview about the positioning of the Government's housing policy.

The housing policy in Hong Kong is premised on the principle of "putting Hong Kong people first". Public housing units are allocated to those people who have lived in Hong Kong for at least seven years and have made Hong Kong their home. As regards private housing, priority will also be accorded to addressing Hong Kong people's housing needs under the present situation of a tight supply.

In respect of public rental housing (PRH), one of the objectives of the Hong Kong Housing Authority (HA) is to provide PRH to low-income households in Hong Kong who cannot afford to rent private housing flats. As PRH are heavily subsidized by public funds, households composed of local residents will be given priority in allocation. PRH applicants must be 18 years of age or above. The applicant and his/her family members must be residing in Hong Kong and have the right to land in Hong Kong without being subject to any conditions of stay. Their income and asset value must not exceed the relevant limits and they must not own any domestic properties in Hong Kong. At the time of allocation, at least half of the family members included in the application form must have lived in Hong Kong for seven years and all family members are still living in Hong Kong.

This residence requirement ensures that the housing needs of low-income households in Hong Kong will be addressed first, and at the same time help new immigrants, including Hong Kong residents' spouses and children from the Mainland, to integrate into the community as soon as possible.

Meanwhile, the Government sees the needs of low and middle income households to purchase their own homes but they cannot afford the housing units in the private market. Hence, the Home Ownership Scheme (HOS), which is subsidized by public funds, is an important channel for these people to acquire their own homes. As such, the resumption of the HOS has become a regular practice of the incumbent Government's housing policy.

It has always been the Government's priority to address Hong Kong people's home ownership needs by means of HOS flats. In the HA's Interim Scheme extending the HOS Secondary Market to White Form buyers and the Sale Programme of Surplus HOS Flats Phase VII launched respectively in January and March this year, a condition that the applicants must comply with the residence requirement was included. We also plan to include this requirement as one of the eligibility requirements in the future sale of new HOS flats. As for the Green Form applicants, as they must be PRH tenants or are eligible to apply for PRH, generally speaking they have already met the aforesaid residence requirement.

Apart from the HA, the Hong Kong Housing Society (HS) also provides rental units for low-income households. The HS adopts the same practice as the HA, it also addresses the housing needs of Hong Kong people first in the allocation of rental units and requires applicants to comply with the seven-year residence requirement.

In respect of subsidized housing for sale, when the HS put up the Greenview Villa for sale in December 2012, it also stipulated that White Form applicants had to comply with the residence requirement. The HS expects the residence requirement will continue to be applicable to future sales of subsidized housing flats.

Apart from PRH units and HOS flats, in respect of the supply of private housing, the incumbent Government has stressed time and again that in face of the current tight housing supply, priority should be accorded to addressing the housing and home ownership needs of Hong Kong permanent residents. The Government introduced two rounds of demand-side management measures late last year and early this year, including the Buyer's Stamp Duty (BSD), to cope with the overheated property market and reduce the risk of a property market bubble, as well as to accord priority to addressing the home ownership needs of

Hong Kong permanent residents in the face of the present tight supply. Therefore, Hong Kong permanent residents are exempted from the BSD.

According to the statistics of the Inland Revenue Department, after the introduction of the demand-side management measures, among all residential property transactions, the ratio of buyers being Hong Kong permanent resident identity card holders rose to 95.2% between January and September this year, an indication that the measures had helped the Government in achieving the policy objective of according priority to addressing Hong Kong permanent residents' home ownership needs.

The demand-side management measures have started to yield results in cooling down the overheated property market and curbing the speculation by non-Hong Kong permanent residents. In the first 10 months in 2012, the overall rise in property price was 24% and the price at that time had increased by 114% over its 2008 trough. After the announcement of the enhancement of the Special Stamp Duty and the introduction of the BSD in October 2012, the property market cooled off immediately and the rise was slowed down. Although the property market showed signs of heating up again early this year with property prices rising 2.7% on average in the first two months, after the introduction of the second round of demand-side management measures, the market was stabilized. Between March and August, the overall property price rose 0.4% each month on average. However, with the present property market still at risk of fluctuations and the uncertainties involving the external economic environment, the Government will continue to watch the market closely and will not slacken its efforts to stabilize the property market.

As regards the "Hong Kong property for Hong Kong people" policy mentioned by Mr Gary FAN, I will make a response after listening to the speeches of other Members.

Various opinion polls have shown that housing is the most important livelihood issue for the general public, and the Government fully understands the people's housing demands. As I have said, the relevant application requirements for PRH and HOS have already ensured that Hong Kong people are given the priority. In respect of private residential housing, the Government has introduced demand-side management measures, including the BSD, to increase the costs of purchasing residential properties by non-Hong Kong permanent residents, so as to safeguard Hong Kong permanent residents' chance for home

ownership. At the same time, the Government will substantially increase the supply of public and private housing to address Hong Kong people's needs.

With these remarks, Deputy President, I will give an integrated response to the views of all Members who speak on the motion and the amendments. Thank you, Deputy President.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Deputy President, in today's debate, it is mentioned in the original motion and various amendments that the Government should adhere to the need to "put Hong Kong people first" in formulating policies. In respect of healthcare services, the public healthcare sector, being the foundation of our healthcare system, has always given priority to serving local residents. The Government has invested considerable resources in this connection; our recurrent expenditure on healthcare services amounted to \$49 billion in 2013-2014, which enables the Hospital Authority and the Department of Health to provide local residents with quality public healthcare services at low charges. For instance, with large amounts of Government subsidies, a local resident only needs to pay \$100 for a general bed in a Hospital Authority hospital. The Government subsidized 98% of the cost of services which exceed \$4,600.

Of course, all of us, including non-Hong Kong residents, have the humanitarian and moral responsibilities to help people in times of need. Under special circumstances, such as when the patients' conditions are at stake, the public healthcare sector will also provide services to non-Hong Kong residents. The purpose of establishing the Hospital Authority is to serve Hong Kong people, it will only provide healthcare services to non-Hong Kong residents when there is still capacity to provide service. In providing healthcare services to non-Hong Kong residents, they will be charged according to the principle of cost recovery. In other words, healthcare services provided to non-Hong Kong residents are not subsidized by the Government and will not affect healthcare services for local residents.

I believe some Members may have other comments on the specific implementation of individual healthcare policies or the policy areas of other Policy Bureaux. I will listen to the remarks of Members before giving my concluding response.

Thank you, Deputy President.

**MR CHRISTOPHER CHEUNG** (in Cantonese): Deputy President, the recent controversies about competing for school places by "doubly non-permanent resident students", the scrambling for properties resulting in soaring prices, or even the earlier panic buying of powdered formula, as well as the overcrowdedness at tourism spots and the shopping frenzy caused by Individual Visit Scheme (IVS) visitors have indeed caused much inconvenience to the daily life of Hong Kong people, and have also become matters of public concern.

I consider that it is natural to protect the rights of Hong Kong people and basically, there is nothing controversial about "putting Hong Kong people first" in policy formulation.

As a matter of fact, we share a kinship with our Mainland compatriots and as the people of the Chinese nation, we should handle our differences with the mentality of being members of the same family. At the same time, we should also reflect on the fact that Hong Kong itself is a migrant city, and the younger generations born in Hong Kong should not forget that their parents largely came from the Mainland, sharing close ties with family and friends in the Mainland which cannot be severed completely. Hence, we should not discriminate against new arrivals or alienate them; instead, we should proactively help them integrate into our society.

Deputy President, for this reason, the Business and Professionals Alliance for Hong Kong and I very much agree with the amendments proposed by three Members of the pan-democratic camp, for they have taken a relatively mild, yet proactive and positive attitude in addressing the conflicts. Take for example the amendment proposed by Mr Albert HO. He calls on the various sectors not to have any discriminatory mindset on and perception of new arrivals and visitors, and definitely not to make discriminatory remarks to intensify social conflicts. While stressing the need to ensure Hong Kong people's interest, Dr Fernando CHEUNG also opposes any xenophobic and discriminatory remarks on new arrivals or other ethnic groups, as I have just reiterated. His vision is much more holistic than that of the original motion.

Moreover, we consider that Mr Kenneth LEUNG has hit the target when he calls on the Government to ensure proper development of both software and hardware facilities so as to meet social needs. In recent years, many conflicts which arise in the course of our dealings or exchanges with the Mainland compatriots are mainly caused by inadequate planning or lack of vision on the

Government's part to dovetail with the overall development of society. As the construction of tourism facilities, as well as education, healthcare, housing and communal infrastructure all lag far behind, the conflicts between Hong Kong people and our Mainland compatriots have been intensified. We should not blame the Mainland compatriots for problems of our own.

Take for example the IVS which is a matter of grave concern for all of us. I think no place on earth would adopt a closed-door policy against visitors because it is not only detrimental to social and economic development, but also cultural exchanges. Moreover, after the outbreak of SARS back then, had it not been the IVS and other preferential policies taken by the Central Government, Hong Kong's economy would not have rebounded so rapidly. Why can we not act more proactively by exploring how to increase our receiving capacity, upgrade and develop more tourism spots, diversify the tourists to other non-prime tourism spots, and construct more shopping points in districts close to the border, so as to facilitate transit tourists for shopping?

I consider that our relationship with the Mainland compatriots is, after all, that of the same flesh and blood, and the Central Authorities have all along been very supportive for Hong Kong. Apart from not having to bear any military expenditure, Hong Kong does not need to hand over our fiscal surplus to the Central Authorities. On the other hand, the Central Authorities have introduced various preferential policies in recent years, which are all beneficial to Hong Kong. Come to think of it, had it not been for these preferential policies, could Hong Kong's economy attain the present achievements? Our strong competitor, Singapore, has all along been eyeing with envy our unique advantage of being able to rely on the Mainland. Given our close proximity to the Mainland, should we not consider how to capitalize on this edge and enhance our competitiveness? We should not give up this golden opportunity, otherwise we will only be ridiculed by our competitors and our own advantages will be undermined. That will only bring disadvantages but not advantages to the rights of Hong Kong people.

Thank you, Deputy President.

**MR CHRISTOPHER CHUNG** (in Cantonese): Deputy President, this motion moved by Mr Gary FAN today is loaded with the original sin of racial and ethnic discrimination, no matter what perspectives are adopted. This is because Mr

Gary FAN, Ms Claudia MO and others have published newspaper advertisements some time ago, blaming the new arrivals for many problems in Hong Kong and even advocated the idea of "reducing population at source". Some of the amendments also make references to negative labels such as "arrogant with their wealth" and "making Hong Kong mainlandized". As Hong Kong claims to be a metropolis in Asia where East meets West with integration of Chinese and Western cultures, it is indeed shocking and extremely regrettable that a motion blatantly discriminating against the Mainland compatriots has been moved in its Council. Moreover, we are most skeptical as to who is the thief crying to catch the thief? On the one hand, it is claimed that Hong Kong's core values should be safeguarded, but on the other hand, our core values are being undermined incessantly.

Deputy President, the motion moved by Mr Gary FAN today as well as the amendments proposed by some Members of the pan-democratic camp are loaded with anti-Chinese sentiments and antagonism against our Mainland compatriots. Everyone has to undergo political vetting to see if he is a national security personnel, and human rights are trampled upon which is a blatant violation of universal value. They propose this xenophobic and discriminatory motion against new arrivals in order to proclaim their fascist remarks in this Council.

Since the reunification, integration between the two places is a historical mainstay, and many Hong Kong people are uneasy and perplexed. On the one hand, they want to preserve the original political and cultural uniqueness of Hong Kong, but on the other, they do not resist social exchanges between the two places and economic integration. In fact, nowadays, Hong Kong is inseparable from the Mainland. The opposition camp repeatedly exploits petty incidents to incite Hong Kong people's anti-Mainland sentiment, which is undoubtedly doing a disservice to Hong Kong. Just look around us, Hong Kong's political system, human rights and the rule of law are all safeguarded by the Basic Law; our finance and economy depend on the listing of Mainland enterprises in Hong Kong, the Individual Visit Scheme and CEPA; our basic living necessities, foodstuffs, cheap clothing and daily necessities are all supplied by the Mainland, and even our natural gas is also supplied under the West-East Pipeline project. The close tie between the two places is inseparable. Hong Kong's integration with China, its Motherland, is predated by history. I can tell Members of the opposition camp that no matter you like it or not, this is not something people can change with their will.



Nowadays, many people in the opposition camp advocate localism in the press, and some people, clinging to colonialism, even try to cause division by continuously telling Hong Kong people the differences in culture and habits of living of the two places. In fact, we can resolve these cultural differences with more contacts, understanding and accommodation, not to mention that Hong Kong had been a society where Chinese and foreign residents thrive alongside each other. During the colonial era, despite the huge cultural difference between Chinese and foreigner residents, both parties lived together in harmony. Yet, at present, the opposition camp keeps inciting the conflicts between the two places, and magnifying indefinitely the differences, what are their ulterior motives? The answer is that they want to jeopardize "one country, two systems" by creating a false impression that Hong Kong's reunification has failed.

Regarding the subject of "putting Hong Kong people first" under discussion today, we should first of all clarify the definition of "Hong Kong people". Generally, the so-called new arrivals, "singly non-permanent resident" or "doubly non-permanent resident (DNR)" babies, regardless of the means through which they obtain their right of abode in Hong Kong, they are actually Hong Kong people. Moreover, a large proportion of people in our overall population are not born locally. Even if you are born in Hong Kong, your parents are new immigrants from the Mainland, are they not Hong Kong people? Hence, in formulating policies, there is absolutely no way the Government should discriminate against Hong Kong people or divide Hong Kong people into different classes.

On account of the above reasons, we should not close the door against DNR children who come to study in Hong Kong because even though their parents are not Hong Kong people, they are *bona fide* Hong Kong people. Hence, the relevant problems can only be resolved through diversion, increasing the supply of school places and adhering to the principle of vicinity. Regarding the shortage of powdered formula, the current "powdered formula restriction order" implemented by the Government has safeguarded priority supply of powdered formula for Hong Kong babies. Therefore, these policies must benefit all Hong Kong people and should not turn into weapons of discrimination against Hong Kong people.

Considering the problem at source, 200 000 DNR babies have suddenly become Hong Kong people over the past 13 years, imposing a heavy burden on society. All the problems were caused by the opposition camp, including Martin LEE, Margaret NG and Audrey EU. As they were dissatisfied with the

Government's seeking an interpretation of the Basic Law in relation to the NG Ka-ling case in 1999, they urged the legal profession to stage a "procession in black clothes" and proclaimed that "the law was dead"; consequently, the SAR Government dared not seek an interpretation of the Basic Law in relation to the CHONG Fung-yuen case in 2001. As a result, the original definition of Hong Kong residents as stated in Article 24 of the Basic Law cannot be effectively implemented, leading to an influx of Mainland pregnant women to give birth in Hong Kong.

Hence, faced with the influx of DNR children into Hong Kong today, the opposition camp should in fact shoulder its historical responsibility, rather than discriminate against them, exclude them and close our door on Mainland Hong Kong children.

With these remarks, Deputy President, I oppose the fascist motion moved by Mr Gary FAN.

Thank you, Deputy President.

**MR CHEUNG KWOK-CHE** (in Cantonese): Deputy President, the scramble for resources between Hong Kong people and Mainlanders has been intensifying in recent years. To list but a few examples, we have the problem of non-local pregnant women giving birth in Hong Kong, followed by the shortage of powdered formula due to snapping up by Mainlanders, as well as the soaring property prices due to the frantic purchase of Hong Kong residential properties by Mainlanders. Apart from the aforesaid problems, the substantial increase in places for non-local students in local universities has diluted the scarce resources in teaching, hostels and campus facilities. Other problems include shopping centres in North District being totally transformed to serve Mainlanders; the number of pharmacies outnumbering other shops, as well as small shops in Mong Kok and Causeway Bay being forced to cease operation. These are changes relating to Mainlanders which have dealt a direct blow to local people's livelihood and triggered severe anger among them. All these are caused by the Government's failure to properly address the relevant problems. As pointed out by other colleagues in their amendments, the motion debate on "putting Hong Kong people first" today has given rise to the discussion on "whether there is discrimination".

Speaking of "whether Mainlanders are being discriminated", I must point out that the situation of Hong Kong people directing against Mainlanders is entirely caused by the SAR Government because the Government takes the lead to discriminate against Mainlanders from stem to stern. What I am saying is that since the reunification, the Government has all along advocated that "Comprehensive Social Security Assistance (CSSA) plus abuse equals to new arrivals from the Mainland". Unfortunately, the Government has been very successful in getting this message across, making Hong Kong people discriminate against new arrivals from the Mainland. Prof CHAN Kam-wah of The Hong Kong Polytechnic University commented in an article published 10 years ago, "After the reunification in 1997, constitutional reforms have slowed down and the core of power has undergone substantial changes. The Government is faced with another 'legitimacy crisis'. A number of policy changes initiated by the SAR Government are not well accepted by the public. To take forward its policies more effectively, the Government often adopts the approach of 'exclusive governance', which means projecting the negative image of people affected by a particular policy or vilifying people who benefit from the policy in order to gain public support. The reduction in CSSA is one of the many examples". In another example, the Government tried by every means to vilify new arrivals by exaggeratedly announcing that 1.67 million Mainland children of Hong Kong residents would come to settle in Hong Kong. Such tactics can help secure public support in Government policies in the short run. However, social division will be created in the long run, thereby causing more serious social problems that need to be addressed by using even more resources in the future.

Deputy President, looking back to 1998 when the Asian financial tsunami broke out in Hong Kong, people's livelihood was seriously affected and the number of CSSA applicants would undoubtedly increase. New arrivals were definitely the first group to be affected in view of their difficulties in adapting to the new environment and getting employment. However, the Government has not made efforts to help them and on the contrary it took the opportunity to review the CSSA Scheme. The Social Welfare Department (SWD) often makes public fraud cases on CSSA and listed out extreme cases in order to smear CSSA recipients, thus creating the image that "receiving CSSA is better than being a wage earner". A mailing chit is also designed to encourage the public to report fraud. Until today, there is still a Special Investigation Section under the Social Security Branch of the SWD which specializes in investigating abuse cases on CSSA. This Section comprises 120 staff and the expenditure incurred was \$40 million every year. Nonetheless, a study by the Oxfam reveals that the

number of fraud cases on CSSA has remained very small since the introduction of the CSSA scheme. Basically the percentage is only 0.3%. Some old colleagues may recall that former Director of Social Welfare, Mr Stephen FISHER, clearly pointed out at a Council meeting in 2009 that fraud cases on CSSA only accounted for a very small number. Compared with other countries, the situation is not particularly serious. But what hurts Hong Kong most is the misunderstanding that CSSA is being seriously abused. Although the percentage of new arrivals receiving CSSA has already dropped drastically following the residence requirement introduced in 2004, people still give the new arrivals an unfriendly look.

Deputy President, after the reunification, the SAR Government has become fully inclined to the Mainland in exchange for economic development and neglected the livelihood of the grassroots. Furthermore, the increasing control imposed by the Central Government has undermined the basic rights of Hong Kong people. These are the crux of the abovementioned problems. In the past 50 years of development, the generations who were born and brought up in Hong Kong have been baptized by western values. They have built up strong concepts such as the rule of law, democracy and freedom. Having witnessed the endless corruption, lawless state, suppression of democracy and infringement of human rights in the Mainland, an "anti-Mainlandization" sentiment has thus been evoked. Social movements such as opposing the construction of the Express Rail Link, opposing Mainland pregnant women giving birth in Hong Kong, opposing the scramble for powdered formula, opposing brainwashing and opposing the incorporation of television companies also emerge. The Government itself is to blame for all these.

Deputy President, Hong Kong people include both permanent residents with the right of abode and non permanent residents. Therefore, the meaning of "putting Hong Kong people first" is very clear. But a prevalence of an "anti-new arrivals" sentiment in the community has led to a theory of "new Hongkongers" by Mainland media. No matter which argument is put forward, it will only create social division and is not conducive to the future development of Hong Kong. I hope that the Government will see clearly the social circumstances and step up its efforts and resources to achieve mutual inclusion in the community.

Deputy President, I so submit.

**MR YIU SI-WING** (in Cantonese): Deputy President, with the continuous development of the global economy and enhanced convenience in transport, most countries in the world are relaxing their immigration restrictions, and it is an irreversible trend that demographic movements are speeding up. Apart from a few closed territories, any free, civilized and open economies will not, for no reasons, restrict normal immigration, travelling and exchange activities. Owing to the differences in the level of liberalization, cultural backgrounds, lifestyles, as well as verbal expression among people of different places, when there is a large number of incoming visitors, they may inevitably affect our daily lives and it is a problem faced by an open society. Hong Kong is a cosmopolitan city known for its openness and the Government has all along promoted a hospitable culture. The vast majority of people agree that Hong Kong should be a city of hospitality. Some Members however have always made discriminatory comments against the Mainlanders, giving people the impression that Hong Kong is going against the global trend by selectively restricting the entry of Mainlanders, pushing Hong Kong into the dead end of self-protection and self-closure.

As we all know, since the Mainland began to reform and open up, its economy has taken off rapidly. Apart from meeting the basic daily needs of 1.3 billion people, the country has a great demand for travelling. According to the statistics published by China Tourism Academy, 72.55 million people departed from the Mainland in the first three quarters of 2013, an increase of 18% as compared to the previous year. The amount spent was US\$94.6 billion, an increase of 23.1% as compared to the previous year. The World Tourism Organization stated that China has become the world's biggest exporter of tourists. More and more countries and territories welcome the visits of Mainlanders, in the hope of tapping on this enormous market. Even Taiwan, the United Kingdom and the United States which have somewhat distrusted China are now adjusting their immigration policies to welcome tourists from the Mainland with open arms.

Hong Kong leverages on the Mainland for support and the exchange between the two places has continued to increase before and after the reunification. The concessionary policies Hong Kong has been enjoying under the framework of the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) are unmatched by any other countries or places. However, recently some people have played up the conflicts between China and Hong Kong and laid the blame on the Individual Visit Scheme (IVS) introduced

by the Mainland. They are in fact putting the horse before the cart. The main problem lies in the lack of planning by the Government, leading to insufficient tourism facilities to effectively divert the tourists and as a result the daily lives of the residents are affected. Therefore, we should not discriminate against our Mainland compatriots. On the contrary, we should put forward constructive solutions and welcome visitors from the Mainland as well as from all other places in the world in a tolerant and hospitable manner.

Deputy President, China is a vast territory with abundant resources. There are great gaps between city and rural dwellers and people of different places have very different habits and customs. The uncivilized behaviours of some Mainland visitors have indeed attracted strong criticisms and the Mainland authorities are aware of these problems and they have conducted constant reviews. The Tourism Law of the People's Republic of China that came into effect on 1 October has made specified requirements, urging the people to respect the local customs and cultures when travelling abroad. Hong Kong has been open to the world for a long time. As Hong Kong people have the same roots as the Mainlanders, we should guide and educate the Mainland visitors in a friendly manner. We are unknowingly influencing the Mainlanders with our civilized behaviours such as waiting in line for various means of transportation, not littering and speaking politely. Our Mainland friends whom we have close contact with always praise the behaviour of Hong Kong people and I believe that they have brought these positive messages back and spread them widely to different places. As a matter of fact, we can see that the manners of the residents of many big cities, especially the Pearl River Delta Region, are improving. Hong Kong has indeed made a positive impact on them through publicity and education.

Deputy President, as Members, how should we handle the recent conflicts between China and Hong Kong? Should we passively call Mainland visitors "locusts" and "people of the strong nation", inciting conflicts between the two places with exaggerated and satirical remarks, and even calling upon the Government to restrict the entry of Mainlanders by administrative means? Or should we positively resolve the problem in an objective and pragmatic manner in response to what are happening?

A few months ago, two Legislative Council Members and several District Council members of To Kwa Wan constituency, from both the pan-democratic and pro-establishment camps, called for my help to solve the problem of

excessive numbers of Mainland shopping tours in the district which affect the daily lives of local residents. I visited the district several times to understand the real situation. Members of the related sectors and government representatives from the departments concerned also joined in. With the joints efforts of everyone, we formulated some short-, medium- and long-term solutions which have alleviated some of the problems faced by residents and members of the sectors. I greatly appreciate and support the attitude of these Members who have positively got the job done in helping the people.

Deputy President, there is nothing wrong with safeguarding the local cultural characteristics and upholding Hong Kong's core values, and "putting Hong Kong people first" in formulating policies that involve the allocation of public resources, but if someone purposely incite conflicts between China and Hong Kong or even take actions regardless of the impact on the economy of Hong Kong, I will surely oppose and hope that the Members who wish to incite conflicts to think twice.

Deputy President, I so submit.

**MRS REGINA IP** (in Cantonese): Deputy President, concerning this motion on "putting Hong Kong people first" today, Mr Michael TIEN from our New People's Party has proposed an amendment. However, after listening to the speeches of Mr Gary FAN and Ms Claudia MO, I do not think I can support the original motion or any of the amendments because I find that Mr FAN, Ms MO and some other Members are all unable to define who "Hong Kong people" are. I notice that Mr Gary FAN has not said "Hong Kong people" must be born in Hong Kong. I only heard him talk about having to safeguard the core values.

The term "core values" is a popular jargon but what exactly are the "core values"? Mr FAN has not given any definition, and neither do I believe there is a consensus in society. Among the different people I am acquainted with, they all have different core values. Over a decade ago, I worked in the Security Bureau and participated in the work of implementing the One-way Permit Scheme which allowed Mainland residents to settle in Hong Kong. Many people, including some Members, Ms Jackie Hung of the Justice and Peace Commission of the Hong Kong Catholic Diocese, Mr Andrew TO Kwan-hang, Ms Cyd HO and Bishop Joseph ZEN paid me visits. Their core value was

family reunion and they strived to help Mainlanders to reunite with their families in Hong Kong as soon as possible. That is one of the core values.

Paging through a gossip tabloid in my office this morning, I also came across some interesting core values. An article is about the conditions for the ideal mate of Linda CHUNG, an actress of the Television Broadcasts Limited, using a points-based test to assess two actors who pursue her, Philip NG and Ruco CHAN. The score chart is as follows: the one who owns a flat wins and scores one point, while the one who rents a flat loses; the one who has a \$1.3 million Jaguar sports car wins and scores one point, while the one who has no car loses; the one who holds a masters degree from a university in the United States wins, while the one who is a graduate of a Hong Kong secondary school loses; the one who is the leading actor in a television drama wins, while the one whose father is a martial arts coach of "Wing Chun" loses.

Deputy President, these are also core values, aren't they? What kind of values are they? That is, it is good enough if "I am ugly, but I have a flat and a car". This is also the core value of some Hong Kong people. Therefore, there is actually no consensus in society regarding what our core values are. Without a consensus of what our core values and what "Hong Kong people" are, there is nothing to base on to discuss the concept of "putting Hong Kong people first".

Since this motion has been proposed in this Council, I notice that a scholar whom I admire, Prof YEP Kin-man of the SynergyNet, has written an article titled "Politicians should have a moral bottom line" in response. Let me quote from it. He says, "Hong Kong is unique in the sense that it is situated next to the second biggest economy in the world and the difference in economic strengths between the two is so great that it has easily made us dependent on the Mainland and our bargaining power is greatly reduced. This unequal relationship also appears in the political strata. Being only a region of China, Hong Kong can in no way totally ignore the policies, statutes and needs of the Mainland because there is always a certain form of subordination. Hence, it is very hard to convince the local residents that the Chief Executive can completely stand on Hong Kong's side and goes all out to safeguard its interest."

Prof YEP points out that this is a fact. Of course, since the CHONG Fung-yuen case, over the past 10-odd years, many "doubly non-permanent resident babies" were born in Hong Kong, leading to the scrambling for hospital



beds, school places and powdered formula, which have caused great public grievances. This is also a fact. Prof YEP makes the following remarkable remarks, "But if someone regards the public grievances as political capital and deliberately incites the public, turning their grievances into hatred, and blames all problems on the China-Hong Kong conflicts, it will be another problem. As political leaders, they are duty-bound to reflect public views or even force the Government to respond and alleviate the people's hardships. Politicians should have the passion and determination to achieve their personal political goals but at the same time, they must be calm enough to detach themselves from the exterior phenomenon and have a sense of proportionality. They should not be dragged along completely by public sentiments or their personal viewpoints. To have a sense of proportionality, it is most important to respect the facts and avoid purposely distorting or even exaggerating the social conflicts to suit their own arguments. They should avoid acting for the sole purpose of making it convenient for them to mobilize the crowds or merely to meet their own vanity."

I think these comments of Prof YEP may, to those who advocate "putting Hong Kong people first" today ... Of course, we understand their concern whether Hong Kong people would be put first, because there is the problem of an unbalanced supply and demand of social resources, which has given rise to great public grievances. To that, both the Government and the Legislative Council have to pay due attention. However, to attribute purposely public grievance to China-Hong Kong conflicts will not be beneficial to Hong Kong. Prof YEP then points out, "If politicians wag their tongues freely and casually take advantage of these cross-boundary families, does it fit their long-standing gesture of caring for the underprivileged and striving to alleviate poverty? Behind these "anti-communization" viewpoints, they are harbouring the idea of pure Hongkongers, that is, everything in Hong Kong should belong to real Hongkongers with pure origin, all other people have no right to share and they should not come to disrupt the order here."

In fact, Prof YEP thinks that the core values of Hong Kong people are developed from our acutely competitive environment, which drives them to push themselves forward in an almost self-abusing manner. They live in fear, trying hard to improve their competitiveness. That is the cruel jungle law of survival of the fittest. This is the spirit that helps Hong Kong succeed in the past. Today, if we do not work hard to meet the challenges but refuse to make progress, it is absolutely not in the interest of Hong Kong people.

Deputy President, in view of this, I will not support today's motion or any of the amendments because they fail to define what "Hong Kong people" or what our "core values" are. Thank you.

**MR MA FUNG-KWOK** (in Cantonese): Deputy President, in the motion of urging "the Government to proactively handle China-Hong Kong conflicts, and to adhere to the need to 'put Hong Kong people first' in formulating policies", the wordings appear to be rather neutral but the impacts are in fact far-reaching. We must think twice before taking any action.

In proposing "to put Hong Kong people first", we must first clearly define "Hong Kong people". In fact, there is no definition and such term does not exist. Officially, there is only "Hong Kong resident" status, which are categorized into "permanent resident" and "non-permanent resident" who have different rights and obligations.

All along, the definition of "permanent resident" has been controversial. In view of the demographic changes of Hong Kong, the Government is currently conducting a public consultation on population policy to discuss ways to deal with the problems of ageing population and manpower shortage in Hong Kong. If more Mainland talents and professionals can be attracted to Hong Kong, a review on the current seven-year residence requirement can facilitate our early absorption of this new pool of manpower, thereby enhancing the competitiveness of Hong Kong.

Deputy President, recently the idea of "new Hongkongers" has become a hot topic in the community. Regarding the suggestion that the future development of Hong Kong lies on "new Hongkongers", I think it is meaningless and will cause division. Over the past 170 years, Hong Kong residents have never been distinguished by the order of precedence or between the old and the new. The development of Hong Kong from a small fishing village to an international cosmopolitan is the fruit of strenuous efforts on the part of our grandparents who migrated from the Mainland to Hong Kong in different times. Members of the Hong Kong community come from every corner of the world with different nationalities, races, cultures, languages, histories, traditions, customs and religions. Being inclusive and willing to help one another, we are able to foster a rich and unique cultural substance where East meets West. Hong

Kong is literally a melting pot of different cultures and this is where its strengths lie.

In recent years, the conservation of local culture and collective memory has been a concern in the community. Local sentiments have become increasingly strong and campaigns on promoting the use of Cantonese and traditional Chinese characters have emerged. Nevertheless, the cultural differences between the two places are being exaggerated. Conflicts arising from the integration of the two places are brought up to the extreme, thus giving rise to a fight between Cantonese and Putonghua, and between traditional and simplified Chinese characters. Languages are established by usage. In fact the two dialects or the two sets of Chinese characters are not mutually exclusive or contradictory.

(THE PRESIDENT resumed the Chair)

I would like to give my severe criticisms on a joint petition early last month by over 300 people including Mr Gary FAN who moves the motion today and another Legislative Council Member. They published an advertisement in a Hong Kong paid newspaper, a Hong Kong free newspaper and a Taiwan newspaper criticizing that there are too many Mainland visitors and One-way Permit (OWP) holders coming to Hong Kong. They hurl the slogans of "reducing population at source", "anti-integration" and "anti-communism". I am afraid I do not condone such discriminatory acts and perspectives towards new arrivals.

It is true that some Mainland visitors have uncivilized behaviours and fail to abide by the rules. They jump the queues, eat on the public transport and foul everywhere. But the fact is that such phenomena were not uncommon in the Hong Kong community in the 70s. So we should not tar everybody with the same brush by attaching a stigma to all our Mainland compatriots, teasing them with humiliating names such as "locusts", expelling Mainlanders coming to Hong Kong, or even spraying salt into their wound. For instance, a Mainland female student studying at the University of Hong Kong died in a car accident, and she was accused for being a "locust". Such remarks are indeed irrational, inhuman and insulting which should be stopped and reprimanded.

An indiscriminate objection to China-Hong Kong integration, provocation of China-Hong Kong conflicts, hostility to all people and business related to the Mainland, or even instigation of "de-chinesization" and "de-mainlandization" will only damage Hong Kong's reputation and undermine the affection between people in the two places.

President, Hong Kong is an international cosmopolitan as well as a shopping and tourist paradise famous for its professional and quality services. We should try our best to remind visitors to abide by local rules, instil good civic awareness among them and mediate the conflicts between the two places, instead of rejecting visitors or foreign investors altogether and setting boundary limitations, because this is just like throwing away the apple because of the core.

In recent years, a large number of Mainland compatriots coming to Hong Kong have led to the scrambles for obstetric beds, school places, job opportunities, housing, MTR rides, powdered formula, and so on. In response, the Government has adopted measures to deal with the problems caused by cross-boundary students, Mainland parallel traders, and Mainlanders purchasing properties in Hong Kong. Such measures include the "powdered formula restriction order", the policy of "Hong Kong property for Hong Kong people" and the halting of multiple-entry permit issuance for non-permanent residents of Shenzhen. These are all special short-term arrangements adopted for the time only and can only temporarily relieve the current social conflicts.

President, while our social system should put priority to meeting local needs, we have to be very careful as an over-emphasis on "putting Hong Kong people first" or even politicizing such concept and demonizing Mainlanders will only bring about the negative image of protectionism and isolation. As such, I do not agree to apply across the board the principle of "putting Hong Kong people first" in all policies because this is in serious deviation from the fair and open policy that has been adopted by the Government.

Excluding all Mainlanders and foreigners by rejecting visitors, investors as well as foreign students altogether may deal a blow to the local economy and various trades. This will also undermine the humanity and cultural exchange of Hong Kong with the world and the Mainland. The impacts are very far-reaching. We will have everything to lose and nothing to gain. The foundation of Hong Kong's free economy laid over a century will be destroyed.

President, the wise way to maintain stability in the long run is to critically review the existing policies and handle seriously the influx of Mainlanders. The Government must act in the light of circumstances and maintain flexibility in its governance. Many conflicts only occur at a particular time and in a particular place. When the incidents pass, the circumstances will change. On the contrary, if the Government sticks blindly to the policy of "putting Hong Kong people first" and makes the policy absolute, it may only achieve the opposite result.

As such, in my view, the concept of "putting Hong Kong people first" should be applied in a prudent and limited way. Both sides should be taken into consideration in formulating policies so as to avoid discriminatory measures that will deepen social conflicts.

President, I so submit and I support the amendments of Mr Kenneth LEUNG, Mr Michael TIEN, Mr Albert HO and Mr IP Kwok-him.

President, thank you.

**DR CHIANG LAI-WAN** (in Cantonese): In 1945, the population of Hong Kong was only 500 000. After the war, more and more Mainlanders migrated to Hong Kong and now there are over 7 million people in our city. In other words, more than 6 million people are new immigrants or their children. New immigrants have made great contributions to Hong Kong, which has gradually evolved from a small fishing port with undeveloped economy to a world trading city.

We understand that today some colleagues propose the idea of "putting Hong Kong people first" in view of the recent problems of insufficient school places and even obstetric beds due to "doubly non-permanent resident children" born in Hong Kong. Nonetheless, we should not introduce the policy of "putting Hong Kong people first" simply because of this, or even reject our Mainland friends to come to Hong Kong. Having said that, I think the Government has the responsibility to ensure that some basic public resources can at least meet the needs of Hong Kong people; otherwise grievances will arise in our society.

Let me get back to the idea of "putting Hong Kong people first" proposed by Mr Gary FAN today. I think it is somehow similar with the idea of "putting British people first" in the old days. I remember some elderly have told me that

in those years, when Chinese people (not yet called Hong Kong people) came to Hong Kong, many of them were not allowed to live on the Hong Kong Island. They were only restricted to live in Kowloon except for those who worked for British people. Even so, they were not allowed to live at the Mid-levels, not to mention the Peak, they could only live at the foot of the hill. It was only after many years that Hong Kong could finally go under the rule of Chinese people. Now we make accusations because we do not fully understand the situation. This is definitely unfair and improper.

For example, just now Mr Gary FAN has mentioned that the Mainland is exporting migrants in an organized manner and will subsequently conquer Hong Kong. This is indeed an irresponsible remark. We should bear in mind that among the current 150 One-way Permit quotas granted each day, more than 90% are given to the family members of Hong Kong people — their wives, husbands or children — for reunion in Hong Kong. Only a small number of the quotas are for "talents" admission. As most new arrivals are relatives of Hong Kong people, it is unfair to say that the Mainland has ulterior motive.

Besides, Mr FAN is not quite satisfied with the Individual Visit Scheme (IVS) and he even proposes to withdraw the "multiple-entry permit" scheme. New ideas are brought out every day. However, when one drinks water, he must not forget where the water comes from. The IVS was proposed by Hong Kong to the Central Authorities in 2003, in the hope that a relaxation on individual visits could bring more visitors to Hong Kong, thereby stimulating Hong Kong's poor economy in times of high unemployment rate. So this was a request made by Hong Kong. Now the situation has slightly improved, how can we kick Mainland visitors out? I really do not know what to say. I can only advise Mr FAN not to look at things in his own selfish interests. It is ungrateful to dump someone after using him.

Mr FAN may argue that he is not pinpointing Mainlanders, but people in general, and we should still "put Hong Kong people first" before foreigners. It is even more dangerous to have such an idea. A friend of mine has told me that Hong Kong will be in trouble if politicians propose the idea of "putting Hong Kong people first". In that case, when Hong Kong people travel abroad, they will surely be repelled by the local people there. Then the situation will become "putting Hong Kong people last". When we go through customs, the immigration staff will ask, "Are you Hong Kong people? From Hong Kong?" Then we may need to get to the end of the queue. When we go sight-seeing in

overseas countries, all people from Hong Kong may have to stand at the end of the queue. This is a big joke and has violated equality in our whole society.

I am not sure whether the Civic Party or Ms Claudia MO will support this motion today. If their support is based on the reasons given by Mr FAN, that is, Hong Kong is too small and there is not enough living space, I do not understand why they supported foreign domestic helpers to fight for their right of abode in Hong Kong some time ago. Didn't they know that if they supported foreign domestic helpers in getting the right of abode in Hong Kong, hundreds of thousands of such helpers will be able to stay in Hong Kong? Will this impose no impact on Hong Kong?

It is wise to say that "when China does well, Hong Kong will be better; when China does badly, Hong Kong will be even worse". I hope we can all recognize that Hong Kong people and Chinese people are as close as lips to teeth. Regarding our attitude towards our Mainland compatriots, I would like to share the following tips with Mr Gary FAN: tolerance, harmony, mutual love and understanding.

President, I am resentful of this discriminatory and ridiculous motion and therefore I will certainly oppose and despise it. President, I so submit. Thank you.

**IR DR LO WAI-KWOK** (in Cantonese): President, in view of the increasing contact between Mainlanders and Hong Kong residents, it is not surprising that some misunderstanding and conflicts may arise, owing to our differences in respect of political, economic, social, cultural and life-style. However, the recent problems related to "doubly non-permanent resident (DNR) pregnant women" giving birth in Hong Kong, as well as the scramble for infant powdered formula and insufficient primary school places in the North District have gradually intensified the conflicts between people of the two places. This is worrying and the SAR Government should face up to the situation. It should try its best to ease the discontent and look for more comprehensive solutions.

The conflicts between people of the two places are caused by various complicated factors. One of the main factors is the lack of long-term and forward-looking planning on the part of Hong Kong. Many social facilities have obviously lagged behind and fail to meet increasing demands in the community.

For example, the number of Mainland visitors coming to Hong Kong under the Individual Visit Scheme (IVS), including those on "multiple-entry permit", has been rising continuously, from 9.62 million in 2008 to 23.14 million in 2012. However, the tourism ancillaries of Hong Kong including tourist attractions, control point facilities and shopping networks are yet to be upgraded. Conflicts even arise between visitors and local residents due to overloading of some traditional shopping areas, thereby affecting the daily life of the public. There is another example. During the period from July 1997 to June 2013, around 784 000 new arrivals holding One-Way Permit (OWP) came to Hong Kong. But do the supporting facilities in Hong Kong, including housing, education, vocational training, healthcare services and social welfare keep abreast of the times and help them integrate into the community? If not, a fall in the overall standard of social services due to disequilibrium in supply and demand is inevitable. It is also understandable for those affected members of the public to grumble. In addition, as some politicians and media keep exaggerating these conflicts and even give discriminatory remarks on Mainland visitors and new arrivals, social conflicts in this aspect tend to intensify.

President, the various conflicts mentioned above are not insolvable. For example, the "zero delivery quota" policy has been in force since 2013 under which public and private hospitals will not accept any delivery bookings for DNR pregnant women. As a result, the demand for local obstetric beds has been greatly relieved. Following the "powdered formula restriction order" introduced in March this year, Hong Kong parents no longer need to rush about for infant powdered formula. The stress tests for the powdered formula supply chain are also under assessment. All these prove that if the SAR Government takes a proactive position and adopts corresponding measures in a timely manner, some unnecessary disputes may be settled and the conflicts between the two places arising from their interaction may be dealt with in an effective manner. Of course these short to medium-term measures are only temporary reliefs. To solve the problem at its roots, long-term and holistic planning must be properly made at the macro policy level. Following the publication of the consultation document on population policy on 24 October, corresponding preparations in respect of housing, education, employment, healthcare and social welfare should be made in due course based on the consultation result, as well as the forecast on demographic changes of Hong Kong in the coming 20 to 30 years. More social and economic development should be pursued proactively, such as enhancing various tourism ancillaries in order to strength Hong Kong's capacity to receive international and Mainland tourists.



President, it is unobjectionable to first take into consideration the needs of local residents when formulating government policies, planning social development and allocating public resources. No matter whether it is the "zero delivery quota" and the "powdered formula restriction order" introduced earlier, or the implementation of "Hong Kong property for Hong Kong people" on the two residential sites in Kai Tak granted in June this year, the measures can, to a certain extent, ensure that the services and resources enjoyed by Hong Kong people will not be excessively affected by external factors.

However, we should watch out and avoid going to another extreme by creating exclusion sentiments or attributing the problems found in the course of our social and economic development to new arrivals and visitors from the Mainland. Some politicians and the media have deliberately politicized the problem and instigated the conflicts between people of the two places by making the unfounded accusation of "Mainlandization of Hong Kong". We should reprimand the narrow-minded theories of localism and exclusivism. Among the new arrivals who came to Hong Kong on OWPs in the past 16 years, 98% were either the spouses or children of Hong Kong people. What are the bases for discriminating and excluding them? Mainland visitors come to Hong Kong for shopping. This, on the one hand, reflects that Hong Kong is attractive, and on the other hand brings about considerable economic benefits and job opportunities for tourism, retail and catering industries. Isn't it extremely foolish to do something that is tantamount to driving away our customers?

President, being an international cosmopolitan, Hong Kong should uphold its core values of openness, diversity, tolerance and rationality. No matter whether they are new arrivals or visitors from the Mainland or from other ethnic minorities, we should not take a discriminatory view on them. As Hong Kong is an externally-oriented economy with no natural resources, we must curb exclusion sentiments; otherwise our economy and livelihood will be affected and social harmony will be jeopardized. We will have everything to lose and nothing to gain.

President, I so submit.

**MR VINCENT FANG** (in Cantonese): President, today's motion proposes adherence to the need to "put Hong Kong people first" mainly in the wake of the

spate of incidents, such as local delivery wards crowded with "doubly non-permanent resident babies", competition for school places and parallel traders racing for local resources. Coupled with the series of negative problems arising from the Individual Visit Scheme (IVS), China-Hong Kong conflicts have been intensified. But is this the way to ensure that Hong Kong people can buy their own flats, powdered formula and shampoo, no longer need to compete for school places and wait in long queues in the Hong Kong Disneyland, the Ocean Park and Chinese restaurants? If this is the case, we have indeed made a simple issue too complicated because Hong Kong will then have to face more serious problems, such as substantial increase in unemployment rate and even economic recession. But the worst of all is that Hong Kong might have given up the core values which we have long taken pride in.

To resolve the current China-Hong Kong conflicts, we should focus on the problems and work out a solution together, instead of fuelling Hong Kong people's hostility against the Mainlanders. For example, we have discussed about "doubly non-permanent resident pregnant women" several times in this Council, and the Chief Executive has taken decisive measures as a result. Although we still cannot bring the number of "doubly non-permanent resident pregnant women" in Hong Kong to zero, all local pregnant women can now secure delivery bookings. It is well known that Hong Kong's achievement today is attributable to its renowned free economy. And yet, the original motion proposes that Hong Kong people should be given priority to all benefits. This is a kind of protectionism and is tantamount to tying our own hands. Nowadays, all countries are trying their best to attract investors and tourists, but Hong Kong is acting the opposite by closing the door and imposing restrictions. If I were a foreigner or Mainlander, I would wonder why I am coming to Hong Kong.

"Population deduction at source" was mainly proposed to relieve the pressure arising from the influx of visitors under the IVS. In last week's motion debate, we supported the implementation of "one trip per day" to replace the issuance of "multiple entry permits", which has encouraged smuggling activities. However, the IVS has made great contributions to Hong Kong's economy and employment over the past 10 years and is the envy of other countries. To address the relevant problems, the correct way is to consider providing better support so that our capacity in tourist hospitality and service supply can be enhanced, with a view to sharing the fruit with all Hong Kong people. We must not insist on abolishing the IVS even at the expense of losing the economic fruits.

In fact, what is the problem of having 31 pharmacies in Shek Wu Hui? It had better caused vicious competition so that we can enjoy cheaper price, so long as there is sufficient supply.

The school admission problem is attributable to the absence of population policy over the past 16 years. It is just too ridiculous for the Government to propose solving Hong Kong's ageing population problem by relying on the "doubly non-permanent resident babies". Last week, the Government finally released the population policy consultation document. Better late than never. I hope the Government will work at full steam and expeditiously complete the study, thereby enhancing the relevant supportive measures. Apart from education, healthcare, welfare, housing and future employment warrants early planning.

President, my last question to Honourable colleagues supporting the idea of "putting Hong Kong people first" is: Assuming that you are in the United States, Britain or Japan, how do you think and react when you hear that members of the parliament propose a motion to put the American, British or Japanese people first? This is definitely intolerable. Judging from Members' personality, I am sure that they will shout at the parliament members and accuse them of discrimination and racism, causing the revival of imperialism and obstructing world integration, and so on. They may even organize street protests and criticize how undemocratic these countries are. But this time the proposal is made in Hong Kong, which has made us an international laughing stock. Although the motion only pinpoints at the Mainlanders, can we say that the measures are only applicable to Chinese citizens after they are endorsed?

While Honourable colleagues supporting the motion are fuelling the China-Hong Kong conflicts, they must not forget that there is also strong resentment against Hong Kong in the Mainland because of the tight supply of food products and serious pollution of drinking water in the Mainland. Why are food products and water still sold to Hong Kong? If the Mainland also proposes to put their people first, Hong Kong will be in great trouble. Given that the problem is caused by a lack of support from government policies, Honourable colleagues of this Council should work together to press the Government to rectify and expeditiously make improvement. On the other hand, they should explain to their electors that the Government is handling the problems. Instead of provoking and fuelling disputes, they should beg for patience and pacify public

sentiment. Therefore, I hope that our Honourable colleagues will work wholeheartedly for the well-being of Hong Kong, and not just care about votes.

I so submit. Thank you, President.

**MR WONG KWOK-HING** (in Cantonese): President, before I start with my speech, I have to severely reprimand Mr Gary FAN of the Neo Democrats and Ms Claudia MO of the Civic Party for publishing discriminatory advertisements against new arrivals on 3 September. Such public provocation of social dissension is absolutely unacceptable. Some groups have asked them to withdraw such remarks and make public apology.

It is disappointing that they have not made any response so far; worse still, they further strengthen the discriminatory practice in the original motion and the amendment today. I am not sure if they feel embarrassed or dare not face other Members in the debate. When other Members speak on the motion, that is, after Members proposing the amendments have spoken, the two Members have left the Chamber. Though they are not present now, I still strongly request them to apologize publicly and withdraw those discriminatory remarks on new arrivals.

President, Members have already expounded thoroughly on the issues concerned in their speeches, so I will not go into details. Now, I would like to talk about the issue of One-way Permit (OWP).

OWPs are issued for the purpose of family reunion. Many Hong Kong people go to China to work or start their businesses. They fell in love, got married and had children. In such circumstances, their spouses have to come to Hong Kong, and the Mainland authorities therefore implemented the OWP system. However, the daily quota of 150 OWPs is in fact far from adequate. Under proper procedures, applicants have to wait several years before they can come to Hong Kong for family reunion. In my view, the current operation of the OWP system is in order, and the Mainland authorities have enhanced the transparency in the handing of OWP applications, applicants are well aware of the process.

Therefore, if Hong Kong people have any views on the OWP system, they can in fact proactively voice out their opinions. Both the Mainland and Hong Kong authorities can step up the monitoring to improve the implementation of the

measure, so that applicants can expeditiously realize their dream of family reunion. In addition, if the OWP system is further extended to cover "overage children" born in the Mainland to Hong Kong residents, these children can come to Hong Kong earlier to take care of their family members.

Next, I would like to talk about the measure regarding Multiple-entry Permits. Multiple-entry Permits and multiple-entry permits for Shenzhen permanent residents are two separate concepts. Higher officials of the Government have just responded on the latter permit, so I will not go into details. I am going to discuss about female holders of Two-way Permits (TWP) with spouses in Hong Kong.

Female holders of TWPs with spouses in Hong Kong must wait for OWPs issued by the Mainland authorities before they can come to Hong Kong for family reunion. Before December 2009, their TWPs were endorsements for either single entry or multiple entries in three months. They come to Hong Kong on TWPs to look after their children. As they are hard pressed by problems relating to the caring and schooling of their children, a Subcommittee to Study Issues Relating to Mainland-HKSAR Families (Subcommittee) was set up in 2009 during the previous term of the Legislative Council to help the relevant groups and persons to resolve difficulties.

At the third meeting of the Subcommittee held in March 2009, I relayed their difficulties and asked the SAR Government to study with the Mainland public security authorities on extending the limit of stay for TWP holders from three months to six months, so that Mainland mothers can stay in Hong Kong during summer or winter vacations to take care of their children. When this proposal was reflected to the Mainland authorities by the SAR Government, the limit of stay were extended to six months.

Subsequently, I proposed in meetings of the Subcommittee for further relaxation. Upon relaying the proposal to the Mainland public security authorities by the SAR Government, the restriction was relaxed to one endorsement for multiple entries in a year starting from December the same year. Such arrangement is desirable and should not be tightened. The most ideal arrangement is to make further extension to one endorsement for multiple entries in two to three years. I hope that the Government can listen to our demands and let TWP holders come Hong Kong to look after their children, until their OWP applications for family reunion in Hong Kong is granted.

President, I cannot support Mr Gary FAN's original motion and the amendments proposed by Ms Claudia MO, Mr Kenneth LEUNG, Mr LEE Cheuk-yan and Dr Fernando CHEUNG because of the wording "China-Hong Kong conflicts" mentioned therein, which is politically incorrect. "There are conflicts between Hong Kong and the Mainland" might be a more accurate expression because even the Subcommittee avoid putting Hong Kong and China together on an equal basis as this is politically incorrect.

**MS EMILY LAU** (in Cantonese): President, I speak in support of the amendments proposed by Mr Kenneth LEUNG, Mr Albert HO, Mr LEE Cheuk-yan and also Dr Fernando CHEUNG.

President, just now, Mr WONG Kwok-hing talked about "political incorrectness". In fact, I agree to the part on the "China-Hong Kong conflicts" in his speech because Hong Kong is part of China.

At the beginning of this debate, Mr Gary FAN said that Members who propose amendments were just seeking political correctness. President, the reason why we safeguard the rights of the underprivileged is not to seek political correctness but to uphold the core values of Hong Kong people. Perhaps Mrs Regina IP does not understand what the "core values of Hong Kong people" are, but I believe that most people of Hong Kong agree that we should care for the underprivileged.

Why are most of the new immigrants in Hong Kong underprivileged? Perhaps that is because they are not so well-off, and as many colleagues have pointed out, the Government's policy blunders is the cause. The Government should take good care of the people through the allocation of resources and other means, so as to avoid the present conflicts and the situation in which people blame one another. President, why do the underprivileged have to bear the brunt when there are social conflicts? That is extremely unfair.

A few decades ago, many people in Hong Kong were refugees or the offspring of refugees. My parents came to Hong Kong when the Chinese Communists came to power. They left all their properties in Guangzhou. When they came to Hong Kong, they were able to find shelter. If someone called upon the authorities not to shelter people like us ... We were destitute then, just like many others. Some Members just now asked, what if Hong Kong

people emigrated overseas were discriminated against and received similar treatments there.

In Australia ... No, it was not Australia but New Zealand. A political party in New Zealand claimed to be the first. Those remarks antagonized the ethnic minorities in the country who thought that they were discriminated against. President, I strongly support Mr Albert HO's amendment, in which he "calls on the various sectors not to have any discriminatory mindset on and perception of new arrivals and visitors, and definitely not to make discriminatory remarks to intensify social conflicts and the dissension among races and ethnic groups." As a member of this community, we hope that all those who come to Hong Kong and make Hong Kong their home will be treated equally.

Many Members, including Mr LEUNG, Dr CHEUNG, Mr LEE and Mr HO, have pointed out in their speeches that the Government has the power and the resources to take actions, but the Government has no intention to act, thus resulting in various social conflicts. The Chief Executive is particularly fond of fanning the flames and aggravating the social conflicts with his remarks but we will not fall into this trap. I understand that some people have indeed suffered great hardships. President, I believe that you, like us, have heard people's strong grievances. I hope that the Democratic Alliance for the Betterment and Progress of Hong Kong and other political parties will explain to the people the root of the problems and not target at the underprivileged. I think those people who target at the underprivileged are shameless and they have no reason to do so. We, the Democratic Party, do not support this practice.

President, when I first joined the Legislative Council or even before that, a group of people were particularly being discriminated against, and they were the Vietnamese boat people. In the New Territories East constituency that I belonged to, most people angrily questioned why the British let them come to Hong Kong. I always told them that since we were also the descendants of refugees, why we could not treat the refugees nicely. I further told them if they thought that I, Emily LAU, was wrong, they should not vote for me when I ran for the election and I did not care about their votes either.

President, we should be persons with integrity and dignity, especially when the underprivileged are being trampled on, we have even more reason to show forth our moral courage and come out to make fair remarks. I hope that today's debate can show the community the views of different political parties and

different people on the relevant issues because the truth becomes clearer through debate. I also hope that today's debate will alleviate the social conflicts and reduce people's discrimination against the underprivileged.

Nevertheless, if this debate leads to the aggravation of the aforesaid situations instead, this motion debate is a great failure. However, if we agree that Hong Kong is a civilized society, we will have to come out to protect the underprivileged, safeguard Hong Kong's core values and reflect upon how we came to Hong Kong a few decades ago. If we faced the same criticisms and humiliation at that time, would we have today's accomplishments? As we all live in this place called Hong Kong which was once the shelter for refugees, we should understand even better how to treat the new comers to this place.

Here I call upon the SAR Government to improve its governance and formulate better policies, so that all residents here will live with dignity and will not have to bear the brunt.

**MR CHAN HAK-KAN** (in Cantonese): President, Mr Gary FAN's recent remarks against the new immigrants make me sick and worry me deeply. He now blames the many social problems on the daily quota of 150 One-way Permits (OWPs). However, we all know that most of these 150 OWPs, about 98% of them, are granted to applicants for family reunion, that is, they are granted to the wives and children of Hong Kong people. If we impose further restrictions, we will deprive some Hong Kong people of this right. To solve Hong Kong's social problems, we need policies but not to lay the blame on new immigrants. As I was also once a new immigrant, I appreciate the difficulties faced by new immigrants in adapting to the life and trying to integrate into society. I do not wish to see residents or Members look at our new immigrants through tinted glasses or discriminate against them.

President, I wish to cite two examples to explain my ideas in today's debate. The first case happened in the United Kingdom. In August, the Home Office launched a campaign with advertisements printed on vans (go home vans) threatening the people who overstayed in the United Kingdom and urging them to leave. President, I have on hand a photo of such a "go home van". We can see that on one side of the van, there is a question, "Are you overstaying in the United Kingdom illegally? Go home or face arrest." On the other side of the van, it is printed "106 arrests last week in your area". That was the campaign launched by



the Home Office of the United Kingdom. President, it is definitely wrong to stay in a place illegally but the biggest problem is why the authorities use an approach similar to racial discrimination to incite xenophobia in society. In a community that respects the rule of law, someone who has violated the law should be dealt with in accordance with the law. Why should the authorities create fear and hatred? If the fear and hatred so incited spreads in society, all immigrants will ultimately be threatened and people usually vent their resentment on innocent immigrants. Although the problem originates from illegal immigrants, everyone will be victimized if people are incited to fear and hatred.

This is exactly what happens in Hong Kong today. Some new immigrants' behaviours may not conform to the social norms in Hong Kong and through deliberate incitement, anyone who speaks Putonghua or uses simplified characters will be regarded as criminals. Is this the culture that a civilized and open society like Hong Kong should have? Mr Gary FAN's proposal to solve the social problems by "reducing population at source" is a disguise to mask his darkened conscience and his disregard for people's right of family reunion, the disregard for the right of some Hong Kong people. If there were problems with the new immigrants, Mr FAN's approach to solve the problem is even more problematic. The strength he exhorts to solve the problem has exceeded the limit and reached a very dangerous point.

As a common saying goes, the end does not justify the means. Hence, whether it is the Home Office of the United Kingdom or Mr FAN, their approaches have seriously violated this principle. If Mr FAN really wants to uplift a flag of justice, he should be blindfolded instead of wearing the present pair of tinted glasses; otherwise, it is only hypocritical for him to advocate his so-called justice. As a matter of fact, the aforementioned "go home van" campaign of the Home Office of the United Kingdom was ultimately scrapped subsequent to strong criticism by human right groups. I would like to use this example to advice Mr FAN to turn back and repent.

President, I have to stress that Hong Kong should not discriminate against new immigrants but that does not mean it does not need a population policy. I wish to cite another example. Recently the Federal Court of Canada has decided to turn down an application for immigration. In that case, the applicant got the citizenship though he has not complied with the requirement of "three-year residence in four years". The Citizenship and Immigration Canada thus filed an appeal. The Judge pointed out in the judgment that one had to strictly adhere to

the requirement of "three-year residence in four years" before being granted the citizenship, because one had to live in Canada to get a personal experience. The experience of living in Canada can only be acquired in Canada alone, but not anywhere else.

The same rationale also applies to Hong Kong. There are indeed differences between societies of Hong Kong and the Mainland. After new immigrants come to Hong Kong, they have the responsibility to adapt to Hong Kong's values and comply with social order. It is reasonable to impose such requirements on new immigrants. Many countries also have immigration policies with these requirements. When formulating the population policy, the Government should follow this direction lest the new immigrants will fail to fit in the Hong Kong community.

President, Hong Kong is an advanced and open society, not a backward and closed society. The discrimination against new immigrants roots from the mentality of a closed community. "Putting Hong Kong people first" is not equal to barring the entry of new immigrants; neither should it be a policy that discriminates against new immigrants. The spirit of "putting Hong Kong people first" is to bring about the progress in the Hong Kong society which will benefit all people in general. A civilized community that respects the rule of law and justice must respect the basic human right of family reunion, otherwise, the proposal of "putting Hong Kong people first" will only become an excuse to trample on human rights and in the end, it is the Hong Kong people who will suffer from the consequences.

President, I so submit.

**MR ALBERT CHAN** (in Cantonese): President, when we talk about "putting Hong Kong people first" or taking back the power to vet and approve the entry of immigrants, we are accused of discriminating against the new immigrants. Such a notion is absolutely ridiculous. The power to vet and approve the entry of immigrants is the basic power of the Government of any free and open society and countries in the world. Only Hong Kong is in such an absurd situation that it is not given such power. It is also unquestionable that any Governments should give priority to the rights of local residents, which is the golden rule that any Government should follow and it is also the basic principle that all politicians should adhere to. However, it is such an absurdity that in Hong Kong, the

Communist Party of China and Mainland China are accorded the top priority in everything, and the basic rights of local residents are brushed aside. Therefore, President, I state very clearly at the outset, anyone who is against Hong Kong taking back the power to vet and approve the entry of immigrants is a traitor to Hong Kong. Listen and look very carefully, they are traitors to Hong Kong. Next I will talk about history. To make criticisms, one must have a good understanding of history.

President, just take a look at our past history. In the 50s, the British Hong Kong Government unilaterally imposed a quota on the immigrants from the Mainland to balance the population inflow and outflow. In 1958, the British Hong Kong Government amended the Immigration Ordinance, allowing the officers of the Immigration Department to exercise discretion to allow certain illegal immigrants to stay. Everyone knows that during the 50s and 60s, hundreds of thousands of people flooded into Hong Kong to escape the tyranny of the Chinese Communists. What followed, as we all know, was the taking off of the Hong Kong economy.

In 1974, the British Hong Kong Government introduced the touch base policy. In October 1980, because too many people entered Hong Kong either legally or illegally, the policy was abolished and the One-way Permit (OWP) scheme was introduced in the same year. I am talking about the 80s. In those years, the Chinese Government finally recognized the OWP scheme and gave the authority to the local Governments of various cities in the Mainland to determine the eligibility of the applicants who wanted to live in Hong Kong. Beijing adamantly refused the British Hong Kong Government the power to vet and approve the OWP applications, which was the fundamental principle that the Communist Party of China based on to establish its sovereignty then.

Therefore, President, this policy began in 1980 which was a deal made between the British Hong Kong colonial government and the Communist Party of the People's Republic of China without consultation or discussion with the people of Hong Kong or without getting the authorization of the people. Now, 30 odd years have flown by. When they discussed the Joint Declaration later, they included the provision in section 14 of Annex I to it, which stated, "Entry into the Hong Kong Special Administrative Region of persons from other parts of China shall continue to be regulated in accordance with the present practice." The present practice in question was the policy formulated after October 1980. Subsequently, the relevant provision in the Joint Declaration was expressly

stipulated in Article 22(4) of the Basic Law enacted in 1999 which stated, "For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval. Among them, the number of persons who enter the Region for the purpose of settlement shall be determined by the competent authorities of the Central People's Government after consulting the government of the Region." Hence, Hong Kong people were excluded from the whole process.

Therefore, we are perfectly justified to request to take back Hong Kong's power to vet and approve the entry of immigrants, which is our basic right. As regards the daily quota of 150 OWPs, many Members say it is for family reunion. At present, in processing the applications, the Mainland authorities will keep one of the children of the family in the Mainland and not allow the child to come. For example, if a family has three children and all of them apply for the right of abode in Hong Kong, the Mainland authorities will only grant two OWPs and refuse the application of the third one. Is that family reunion? This way, through keeping one of the children in the Mainland, the Mainland authorities can control those who are granted the right of abode in Hong Kong, making sure that they dare not fight against the Communist Party. I wonder if the Democratic Alliance for the Betterment and Progress of Hong Kong would be so brave as to help these families fight for having the remaining child to join them in Hong Kong. Therefore, this is just absolutely absurd.

I have forgotten to ask Members to declare interest. President, Members should be required to declare interest because some Members relied entirely on voters exported by the Communist Party to Hong Kong over the past decades to support the rightists and the patriots in Hong Kong to get elected. Therefore, in discussing the power to vet and approve the entry of immigrants, Members should declare interest.

Talking about family reunion, why "putting Hong Kong people first" and taking back the power to vet and approve the entry of immigrants would hinder family reunion? I want to make a clear stance that I fully support family reunion and what I am fighting for is to help the remaining child being kept in the Mainland to have the priority in being granted the OWP. Their whole family have left except him, being left alone in the Mainland. When these children reach 18 years of age, they cannot apply for settlement in Hong Kong on the ground of family reunion. Why can't they? Therefore, those Members who

eloquently gave grand, empty and lofty speeches here, who talked about helping people to reunite with their family, were all lying. They are all liars.

Therefore, we must fight to take back our power to vet and approve the entry of immigrants and right a historical injustice. In the past 30 odd years, given that the two Governments had totally disregarded the needs of the people in formulating measures and policies ... Think about what kind of policies can remain unchanged for 34 years and how two former Governments could make the decision for us. We have absolutely no say on a policy that affects our economy, people's lives, culture and society. This is an absolutely absurd historical development.

Therefore, President, I hope that Hong Kong people can wake up and understand that many existing policies, including the broadcasting policy, were drawn up before World War II and many policies that control the people's livelihood are all feudalistic and they deprive us of our human right. The power to vet and approve the entry of immigrants is also feudalistic and it deprives us of human right, including the right of those who desire for family reunion. Hence, if Members look clearly at these historic facts, they would support today's motion.

**MR NG LEUNG-SING** (in Cantonese): President, given that Hong Kong is an international metropolis, the concept of "putting Hong Kong people first" needs to be carefully reviewed and prudently interpreted. In fact, what Hong Kong is faced with is not just conflicts with China, but also conflicts with foreign countries as well. The emergence of these conflicts is a side effect that co-exists with the benefits brought by such an open economy as Hong Kong. It is an objective fact that there are differences between Mainland China and Hong Kong in respect of cultures, systems and customs. For the sake of the overall and long-term interest of Hong Kong, we must analyse and face up to the problems and challenges concerned with a positive attitude from a macroscopic perspective.

First, from the perspective of the market, the hot issues about "locusts" and the Mainlanders' scramble for hospital beds, powdered formula, housing flats and even the recent scramble for kindergarten places, as well as the inevitable scramble for secondary school and university places in future, are the results of a temporary imbalance between supply and demand in a free market. They should

not be overly exaggerated. Of course, in the face of problems that affect people's livelihood, the Government is duty-bound to take special measures for special problems, adopt decisive and effective measures to resolve those issues that relate to some short-term supply and demand imbalances. However, even short-term measures should also be provided with a timely review mechanism to avoid the measures becoming a habit or routine. In particular for non-livelihood issues, they cannot be dealt with by a broad-brush approach lest our long-term economic development would be hindered and we would be perceived by the outside world as practising protectionism.

Second, analysing from a cultural point of view, Hong Kong is a diversified community which has experienced great changes in various eras since it was opened up for trade. There have been large influxes of refugees from various provinces and places in China, as well as other refugees of different races and nationalities from different parts of the world. According to a recent survey, there are over 16 000 French people residing in Hong Kong, and there are also over 200 000 foreign domestic helpers who have integrated into the Hong Kong families. This shows that Hong Kong has established a diversified culture integrated with various ideas and customs.

I remember that many years ago, there were adverse comments about Hong Kong people when they travelled abroad, people complained about their noisy talks and impoliteness. However, the relevant countries and places had not imposed any restrictions on the entry of Hong Kong people. On the contrary, according to the statistics of the Immigration Department, as at August this year there were 147 countries and territories that had granted visa-free access or visa-on-arrival access to holders of SAR passports. As Hong Kong people travel abroad more, their horizons have been broadened and gradually they have learned to respect the cultures and customs of other places. Therefore, we should appreciate the cultural differences with a broad mind and farsightedness and jointly promote harmony and integration. If we can do so, I believe that the problems will be solved easily.

What is worth mentioning is that the Central People's Government has all along upheld the Basic Law and the spirit of "one country, two systems", and has put in place many measures to support Hong Kong. Some colleagues have mentioned just now that after the outbreak of the SARS epidemic in 2003, Hong Kong's economy was in recession, the retail industry shrank and the unemployment was high. The Central People's Government thus introduced

various policies such as CEPA and the Individual Visit Scheme for Mainland visitors. These measures were all for the benefit of Hong Kong people which truly achieved the goal of "putting Hong Kong people first". Hence, we should not kick down the ladder once we get what we want. Selfishness should never become a new core value of Hong Kong.

President, an open society and free economy should never have a tunnel vision and impose restriction on itself as that will only hinder its continuous development. As the Chinese saying goes, "If a place does not welcome some people, they will find somewhere else that welcomes them." As the whole world is scrambling for Mainland talents, enterprises and capital, we need to contemplate carefully how to create a win-win situation between Mainland China and Hong Kong.

President, I so submit.

**PRESIDENT** (in Cantonese): It is now 9.30 pm. I believe that we can finish this debate before midnight. The meeting will continue until all the business on the Agenda is finished.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, the subject of this motion debate is to "put Hong Kong people first". When the slogan to "put Hong Kong people first" is shouted by some members of the community, I believe many people will agree that the most important reason is that various social phenomena which appeared in the past 10 years or so made them feel that not much emphasis or attention has been given to local residents.

Indeed, many problems have emerged in the past. For example, at one stage, local pregnant women could not get bookings for hospital beds for delivery, or they were badly treated and given hospital beds in the corridor. In addition to hospital beds for delivery, there were issues related to housing and powdered formula, as well as the recent contention for school places. Various social phenomena gave people the impression that Hong Kong people have to compete with other people for everything; we have already lost the home ground advantage and we have become less important. As such phenomena really exist, I believe many people thus agree that it is important to "put Hong Kong people first".

The problem is, in seeing such social phenomena, should we solve the problem by focusing on the social phenomena without examining the underlying cause? If we conduct an in-depth study, we would know that the problems can hardly be solved if they are not tackled at source. For example, why, at one time, hospital beds were not made available for local pregnant women to give birth? Why is this not the case now? The principal reason was that the Government allowed "doubly non-permanent resident (DNR) pregnant women" to give birth in Hong Kong, which resulted in the influx of a large number of pregnant Mainland women.

When the Government implemented this policy, we already considered that such practice was impracticable and would give rise to many problems. Unfortunately, the Government had not listened to our views and it had taken its own way. Why did the authorities implement this policy? It was because they considered healthcare services a business, thinking that this would bring about the favourable development of hospitals and healthcare personnel. In fact, this led to a serious shortage of healthcare personnel, and it was necessary to continually raise their salaries; only hospitals had generous profits.

The Government had absolutely not made thorough consideration at that time and it had not considered the problems that would be caused by this policy. As I said earlier, the result was that local pregnant women had to contend for hospital beds for giving birth. Not only so, we also reminded the Government whether these DNR babies will live in Hong Kong or the Mainland after they were born. Will they receive education in Hong Kong or on the Mainland? How about their future housing problems and livelihood issues? What about the process of bringing them up? All these issues exist but the Government has turned a deaf ear. I recall that I had discussed these issues with some government officials but they just told me that they did not know how to deal with these issues, how to compile statistics or look for information. Hence, they were completely unable to grasp information on the demand for school places that has subsequently arisen, which caused the current problem of scrambling for school places.

These issues are actually policy blunders and failures, and we cannot solve the problems if we do not deal with the root causes. In addition to the issue of DNR pregnant women, there is the issue of powdered formula. Is it really impossible to resolve the problem of powdered formula? We found that the source of the problem is the monopolization of the market by large consortia,



which attempted to create panic in the market and earn greater profits. If we do not resolve the issue at source and we only emphasize on "putting Hong Kong people first", we can hardly solve the problem. So, I trust that we must handle all these issues at source.

As Mr Gary FAN has pointed out just now, if we want to solve these problems today, we should propose some proper and effective policies; otherwise, it would be meaningless. The direction of my proposed solution is precisely to start from the source, that is, to examine the policies itself and rectify those policies with problems, rather than expanding the scope affected. We are particularly worried that some vulnerable groups may suffer unnecessary harm, I think that this point must be taken seriously.

He has cited the foreign labour policy as an example and I certainly render my support. The Government has often said that there is a shortage of local workers and it is necessary to import labour. Is it true that there is insufficient manpower? In fact, this is not the root of the problem. I can give a simple example about steel fixers. The Government often says that there are insufficient steel fixers, there was actually a supply shortage in recent years, but after the parties concerned had raised the wages of steel fixers, a lot of young people have been attracted to join the industry. As it turns out, the problem is that wages are too low. As this kind of work is very tough and tiring, if workers are not compensated with a high wage, no one is willing to join the industry.

Furthermore, the catering industry always complained about failing to hire workers to wash dishes. Washing dishes is actually very tiring, and nobody wanted to do the work in the past because of long working hours and low wages. Yet, there are now some dishwashing companies in Hong Kong. Why are some workers willing to be employed? It is because the working conditions have been improved, the working hours have become shorter and the work is not so tough, some workers are thus willing to take up the work. Hence, the root of the problem is the policy or the fact that employers and consortia have neglected the interests of those affected for the sake of their own interests.

I think that we should not just focus on whether we should "put Hong Kong people first"; on the contrary, we should focus on the fact that there are many policy blunders and failures. If we do not rectify the problems at source and we only emphasize on "putting Hong Kong people first", I am really worried that the

phenomenon of discrimination or disrespect the social status of certain group of people, as mentioned by many Honourable colleagues, will emerge, which is not what we would like to see.

President, I so submit.

**MS CYD HO** (in Cantonese): President, the conflict between Mainlanders and Hong Kong people started in 1999 when the Court of Final Appeal ruled, in January of that year, that children born in the Mainland to Hong Kong parents were entitled to the right of abode in Hong Kong according to Article 24 of the Basic Law. However, the short-sighted SAR Government made a wild guess that 1.67 million Mainlanders would settle in Hong Kong in a decade's time. As a result, Policy Bureaux joined in force to speak ill of new immigrants at meetings of the House Committee of the Legislative Council, trying to stir up public opinion to support seeking an interpretation of the Basic Law by the National People's Congress (NPC interpretation). For example, the then Chief Executive TUNG Hee-haw expressed in the Chief Executive's Question and Answer Session held on 6 May 1999 that allowing 1.67 million people to settle in Hong Kong in a decade's time would bring about unbearable consequences. As indicated by the then Secretary for Planning, Environment and Lands at a House Committee meeting, it was estimated in 1998 that 5 730 hectares of land would be needed to accommodate a population of 8.1 million in 2011. With an additional population of 1.67 million, it would require an extra 6 000 hectares of land. He also mentioned that a further population of 1.67 million would produce 2 000 more tonnes of waste a day, on top of the daily 8 000 tonnes of waste produced that year. As a result, all three landfills would be filled to capacity before 2011.

Sixteen years have elapsed, we all know today that these figures were wrongly estimated, wildly guessed and scaremongering in nature. We now produce 10 000 tonnes of waste a day, but the three landfills are not yet filled to capacity. The Government is just applying for their expansion. Nevertheless, the then SAR Government defied the ruling of the Court of Final Appeal at all cost, even by adopting a differentiating tactic to tear the community apart. To safeguard the rule of law and support family reunion, the democratic camp kept reminding the Government that it should not undermine the rule of law for expediency, and least of all tear the community apart, as it would sow the seeds of hatred between the two communities that took a long time to heal. Yet, the Government turned a deaf ear, with the then Secretary for Security saying that

members of the public would agree with the Government's decision after the debate fell into history, or when they looked back a year later. The then Secretary for Security is our current Member Mrs Regina IP. The statistics presented to us by the Government at the time have all proved to be wrong. We can all see the adverse impacts of social division today.

However, time has changed. Those in the pro-establishment camp who threw all their weight behind the Government to discriminate against new immigrants in the past have now adopted the rhetoric of the democrats in today's debate to call on people to stand against discrimination and support family reunion. However, as they took part in tearing the community apart at that time, that stumbling block they created in 1999 is coming home to roost as they reverse their course today. As we can see, short-sighted governance has a price to pay. Therefore, we call on members of all sectors to immediately stop tearing the community apart and creating discrimination, but to work hard to mend the existing fences.

Mr Gary FAN said just now that we have no idea of the sufferings borne by ordinary folks. How could we possibly not aware of that? Our train compartments are getting more and more congested. Powdered formula is being snapped up. There are housing difficulties and it is hard to secure a kindergarten place. All these are indeed caused by the ineffective governance of bumbling officials. They have failed not only to plan ahead, but also to make swift response. They always take action only when there is media backlash and seething public anger. The core of these problems lies not in resource shortage, but in misallocation and uneven distribution of resources. We understand that members of the public are living a hard life. Yet, we wish every one of us would not take family members of Hong Kong people as scapegoats. All family members — be they spouses or children — of Hong Kong people are themselves Hong Kong people.

Apart from family reunion, the Labour Party also supports the SAR Government to take back the authority to approve One-way Permit applications, so that those with genuine need for family reunion can come to Hong Kong as soon as possible without subject to exploitation and corruption of Mainland officials. It would also prevent corrupt officials from helping unqualified applicants and those without family connection in Hong Kong to pass themselves off as qualified applicants. However, we should not reduce the quota just because of abuse, as it would make family reunion more difficult to achieve. Ms

Claudia MO earlier requested our response to the former Member Mr Martin LEE's remarks. I would like to tell Ms Claudia MO that Mr Martin LEE had, since 1999, opposed the NPC interpretation to delay the reunion of families. When the Government put forward a motion seeking this Council's endorsement on the NPC interpretation in May 1999, Mr Martin LEE moved that the debate be adjourned to stop the Government from acting wantonly.

We often talked about localism recently. What in fact does localism mean? Hong Kong has long been home to refugees. Previous generations of refugees came to Hong Kong to seek asylum here. They had to flee the autocratic regime which exploited the evils of human nature. They had to escape the political cannibalism whereby people criticized and denounced each other to fight for survival. We came to Hong Kong with the same fundamental urge to seek justice and avoid political censorship. We shared equal opportunities, harboring empathy for the latecomers and fairly treating the illegal immigrants. The interests of Hong Kong people are not limited to whether we can buy powdered formula or secure a kindergarten place, but are instead built on our spirits, such as helping each other and upholding justice. Hong Kong people's interests can be traced back to the civil social order we established together. TANG Wei, touted as one of the so-called "new Hongkongers" by the *People's Daily*, is actually a beneficiary of Hong Kong's local values; she does not bring Mainland cultures to Hong Kong.

However, the recent economic gloom together with worries for livelihood has intensified our xenophobic sentiments against new immigrants. That is a cause for concern. We hope that people will go back to the civilized way of arguing with facts and logic. In the past, Hong Kong people would help each other despite living in poverty. What touches people in the highly acclaimed blockbuster film, *Echoes of the Rainbow*, is exactly the spirit of mutual support at the neighborhood of Wing Lee Street. However, they are just like fairy tales to us now, as fears have already eaten away our souls. We are just left in a state of meanness, being chastened by flawed governance to the point that we only know how to fight and hurt each other. We should have been seeking to live in a promised land. Yet, it ends up that we have turned our living place into hell. If we all love Hong Kong, we should go back to (*The buzzer sounded*) ...

**PRESIDENT** (in Cantonese): Ms HO, your speaking time is up.

**MS CYD HO** (in Cantonese): ... arguing with facts and logic and embracing inclusive love and compassion.

**MR WU CHI-WAI** (in Cantonese): President, we have seen numerous examples of infighting among disadvantaged groups since the reunification. When we visit a district, we would hear local residents say "the Comprehensive Social Security Assistance (CSSA) Scheme makes people lazy", making these or that comments on new immigrants. The question is why such situation and conflicts exist? It, of course, has to do with the overall policies of the Government. Despite Hong Kong being a very affluent city, the Government does not find a way out to tackle the problems faced by us, but let such conflicts continue to intensify instead. As Ms Cyd HO mentioned just now, the Government is taking the lead to accuse new immigrants of dragging Hong Kong down and the CSSA Scheme of "making people lazy". This would, of course, result in divisions among ethnic groups and intensifying social conflicts.

Experience tells us that when a society's economy has reached a bottleneck with the rich-poor gap widening and the resource allocation increasingly unfair, xenophobic sentiments would likely to fester and grow. However, the problem is whether it would help and do good to the community. The answer is crystal clear.

As mentioned by Members just now, Hong Kong, as an immigrant city, has seen its population grow from 500 000 in the 1950s to today's 7 million. Let us think carefully. We are indeed all coming from immigrant families. Immigrants brought in a spirit of adventure. They sought to settle in a promised land where there are opportunities for them to pursuit their life goals. The new immigrants arrive in Hong Kong today are basically prompted by the same urge. Let us think about the fact that many marriages between Hong Kong and Mainland residents in the past were formed with Hong Kong men marrying Mainland women. Why would Mainland women be willing to leave their hometowns and come to Hong Kong as "foreign brides"? The reason in fact was that they wanted to improve their life. The same held true for the many people choosing to migrate to other places in the early impoverished years of Hong Kong. Take another example in the 1980s when Hong Kong was gripped by worries, some people also chose to migrate to other places to pursuit their life goals. That was actually a very common phenomenon.

What is the most important value of Hong Kong? Over the years, along the civilization progress of our society, we all have embraced a universal value. That is the belief that all human beings are born equal, and every Hong Kong people — I mean every Hong Kong people who legally migrated here — should be entitled to all legitimate rights and interests in Hong Kong. If we are to discuss anew how our rights and interests should be distributed, that is an issue that touches upon policymaking. We should never attribute this problem to the new immigrants, accusing them of eating away our resources. I think that is the most fundamental and core proposition.

However, the problem is whether the Government has handled and taken this problem seriously. I do not see any action from the Government; instead the Government's belated response has intensified social conflicts. When the Court of Final Appeal made its ruling in 1999, the Government estimated that there might be 1.67 million people coming to Hong Kong. Evidently, that was an inaccurate figure and a false alarm on the actual difficulties. Yet, the number of new arrivals to Hong Kong is absolutely not small, even though it has not reached 1.67 million. In the light of the present circumstances that there are over 50 000 people settling in Hong Kong every year, the total number of new arrivals to date should have exceeded 500 000 or 600 000. That is a very huge figure. Besides, it has not taken into account 160 000 "doubly non-permanent resident (DNR) children" born in Hong Kong over the past few years. What matters most is who can estimate such figures and respond accordingly. Only the Government can do so. If the Government does not act in advance but only try to respond in a belated manner after things get worse, it will breed social conflicts.

Let us take a look at the housing problem that has sparked heavy criticism in recent years. The Government has rolled out the policy of "Hong Kong property for Hong Kong people" accordingly. This policy sounds very promising. However, if we look at the two pieces of land initially put on auction, the land price together with construction cost for the Kai Tak site amounts to \$13,000 per sq ft. Can the general public in Hong Kong afford to buy these properties? This is actually not a solution to the problem. What lies at the heart of the problem then? As the Secretary has repeatedly mentioned, the problem lies in land supply. We should address the needs of Hong Kong people to provide adequate public housing, in order to cope with their home ownership and housing needs.

However, the Government has only proposed some weird measures in its overall governance on land and housing. For example, it proposed to explore land in country parks if there is not inadequate land supply. That has generated another conflict. In fact, is it necessary for us to stir up the country park's hornet nest? The answer is "no". At the present stage, we can at least take up some of the idle farmland and brownfield sites first. These kinds of land are all usable. Has the Government made use of them? The Government delays in using such sites, probably because it fears the challenges of property developers. Therefore, it tends to shy away from this core issue and does not want to resume land under the Land Resumption Ordinance for housing development. This exactly reflects that the Government has no foresight in its policy-making and cannot address the core of the problem. As a result, our community tries to blame the new immigrants, instead of Hong Kong people, for causing all these conflicts. In the long run, it will definitely do more harm than good to Hong Kong as a free port and international city. Therefore, I support the amendment moved by Mr Albert HO of the Democratic Party today. I hope that we will never have any discrimination when considering policies that "put Hong Kong people first". Thank you, President.

**MR CHARLES PETER MOK** (in Cantonese): President, when it comes to "putting Hong Kong people first", who dares to say "no"? However, what is wrong with our society? Now, it finally dawns on us that we have to fight for our priority even in our own place.

Hong Kong has been characterized as an immigrant city. Several generations of Hong Kong people have been immigrant families. We were very tolerant in the past. We thought that all people could settle down here as Hong Kong residents, regardless of where they came from and how well they spoke Cantonese.

As stated by Mr Gary FAN, despite all sorts of China-Hong Kong conflicts and the superficial notions of "one country, two systems", "Hong Kong people ruling Hong Kong" after the reunification of Hong Kong, we know deep in our hearts that it is actually "Grandpa who calls the shots" as far as our politics and the governance of the SAR Government are concerned. Is it the general public, the Chief Executive or the Central Government who gets a bigger say? We all undoubtedly know that it is the Central Government who gets a bigger say.

On the cultural front, as Hong Kong develops and is faced with external cultural clashes, especially those coming from the Mainland rapidly, local values have become more important. That is very normal and reasonable. It would also be conducive to the preservation of local cultures and values in Hong Kong.

Besides, this trend has shown no sign of abating in the past decade or so after the reunification. "Grandpa" has not loosened his grip on Hong Kong. Instead, the notion of "new Hongkongers" is proposed. This reflects that the Central Authorities want to "dilute" the influence of the "original Hongkongers", people like us. No matter the Central Authorities can make it or not, and regardless of how much progress has been made, they definitely want to "dilute" Hong Kong people's core values. That is certainly what they have in mind. However, it remains to be seen whether they can succeed.

President, when it comes to issues of "putting Hong Kong people first", "Hong Kong properties for Hong Kong residents", "Hong Kong powdered formula for Hong Kong residents", and the problems on kindergartens, universities, as well as the definite foreseeable problems on primary and secondary schools, the root cause is the fight for limited resources. It is very clear that the SAR Government has absolutely no foresight and planning in its policy formulation. Therefore, I agree to the amendment proposed by Mr Kenneth LEUNG, which pointed out that the Government has not formulated a comprehensive policy in respect of Hong Kong's population changes over the years, resulting in imbalance in the supply of and demand for some services and products in society, thus provoking greater conflicts.

Facing all these problems, the SAR Government cannot just do minor tinkering and roll out measures named "Hong Kong 'something' for Hong Kong residents". If so, the fight for resources between Hong Kong and the Mainland will only further spread to other areas. In the end, there will be a lack of direction and planning in Hong Kong's economic and social development. If the situation goes on like this, I am afraid it will further make people feel that Hong Kong has no hope and future at all.

President, we cannot evade the problem of One-way Permit (OWP) either. Last year, I asked the Secretary for Administration at a House Committee meeting whether we can take back the authority to approve OWP applications. However, the Secretary for Administration said it was out of the question as we were bound by the provision of the Basic Law. Yet, as Mr Kenneth LEUNG



mentioned just now, Article 22 of the Basic Law in fact specifies that "For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval. Among them, the number of persons who enter the Region for the purpose of settlement shall be determined by the competent authorities of the Central People's Government after consulting the government of the Region". Hong Kong may want to increase that number as many people reportedly have to wait three or four years for family reunion now. However, we may also want to reduce that number as the daily quota was sometimes not fully used in recent years. In that case, why can't we take the initiative to discuss it with the Central Government? We also hear many residents saying that there are actually many cases of corruption now. Besides, where on earth can we find a place or a country which does not have the authority to approve its immigration applications? Then, why can't we take the initiative to seek discussion with the Central Government over this issue?

President, according to the renowned American economist, Richard FLORIDA's studies on creative economy, what matters most in the economic development of modern cities boils down to three "Ts". They are "Talent", "Technology" and "Tolerance". I believe many colleagues have also heard about that. Coincidentally, the two motions being debated today are both related to "Tolerance".

Richard FLORIDA's studies illustrated clearly with supporting data that those countries which were more open to immigrants and put in more efforts to fight against all sorts of discrimination — including tolerance on immigrants and people with different sexual orientations — did outperform other countries in terms of competitiveness, national income growth, research and development, creativity and entrepreneurship. Likewise, Hong Kong's openness and tolerance over the past decades has borne fruit, bringing about all kinds of success we enjoy nowadays. However, unlike Hong Kong, those countries' immigrants are not originated mostly from a single region, and those countries have the authority to approve their immigrant applications. That is why we also have to admit that the problems faced by Hong Kong are probably different from that of those foreign countries under studies. Therefore, the Professional Commons has before raised a reform proposal on the population policy, suggesting a credit-based admission scheme for all kinds of talents and professionals that are required in Hong Kong.

Who would indeed oppose the notion of "putting Hong Kong people first"? As a matter of fact, Hong Kong has already "put Hong Kong people first" in many areas. However, we also have to strike a balance to maintain Hong Kong as an open and inclusive society. We have to avoid being pushed towards extreme protectionism, or even discrimination by some policy blunders of the Government and the potential impact of the intended policy to "dilute" Hong Kong's values by the Mainland. In that case, it would spark social conflicts and divisions. I hope that Hong Kong will never move to such extremes.

President, I so submit.

**MR TONY TSE** (in Cantonese): President, the Chief Executive had said, during his election campaign as well as during his governance, that he would continue to implement policies based on the principle of "putting Hong Kong people first". I am in support of this direction and principle, especially when the allocation of social resources is concerned. However, we should never allow anyone attempting to use "putting Hong Kong people first" as an excuse and a pretext for discrimination against other races or certain groups of people, and to deliberately provoke confrontations and conflicts in Hong Kong, or even between Hong Kong and the Mainland, so as to hamper Hong Kong's overall interests and development. In this connection, I oppose the words and deeds of anyone who discriminates against new arrivals.

President, Hong Kong has always been a migrant society. Since its inception, a large number of Mainlanders had migrated to Hong Kong. After World War II, many capable and rich Mainland entrepreneurs had migrated to Hong Kong. Tens of thousands of new arrivals had made significant contributions to Hong Kong's economy, which was an important factor contributing to Hong Kong's development as a significant economic entity in the world, and allowing Hong Kong to gain the reputation as one of the Four Asian Dragons. During this period, Hong Kong people and new arrivals worked hard for better livelihoods, fearing no hardship. There was a relatively strong spirit of mutual support among friends, colleagues and neighbours. Society as a whole was relatively harmonious with few unnecessary disputes and the social atmosphere was relatively peaceful. I believe these are important factors conducive to promoting economic boom in the 70s and 80s of Hong Kong.

According to data provided by scholars studying the history of Hong Kong, in 1914, the yearly salary for police inspectors of Indian or Chinese nationals was nearly 7 times less than that for policemen of European nationals. In the past, many senior government posts were held by British people, and Chinese people could only take up inferior positions. Apart from lower salaries than the British or other expatriates, Chinese people were not treated equally in terms of accommodation. This social stratification and inequality resulted from past policies had gradually been improved in the course of social development and progress. This is something that we should treasure; moreover, we should make efforts to promote social harmony and equality, so as to strive for further improvement.

In addition, over the past 30 years, there has been a significant increase in the number of foreign domestic helpers mainly from the Philippines and Indonesia, from 20 000-odd in 1986 to 280 000-odd in 2010, amounting to 4% of population in Hong Kong. Despite the fact that the majority of them do not have the right of abode in Hong Kong, they have significant impact on the living of many families in Hong Kong and on Hong Kong as a whole.

President, during holidays, we often see a large number of Filipino and Indonesian maids gather at various spots, they sit on the ground under a flyover, on a footbridge, at a plaza or on the grassy ground of a park. In the past, there were criticisms that the Filipino maids had occupied too many public spaces during holidays, especially sitting out areas, thereby depriving Hong Kong people of the right to use such spaces and facilities, and there were demands that the Government should face squarely and tackle the problems. However, many people had different views. They believed that we should be more tolerant to Filipino and Indonesian maids, and they should have the same rights as other people to enjoy public spaces and facilities in all places during holidays, and that Hong Kong people should not discriminate against them or adopt a hostile attitude towards them.

In fact, the vast majority of Hong Kong people are rational, and are ready to accept and tolerate different races, groups and cultures. Notwithstanding the Philippine hostage incident that happened years ago and the Philippine President's irresponsible act to persistently refuse to apologize and compensate for mishandling the incident, which has led to a tension in relationship between Hong Kong and the Philippines, and some people even suggested that the Government should temporarily suspend issuing new entry visas for Filipino maids, it appears

that these incidents have not strained the relationship between Hong Kong families and their Filipino maids. Some families will even discuss about the incident with their Filipino maids, so as to strengthen mutual understanding and communication, which has in turn received a positive effect.

President, one of the essences of the Lion Rock spirit is that people can cast aside their differences to seek common grounds, as well as abandon their inner conflicts to pursue ideals together. I hope this Lion Rock spirit can be preserved and carried forward, and will not be destroyed by unnecessary disputes and internal conflicts.

President, I so submit.

**MR CHAN KAM-LAM** (in Cantonese): President, today, the motion of debate is "putting Hong Kong people first". What is meant by Hong Kong people? Even Mr Gary FAN who proposes to debate the motion is unable to give a clear definition. Evidently the proposal of "putting Hong Kong people first" is self-inflation in nature; the main purpose is to incite conflicts between the two places.

Since the reunification of Hong Kong with the Mainland 16 years ago, exchanges between Mainlanders and Hong Kong people have been increasingly frequent, which has become a global trend. Due to differences in culture and lifestyle, and coupled with the fact that spaces and resources in Hong Kong fail to meet the demand for development, misunderstandings and conflicts are inevitable when people of the two places interact with each other. However, we should concentrate our efforts on solving the problems, such as enhancing our capacity to receive visitors, stopping the "doubly non-permanent resident (DNR) babies", implementing the "powdered formula restriction order" and the policy of "Hong Kong property for Hong Kong people", as well as launching Buyers Stamp Duty, and so on. We should not simply put people of the two places in antagonizing and opposing fronts, or even evade and negate the benefits of integration between the two places.

Mr Gary FAN of the opposition camp had published a statement on newspapers to oppose integration. This time, by proposing a motion, he has again deliberately provoked antagonistic sentiments and created conflicts, but his comments have been strongly criticized by Members of the pro-establishment

camp as well as the opposition camp. Mr LEE Cheuk-yan is even more outrageous by saying, "China-Hong Kong conflicts have turned increasingly acute, and the fundamental causes are that the Beijing authorities are arrogant with their wealth, assuming that they can win people over by indiscriminately introducing preferential economic policies". What is meant by "indiscriminately introducing" preferential policies" or "win people over"? Does it mean that the Central Government should not introduce policies to support Hong Kong? It is an irresponsible act to shift the China-Hong Kong conflicts onto the Central Government.

In 2003, Hong Kong's economy failed to recover following the onset of SARS. The implementation of Individual Visit Scheme (IVS) may well be said to have revived the economy. Over the past decade, the IVS has, on the one hand, created employment opportunities for Hong Kong, and has generated considerable revenues for hotels, retail, catering, transportation as well as various industries on the other. President, let me quote some data recently released by the Hong Kong Federation of Trade Unions regarding the impact of IVS since its implementation a decade ago on various industries. The number of hotels in Hong Kong has increased from 96 in 2003 to the present 217, with an average occupancy rate increasing from over 70% to approximately 91% at present; the number of practitioners working in the hotel industry has also increased from 30 000 to 70 000. For the retail industry, the total value of retail sales has increased from \$170 billion in 2003 to the current \$440 billion; the number of practitioners working in the retail industry has increased from 210 000 to 260 000. As for restaurants, the number has increased from 10 500 to 16 000, with an increase in the number of practitioners from 170 000 to 237 000. It is really ungrateful to say that these preferential measures introduced by the Central Government are indiscriminate. The goodwill of the Central Government in helping Hong Kong has become indiscriminate preferential measures in the words of Mr LEE Cheuk-yan. He is absolutely ungrateful, with the ulterior motive of stirring up trouble in Hong Kong.

The Central Government has introduced various policies, such as CEPA, opening up the trade and service market in the Mainland, promoting the development of Renminbi business in Hong Kong, consolidating Hong Kong's position as an international financial centre. Many cities in the Mainland also strive to enjoy the same treatment as Hong Kong. The recent announcement of the establishment of the Pilot Free Trade Zone in Shanghai has sounded the alarm. Hong Kong should realize that the Central Government may not

necessarily introduce preferential policies to Hong Kong. If Hong Kong does not capitalize on the opportunity to strive for the best, even the best policy from the Central Government would not help Hong Kong maintain its competitive edge.

Hong Kong is a tiny place with a dense population and lacking in natural resources. For many years, thanks to the Central Government, the supply of potable water, food and energy is well assured. Even if the Mainland is in short supply of water, it has to ensure that Hong Kong is provided with adequate supply of potable water. Fresh meats and vegetables supplied to Hong Kong from the Mainland are examined and checked per consignment to ensure food safety. In comparison, Hong Kong people are more narrow-minded.

Let us see the choice of words in Mr LEE Cheuk-yan's amendment. He uses the term "Beijing authorities", indicating he simply does not wish to accept and admit the "Central Government". This has given us a glimpse of the ambition of the opposition camp to "oppose China and stir up trouble in Hong Kong". They oppose integration between the two places, maliciously provoking conflicts and disrupting social stability in Hong Kong. Moreover, recently they blatantly conspired with those who advocated Taiwan independence to participate in the Occupy Central movement, advocating together the independence of Taiwan and Hong Kong. Today our country is developing at a tremendous pace with a growing international reputation, and people's livelihoods are constantly improving, yet they dare to advocate Hong Kong independence and infringe on the dignity of our country. This is truly absurd.

Since the inception of Hong Kong as a port more than 150 years ago, generations of people from the Mainland have been migrating to Hong Kong to build up Hong Kong. Today, parents and grandparents of many Hong Kong people are from the Mainland, we share the same root, language and origin. As we are all Chinese, we should not discriminate against or suspect each other, but should work together to develop Hong Kong, so as to safeguard Hong Kong's long-term stability and prosperity.

With these remarks, President, I oppose the motion.

**DR KWOK KA-KI** (in Cantonese): President, in fact, today's situation is to a large extent caused by the conflicts between China and Hong Kong. We admit

that most of the people in Hong Kong (including our grandparents) are new immigrants from the Mainland, which is natural. In recent years, I believe the most important point is that Hong Kong is basically a small place which can hardly cope with a large number of visitors in terms of housing or daily necessities. And owing to the behaviours of some visitors under the Individual Visit Scheme, the conflicts between China and Hong Kong have intensified.

However, I would like to talk about this issue from another perspective. I support allowing more Mainlanders to visit Hong Kong. Why? As we all know, more than a century ago, Hong Kong was the only place in China where freedom prevailed. When Mr SUN Yat-Sen was leading the revolution, he had nowhere to stay, and Hong Kong became the most important base for him to commence his movement against the corrupt Qing Government. More than a hundred years thereafter, it is interesting to note that Hong Kong remains to be the place in China which enjoys the greatest freedom, and offers the best safeguard for freedom of speech, notwithstanding that Hong Kong is gradually being eroded by the Mainland. It is evident from the incident of "free television licensing", an incident that many people were enraged, that our freedom as well as the room for choice has been greatly affected. As more and more visitors are coming to Hong Kong, we have one wish, that is, hoping that today, there would be more Hong Kong people ... When compared with the past, though our freedom and room for speech have been affected, Hong Kong still excels the Mainland, including we have the right of assembly and the right of speech. Therefore, we are pleased to see that each year, more and more Mainlanders come to Hong Kong to join the march on 1 July and participate in the commemorative activities for the 4 June incident. We pride ourselves in these aspects.

Nowadays, most people coming to Hong Kong have simple demands, including buying a can of powdered formula. President, this is understandable, since they do not have any confidence at all in buying powdered formula in their place of origin (that is, our Motherland). Despite the fact that the origins of powdered formula are identical, as well-known brands in the Netherlands, New Zealand, and so on are on sale both in Hong Kong and in the Mainland, people still have no confidence in the food safety and monitoring system in the Mainland. Even Mr WANG Guangya, a well-known Chinese official, said with a sigh that his grandson might not be able to buy powdered formula since Hong Kong has issued the "powdered formula restriction order". In fact, this is what Hong Kong people are proud of, for we have freedom and forum for speech, and there are systems safeguarding food safety.

However, upon careful consideration and pondering, should we feel sad? Over one hundred years have passed, why do such big gaps still exist? Why do graft and corruption still prevail during the course of development of our country, thereby the public can hardly trust the country and the Communist Party, or believe that the country would safeguard their freedom, forum for speech and right of assembly? The public cannot even get safe food and potable water. As you may be aware, some Mainlanders even come to Hong Kong to buy shampoo, for they believe in the quality of the product in Hong Kong, and they are afraid of being cheated if they buy the same product in the Mainland. Poisonous foods can be found everywhere in the Mainland. Due to the difference in system and the prevalence of the corruption problem, there is still a big gap between China and Hong Kong. For this reason, we believe that Hong Kong will continue to play a specific role in the future, being a special place in the whole of China that preserves freedom and democracy. We also hope that the Legislative Council would continue to defend our hard-won democracy and freedom.

I am pleased to hear that many Members of the pro-establishment camp keep praising Hong Kong as a very attractive place for Mainland visitors, which is an important cornerstone for Hong Kong. I wish more Mainlanders would come to Hong Kong to experience the air of freedom, so that they would understand this is the basic right entitled to all Chinese people, and then they would take the message back to the Motherland, so that our country can have more new force (*The buzzer sounded*) ... our Mainland compatriots can continue to fight for freedom, reliable powdered formula, safe food, and they would work hard to change the system and eliminate corruption.

I so submit. Thank you, President.

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

**MR IP KIN-YUEN** (in Cantonese): President, today we frequently mention about the spirit of localism. When this term first appeared, I fully accept and support the idea as Hong Kong people have, for a long time, little knowledge about Hong Kong. For instance, in school education, the introduction of Hong Kong history came rather late. Therefore, a spirit showing concern for our own place as well as for the development of the community that we live in is essential. Yet, of course, when we talk about the spirit of localism, we should be aware if



there is an element of exclusion. When we study Hong Kong history, we should not resist studying Chinese history, neither should we resist studying World history. The spirit of localism that we are referring to is about magnanimity and tolerance, which is different from the spirit of ostracism. Being a teacher, I advocate humanist education. The core values of humanistic education are education for everyone and tolerance, so that all students are able to bring their strengths into full play. Even if the students come from diverse backgrounds, they can still interact with each other and become friends; hence our society will be better.

President, in recent years, when exchanges between people of China and Hong Kong have become increasingly frequent, frictions and conflicts will arise at the same time. We are now faced with a wide variety of problems. However, first of all, the interests of people of the two places are not necessarily antagonistic. The exchanges between people of the two places should aim at achieving a win-win situation. Apart from objective environmental factors, the Hong Kong Government, which is in control of public power, is a major factor leading to the numerous conflicts between the two places. The Government should do a better work in respect of co-ordination, management and advance planning, so that the problems can be solved and will not be aggravated. Hong Kong is a diverse and open society. Due to improper planning in recent years, the Government failed to solve the problems through effective allocation of social resources, and as a result, Hong Kong people have to face fierce competition and vicious competition has triggered xenophobic sentiments. Yet, should things turn out that way? Do we have the means to alleviate or even solve the problems?

Parents in the North District were so concerned that they held rallies and demonstrations in order to obtain a kindergarten place. Why has this problem of school place become so conspicuous? Why can't the Government foresee the problem and resolve it in advance? Regarding the shortage of kindergarten places, the Education Bureau has failed to disclose convincing data to the public all along. It was only until the issue became publicly known that the Education Bureau made a response. In fact, the Education Bureau rolled out six measures to resolve the problem only after nearly all kindergarten enrolment forms have been distributed. However, some of the problems have already been solved before the Education Bureau stepped in. This kind of slow response is truly frustrating.

In fact, our first mistake was committed during the era of Chief Executive Donald TSANG. For reasons unknown, he believed that the introduction of "doubly non-permanent resident (DNR) school children" could increase the future labour force in Hong Kong. Moreover, the development of the medical industry had attracted a large number of Mainland mothers coming to Hong Kong to give birth. This is the first mistake. It does not matter that we have committed the first mistake. If we are well prepared, a second mistake may be avoided. Yet, unfortunately, in the past few years, we have seen a continuous exacerbation of the problem. The Government has not foreseen and resolved the problem in advance. Consequently, we only begin to consider taking action when problems arise today.

School children in the North District only need a kindergarten place. We have repeatedly asked the Government to ensure that all school children in the North District can secure places in the same district. Since the Government has reached a consensus with the kindergartens on enrolment in the same district, and the number of school places in the North District is sufficient for all school children in the same district, why can't the Government give an assurance? If no assurance can be offered, does it mean that the six measures do not work? If so, why can't the Government come up with some effective measures to ease the mind of parents in the North District, so that they do not have to resort to rallies and demonstrations?

For this reason, we tremble with fear when we see the increasing number of DNR school children in recent years, not because of the increase in number, but because we cannot resolve the problem. It appears that the Government has not thought of any possible solutions to solve the problem of an increasing number of DNR school children. We take action only after the emergence of problems. This year, we are faced with the problem concerning kindergartens, some years later, problems concerning primary school will arise. Aside from enrolment, school bus will be another issue that we have to face next year.

Today there are friends from the Transport and Housing Bureau attending the meeting. In fact, various problems will continue to arise next year in the North District. Unfortunately, in the Consultation Document on the Population Policy, the Government deems the DNR problem a transitional one, as if it would vanish into thin air all of a sudden. In our opinion, this problem is not transitional, but a major one requiring the Government to resolve in a serious and comprehensive manner, so as to meet the public's urgent needs. In this

connection, the focus of the problem should be on how the Government will handle conflicts that may arise between China and Hong Kong. If the Government is well prepared, these conflicts can be alleviated. Richard FLORIDA's "3Ts" just mentioned by Mr Charles MOK is very important, that is, we need to have "Tolerance" to enable the development of society, and this also applies to education.

Thank you.

**MR ALAN LEONG** (in Cantonese): President, when there are no obstetric beds for Hong Kong people to give birth, when no powdered formula are available in the market for Hong Kong residents; when there is no guarantee for a kindergarten place even if parents and grandparents queue for 7 days; when people have to wait longer for public housing; when people can hardly find a seat in fast food shops or restaurants; when people have to wait more than one hour before getting on a cable car at Ngong Ping 360 or at the Ocean Park, this is not the Hong Kong that it used to be. When a person's daily life is under such pressure and impacts, would it be odd if he cannot even be allowed to say a few grudging words? In my view, to say few grudging words does not mean discrimination against our Mainland compatriots.

President, the present situation has, of course, been brewing for some time. According to the data released by the Census and Statistics Department, the number of "doubly non-permanent resident (DNR) babies" born in Hong Kong has soared from merely 620 in 2001 to a peak of 35 736 in 2011, an increase of 57 times. Meanwhile, the figures from the Tourism Commission indicate that the number of Mainlanders visiting Hong Kong has risen from 4.45 million people in 2001 to 34.9 million people in 2012, an increase of nearly 8 times.

Over the past 10 years, due to economic interests, the Government has increasingly expanded the Individual Visit Scheme (IVS), and allowed more and more DNR babies to be born in Hong Kong at the same time. However, what kind of planning does the Government have to deal with these two large groups of people? What kind of planning did the two former Chief Executives have? During the era of TUNG Chee-hwa, there were proposals on constructing "85 000 flats", developing the Chinese medicine port and the Cyberport. As for Donald TSANG, he intended to fill the workforce vacancies resulted from the ageing population in Hong Kong with DNR babies. With respect to economic

development, he mentioned the six industries with competitive edge, but it was all talk with no actions taken.

As for the current-term Government, President, last week the so-called Consultation Document on Population Policy was released. After reading it, I truly felt that LEUNG Chun-ying was happy in his own degeneration and was willing to lag behind the general environment and situation. In fact, the population policy was supposed to showcase Hong Kong's vision, namely the overall planning in the next 10, 20 and 30 years; the quality of population we wish for; the industries we wish to develop, as well as how we define our position in the greater China economic zone, and how are we going to compete with others. However, all these are missing, and it would simply be impossible to deal with the problems facing us. I am not sure whether LEUNG Chun-ying still remembers how he ridiculed his opponent Henry TANG during the election campaign. He said that the objectives of the Steering Committee on Population Policy led by Henry TANG were unclear and the progress was uncertain. In that case, how clear and certain is LEUNG Chun-ying's policy at present?

President, before the reunification, the Government might say that it was unlikely to foresee such frequent exchanges between the Mainland and Hong Kong. However, with the rapid growth of the Mainland economy and the implementation of the IVS in 2003, it is impossible for the Government to do nothing and wait for the market to operate on its own. This is too passive, thus leading to a vacuum state in long-term planning. Since the era of Donald TSANG, the Government has started to hand over our governing right to the second governing team, as mentioned by Mr CAO Erbao, allowing individual officials of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region to intervene in Hong Kong's Affairs. Would this not intensify the conflicts between China and Hong Kong? President, as early as 2010, Prof LUI Tai-lok had pointed out in an article entitled "Planning Blind Spots in Hong Kong: the Challenge of Cross-Border Activities" that problems arising from Mainlanders' shopping spree, snapping up powdered formula in Hong Kong, as well as a variety of conflicts between the two places, are merely the symptoms. The core problem hidden behind is the lack of planning with a vision. His comment is absolutely unequivocal.

President, on specific policies, the Civic Party is in support of giving priority to the needs of Hong Kong people. For example, we propose the policy of zero quota for DNR pregnant women, and an assurance of supply of powdered

formula for Hong Kong babies. If there are no obstetric beds for Hong Kong women or Mainland wives of Hong Kong people to give birth, how can we push forward the marketization of maternity services? If there is not enough powdered formula for Hong Kong babies, why should we care about Mr Wang Guangya's grandson? President, the Civic Party has always emphasized that family reunion is a fundamental human right, and we should not regard new arrivals as usurpers of Hong Kong resources. We support economic exchanges and interactions between people of the two places, only on the premise that the SAR Government would make well planning and provide ancillary facilities, and when considering the affordability of Hong Kong, it would meet the needs of Hong Kong people, so that we no longer feel the pressure of life, and then naturally we would stop complaining, which would be wonderful.

I so submit.

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

**MR WONG YUK-MAN** (in Cantonese): President, in your article published in a free newspaper a few days ago, you stated at the outset that another adverse consequence of electoral politics is the extension and intensification of social conflicts. People who run in the election know how to make use of social conflicts to get votes. You then gave the example of "Hong Kong-China conflicts have become a hot election issue" and directed against the localism camp.

The extension and intensification of social conflicts are the symptoms, we should find out the cause of the disease and give treatment. What is the cause of the disease in Hong Kong? "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" are more in name than in reality, and they have become bankrupt.

The daily quota of 150 One-way Permits (OWP) introduced since 1995 has gradually changed our population profile. Throughout these years, a number of people have advocated reclaiming the right to approve OWP. It is explicitly stated in Article 22 of the Basic Law that "For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval. Among them, the number of persons who enter the Region for the purpose of

settlement shall be determined by the competent authorities of the Central People's Government after consulting the government of the Region." This provision tells us that the SAR Government should have the preliminary right of approval. However, in the consultation document on population policy published by the "689" regime last week, it is stated that "The power to approve OWP rests with the Mainland authorities under the Basic Law and there is no question of HKSAR Government 'resuming' the approving authority". This reflects that Article 22 is merely a scrap of paper and the unspoken rule is that we cannot resist all the OWP applicants.

In spring 2003, we should vaguely recall that ... it was so reported and let us just listen. When LEUNG Chun-ying, the then Convenor of the Executive Council, discussed with the Chinese Authorities on behalf of TUNG Chee-hwa on the policy of Individual Visit Scheme (IVS), the Beijing officials said to him, "LEUNG Chun-ying, you have to think twice, not that we do not support Hong Kong, we just worry that once we open the door, it cannot be closed. In future, when so many Mainland tourists go to Hong Kong, problems such as overstaying, law and order, and so on, may arise. Can Hong Kong cope with that (in Putonghua)?" LEUNG Chun-ying reassured them firmly that the SAR Government had considered these concerns. Since the Central Authorities supported the IVS, "Hong Kong would make the best preparations, and the Government has full confidence in the Hong Kong Police Force, the Customs and Excise Department and the Immigration Department (in Puhonghua)." The situation today is that Mainland tourists are not civic-minded, the local retail industry is monotonous serving only Mainland tourists, and the high rents have pushed up inflation. Yet, "689" still regards the IVS his most important and biggest achievement in the past 10 years or so.

During the financial tsunami in 2008, Donald TSANG claimed to promote six "miserable" industries with competitive edge, medical and education industries topped the list, turning industries which serve the well-being of Hong Kong people into money earning tools. As a result, there was an influx of "doubly non-permanent resident pregnant women" to Hong Kong. Today, even kindergarten places in the North District are in short supply, causing great hardship to local parents. All tertiary institutions have become profit-making degree mills. A large number of Mainland students are indiscriminately admitted in the name of internationalization of tertiary education, while more and more local students are denied admission to undergraduate and postgraduate programmes as school places have been taken up by Mainland students.

From TUNG Chee-hwa, Donald TSANG to LEUNG Chun-ying, they strived to gain money from Mainland people without any restraint, and ignored the interests of local people. I am overcome with emotion after listening to the remarks of Honourable colleagues in this Council today. In the past few years, I have always been considered as the culprit in undermining the unity of the democratic camp. My response is that we are united for we are the same; and we are not the same for the sake of unity. President, in this Chamber today, the pan-democrats and the pro-establishment camp are united for they are the same. Therefore, it would be amazing if Mr Gary FAN's motion is supported by more than 10 votes. The pro-establishment camp and the democratic camp have strong Greater China complexes; even if Mr CHAN Kam-lam has not spoken in a tone like the commentator of *People's Daily*, we know that they have the same aspiration to achieve national reunion. So, President, "you can set your mind at rest (in Putonghua)". The independence of Hong Kong does not work and the localism camp cannot accomplish anything. Nevertheless, the remarks given in this Council today is completely out of place with Hong Kong people outside this Council. As the shake-up plan of Hong Kong's population has been in full swing, in the Chief Executive election in 2017, which allows one person, one vote, even if the democrats can join in, disregarding what disgusting the conditions are, and become candidates, they are going to suffer a crushing defeat.

Who are Hong Kong people, President? There are no distinctions between old and new Hong Kong people or people who have been arrived earlier or later. Hong Kong people are those who have the permanent resident status. I earnestly hope that Hong Kong people would accept democracy, freedom, the rule of law and human rights values; they would give priority to protecting the interests of Hong Kong people, striving for the self-government of Hong Kong, and resisting the CPC's autocracy. This will be a blessing for Hong Kong. Hong Kong belongs to Hong Kong people, and those engaged in democratic movements in Hong Kong must uphold democracy and campaign against the communist regime; otherwise, I can say for sure that there will be no future.

Why can't the Basic Law be amended? Please explain to me why can't the Basic Law be amended. Why can't the Basic Law be challenged? Simply put, I will certainly support the original motion today. As to Ms Claudia MO's amendment, I have considered abstaining from voting because it is not logical for her to talk about Hong Kong-China conflicts, followed by discussing the inclusion of the non-Chinese community; unless she revises the part about Hong

Kong-China conflicts. Yet, I will support her amendment because the premise is resolving Hong Kong-China conflicts.

Thank you, President.

**MR PAUL TSE** (in Cantonese): President, there is a Jimmy Kimmel Live programme on ABC in the United States. A few days ago, at a session in which children discussed about politics, Jimmy KIMMEL discussed with some children about how the United States should handle its debt. One child simply said, "Kill everyone in China!" We should take no offence as the child was just kidding, but Jimmy KIMMEL, an adult and a professional host, did not know how to make timely clarification or reiterate his position. Eventually, ABC made an apology on 25 October and, of course, the host himself also apologized.

President, Mr Alan LEONG asked whether one is not allowed to vent his emotion. It is certainly understandable if we are only chatting in private. However, the motion and several amendments are proposed, in the hope that they can be passed in this Council. Sorry for saying so, but this reflects that this Council is not fully civilized and we will even be ridiculed. I certainly believe that it is very unlikely for this motion to be passed today.

I strongly agree with Mrs Regina IP's remark just now. We should carefully consider the definitions in the motion including the definition of Hong Kong people as mentioned by a few Honourable colleagues. Article 25 of the Basic Law clearly specifies that Hong Kong residents who have the prescribed rights are not necessarily permanent residents. The relevant provision has basically not distinguished clearly between residents and permanent residents. Moreover, Article 41 of the Basic Law provides that, persons in the Hong Kong Special Administrative Region other than Hong Kong residents shall, enjoy the rights and freedoms of Hong Kong residents. Actually, these legal provisions reflect the essential conditions and attitudes of a modern civilized community like Hong Kong.

President, it is certainly difficult to define Hong Kong people. How about setting priorities? When we give priority to certain people, some others will certainly have lower priority and they will be discriminated against. Let us consider this: what policy is involved when we advocate giving priority to men; to the able-bodied; to people who are young and strong; to heterosexual people;



to people of the Han race, or saying to Jews to give priority to Germans? There are the two sides of the same coin: when we give priority to certain people, it implies that someone would be discriminated against. Thus, we must be very careful when using those words in this Council.

President, what is the meaning of "adhering to the need" in the motion? It seems that the words "adhering to the need" are neutral in meaning. In fact, many policies need not be stated explicitly. Naturally, there are priorities in real life and it is not necessary to particularly describe these priorities when formulating policies.

In reality, within the framework of the Basic Law, Hong Kong people need not serve in the army or pay taxes to our Motherland. This policy gives priority to Hong Kong people among 1.3 billion people in China. According to my understanding, China also gives Hong Kong priority in the supply of water, vegetables and food, and so on. We have advantages in these areas, and I do not need to dwell on this.

On the contrary, the law specifies that we can discriminate against certain people under some circumstances. For example, priority is given to indigenous villagers; distinction is made between permanent residents and non-permanent residents; or priority is given on the basis of the number of years which people have ordinarily resided in Hong Kong. We can understand such priorities if we use our common sense. If we ask the Government to adhere to the need to "put Hong Kong people first" in formulating policies ... if "putting Hong Kong people first" is one of the factors for consideration, it is definitely normal, understandable and acceptable. But if we always "put Hong Kong people first" without considering other factors, I am afraid it is not appropriate for our society to adopt this approach.

President, as we have noticed, other advanced countries and economically developed countries in the world are concerned about equality or humanity. Should Hong Kong move along the direction of "putting Hong Kong people first" as proposed in the motion? In particular, there was another motion debate a few hours ago on whether transsexual people should enjoy the right of marriage; thus, this motion to "put Hong Kong people first" looked out of place.

President, many Honourable colleagues have just expressed that an inclusive society will definitely be favourable to our economy; but owing to the

Government's blunders, some people would blame the Government for certain conflicts, or they may blame the Legislative Council for failing to take better care of local people. Nonetheless, we have wisdom and we should understand how to provoke China-Hong Kong conflicts or raise the point that putting certain people first is not the right way to solve the problems.

President, in all generations and countries, it is inevitable that there are certain political burdens, historical origins and geographical factors that may create certain political problems. In the face of various challenges and problems, if members of the community can have broader vision and find the right direction, crises may turn into business opportunities. On the contrary, it is not good for us to be close-minded and conservative. Between the prosperous Tang Dynasty and the closed-door Qing Dynasty, we should know how to choose. Thank you.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr Gary FAN, you may now speak on the amendments. The speaking time limit is five minutes.

**MR GARY FAN** (in Cantonese): President, I would like to thank a number of Honourable colleagues for they have very actively participated in the discussion, though there are heated argument and criticisms. I will express my views on each of the amendments.

I will support Ms Claudia MO's amendment because cultural tradition is very important to the development of Hong Kong and embodies the spirit of "putting Hong Kong people first". Ms Claudia MO has touched upon an issue that even Members who strongly indicate that it is essential to assist the disadvantaged and new arrivals have not mentioned, that is, the new immigration policy gives different or unequal treatment to Chinese and non-Chinese immigrants. So, I will support her amendment.

Mr Kenneth LEUNG's amendment has policy connotations. I think not many Honourable colleagues have made very practical and substantive proposals today and these proposals are only found in Mr Kenneth LEUNG's amendment; thus, I will support it.

Mr Michael TIEN's amendment runs contrary to the core spirit of the original motion of the need to "put Hong Kong people first" because of China-Hong Kong conflicts. Although what he said during the debate also has policy connotations, I can only abstain from voting.

I cannot support Mr Albert HO's amendment because he proposes to delete "to adhere to the need" and substitutes with "adhere to possible consideration"; the spirit of the original motion will then be lost. What is the purpose of holding discussions?

I am sorry that I cannot support Mr IP Kwok-him's amendment because it is consistent with the practice of *People's Daily* in constantly accusing Hong Kong people. While the specific problems of Hong Kong cannot be solved, Hong Kong people are conversely being asked to change the way they look at the problems. This does not help in resolving the disputes.

Mr LEE Cheuk-yan's amendment also has policy connotations. He voiced the problems and reviewed the history. His speech has substantive content, so I will support his amendment.

Dr Fernando CHEUNG emphasized and used the word "discriminatory" in his amendment and opposed any xenophobic remark. However, I am sorry to say, when some Honourable colleagues talked about exclusion and xenophobia, there is a very important ideological blind spot. If they emphasize that the new immigrants are family members of Hong Kong people, why do they describe that as "xenophobia" instead of exclusion of family members? Since there is such an ideological blind spot in the amendment, I am sorry that I can only abstain from voting.

Many other Honourable colleagues, such as Mr Charles Peter MOK, Mr LEUNG Yiu-chung, Mr CHEUNG Kwok-che, Mr LEE Cheuk-yan, Mr Alan LEONG and Dr Kwok Ka-ki have put forward a number of specific policy initiatives. Ms Cyd HO, Mr Albert CHAN and Mr WONG Yuk-man have raised some thought-provoking questions in their speeches, they have also conducted a useful history review to help Members understand the problem. On

the contrary, there are some overtly simplified and vague remarks, which can even be described as pseudo propositions that only alleged the inappropriateness of exclusion, division and discrimination. Nevertheless, let me emphasize again, the wordings of the advertisement have been extensively interpreted, hence leading to the allegation of discrimination. This is exactly the same as the arguments in China's official media such as *People's Daily*. These arguments are intended to facilitate governance by making false allegation to divert attention and obscure the facts. As a result, the specific policy initiatives that should be discussed today are affected.

Furthermore, I would like to respond to Mr CHAN Kam-lam that Mr LEE Cheuk-yan has not infringed on the dignity of the country. In fact, the word "country" (國) should be pronounced as gwok3, not gok3 as pronounced by Mr CHAN Kam-lam. If Mr CHAN really loves the country, he should pronounce the word "country" (國) correctly. Dr CHIANG Lai-wan alleged that it is incorrect to abolish the Individual Visit Scheme. Her argument is far from the truth because I only wish to restrict the Individual Visit Scheme. I hope Members can grasp the specific facts in discussing about policies.

There is little time left and I want to point out I have, in my earlier speech, expounded clearly on the identity and definition of Hong Kong people. Yet, Mrs Regina IP and Mr Paul TSE have turned a deaf ear and they have focused on discussing those terms. Hence, after they have finished speaking, they have neither talked about the focal point of the policies nor made any concrete proposals.

Finally, I would also like to criticize you, President. You wrote an article in the newspaper the day before yesterday, stating that measures such as "powdered formula restriction order" and "Hong Kong properties for Hong Kong people" put forward by Chief Executive LEUNG Chun-ying, have given rise to China-Hong Kong conflicts. I criticized the LEUNG Chun-ying Government because in respect of China-Hong Kong conflicts and policies on Hong Kong people, I think LEUNG Chun-ying's effort is insufficient, his effort is not good enough and extensive enough, Nonetheless, the President has employed the art of double-talk and alleged that the proposed solutions will lead to conflicts. These are some of the ridiculous arguments in our debate today.

Thank you, President.

**SECRETARY FOR EDUCATION** (in Cantonese): President, I would like to thank Members for actively speaking on this motion as well as the seven amendments today. First of all, I will now focus on responding to some views expressed by Members.

Insofar as education is concerned, the relevant discussion is mainly related to the demand of school places by "doubly non-permanent resident (DNR) babies" in recent years. At present, the 200 000 Type II babies born in Hong Kong before the implementation of the "zero delivery quota" policy indeed bring about certain time-limited problems for Hong Kong's education services.

In respect of kindergartens, there are sufficient kindergarten places in various districts throughout Hong Kong to meet the demand of school-age children. There are also sufficient kindergarten places in districts close to the boundary control points to cater for the demand of local and cross-boundary students. As the demand in the North District is relatively close to the supply, we have met representatives of the kindergarten sector in the district to discuss quick contingency measures in order to address this matter on a special case basis. At present, we have reached consensus with representatives of the sector in the district on a number of areas. We are going to implement six special temporary measures in Tai Po and the North District with a view to improving kindergarten admission procedure and better utilizing the kindergarten places within the district so as to dispel parents' doubts.

We will also closely monitor the demand and supply of kindergarten places and when necessary, increase the supply and request kindergartens to optimize their campus capacities for providing more classrooms. We will also approach school sponsoring bodies and encourage them to expand or open kindergartens in districts with a high demand for school places.

In respect of primary schools, with the implementation of the "zero delivery quota" policy in the beginning of 2013, it is anticipated that the demand for Primary One (P1) places will reach its peak from the 2016-2017 school year to the 2018-2019 school year and then subside gradually to a stable level. Therefore, the relevant demand for P1 places is transient.

In the interim, the Education Bureau will adopt flexible measures as much as possible to increase the supply of P1 places. The Education Bureau's

objective is to ensure that sufficient P1 places will be made available for application by all eligible students (including both local and DNR students).

Under the revised arrangement for Central Allocation announced by the Education Bureau in August this year, starting from admission this year (that is, 2014-2015 school year), a separate Choice of Schools List for Central Allocation will be compiled for children residing in the Mainland, which is more or less like a special "dedicated school net" for them. This suggestion has also been mentioned by Members just now. It is anticipated that the revised diversion arrangements for Central Allocation can alleviate the problem of tight supply of P1 school places in the North District as a result of increasing cross-boundary students.

Many Members have also discussed the policies of tertiary institutions on internationalization and admitting non-local students. As a metropolis in Asia, Hong Kong must attract talents from all over the world, so as to ensure that our workforce can enjoy the advantages of having people with a global perspective and being able to integrate with people of different cultural backgrounds. The internationalization of tertiary education is an important step towards the betterment of local talents. Assisting local tertiary institutions in getting outstanding tertiary students and quality research personnel as well as research projects can strengthen our academic standing and research ability, in turn benefiting the entire community. Moreover, a more international environment will have a more positive impact on local students in terms of understanding and integrating into a pluralistic cultural environment.

I must point out specifically that in the course of internationalization, we will never neglect the needs of local students. Under the existing policy, for all taught programmes funded by the University Grants Committee (UGC), including associate degree, undergraduate and postgraduate taught programmes, the ceiling of non-local student admission is 20% of the approved UGC-funded student number for such programmes, which comprises up to 4% within the UGC-funded number and up to 16% outside the UGC-funded number. It can be seen that the impact of non-local students on local students' enrolment in publicly-funded degree programmes is minimal. Also, non-local students have to pay higher tuition fees and hence, there is no case of using public money to subsidize non-local students. On the contrary, an increase of non-local students can provide a more international environment and create a pluralistic cultural ambience for local students to broaden their horizons.

President, I would like to supplement on two points in particular. Mr Gary FAN requested the SAR Government to take back the power of vetting and approval of One-way Permit (OWP). As we have stated before, I would like to reiterate here that under the Basic Law, the application, approval and issue of OWP fall within the remit of the Mainland authorities. Under the policy objective of family reunion, the Mainland authorities have already set out open and transparent criteria for assessment. We do not see any justifications or needs to change the existing approval arrangements, and there is no case of taking back the power of vetting and approval. Just now, Mr FAN also mentioned the importation of foreign labour. I would like to reiterate that under the Government's established policy, local workers must be given priority in filling job vacancies, and only employers with genuine difficulties in finding suitable staff locally will be given approval to import workers. The Government will continue to process applications for imported workers carefully under the existing mechanism. We are now consulting public views on this issue under the population policy.

All in all, we hope that from both the perspectives of the Government and society, we can deal with various matters relating to the two places with a proactive, cautious, mutually understanding and accommodating attitude. The SAR Government will continue to work on the basis of the overall interest and long-term development of Hong Kong society and the general public.

Thank you, President, I so submit.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I thank the 30 odd Members for speaking on this subject. Many Members have mentioned that the present housing problem is caused by inadequate supply, leading to the scrambling for resources, social division and aggravation of conflicts. There are many reasons for the housing shortfall, which include immediate and remote reasons, some local factors, as well as factors related to the fluctuation of the global economy. I do not intend to go into details.

I understand and I admit that there is indeed a shortfall in the volume of housing production. Therefore, the key to solve the problem is to produce as many housing units as soon as possible. The incumbent Government has

adopted a "supply-led" strategy to address the supply-demand imbalance in a fundamental and long term manner.

Therefore, I call upon Members to support the Government's proposals to identify land sites and develop land from all sources for housing production, as well as to maximize the use of land to increase the housing supply in order to meet the public's needs and alleviate various social conflicts.

As regards the long term planning for housing, the Long Term Housing Strategy Steering Committee has published a consultation paper giving us a vision for housing development. A public consultation is being conducted now.

Other than proposing to produce 470 000 new housing units in the next decade, the consultation paper also recommends that the future housing supply be predominated by public housing with a 6:4 public-to-private housing ratio. Public housing includes public rental housing (PRH) and subsidized HOS housing. The allocation of these housing flats will be based on the "putting Hong Kong people first" principle, with local resources directly used on local residents. Regarding the concept of "putting Hong Kong people first" as applicable in the housing policy, Hong Kong people refer to those who have the status of Hong Kong permanent residents as defined by law without distinction of race, birthplace or skin colour.

Mr Alan LEONG has just mentioned that there are many people on the PRH Waiting List. I wish to clarify that there are basically no non-permanent residents of Hong Kong on the Waiting List because PRH units will only be allocated to families with at least half of their members being Hong Kong permanent residents.

I reiterate here that under the present situation of acute housing shortfall, the Government will address the housing and home ownership needs of the Hong Kong people first. The Housing Authority and Housing Society have always accorded priority to Hong Kong people in their application for housing units produced by them. The aim of the demand-side management measures, including the Buyer's Stamp Duty (BSD), is to effectively increase the costs of purchasing residential properties incurred by non-Hong Kong permanent residents to ensure the priority of Hong Kong people in purchasing their homes. I thank Mr Gary FAN for his support for our demand-side management measures in this respect.



The Development Bureau introduces the "Hong Kong property for Hong Kong people" measures with the aim to accord priority to Hong Kong permanent residents when the land is used for residential development. The Bureau had incorporated relevant conditions in the sale of two sites in the Kai Tai Development Area to implement on a trial basis "Hong Kong property for Hong Kong people". Those sites were sold in June this year.

Mr FAN has asked why no sites for implementing the policy of "Hong Kong property for Hong Kong people" have been included in this year's Land Sale Programme. As stated by the Chief Executive when he announced the housing and land supply policy on 30 August last year, the measure of "Hong Kong property for Hong Kong people" is implemented through the sales conditions of new sites and those measures are highly flexible. The Government does not rule out the possibility that more sites will adopt the model of the two sites in the Kai Tak Development Area and implement the measure of "Hong Kong property for Hong Kong people" through the lease conditions.

Mr Gary FAN has also asked why Hong Kong permanent resident who is a minor born to parents who are not permanent residents of Hong Kong, that is "doubly non-permanent resident children", can be exempted from the BSD and whether it would constitute a loophole. I wish to point out here that our policy intent is to accord priority to addressing the home ownership needs of all Hong Kong permanent residents. Hence, all Hong Kong permanent residents who meet the requirements of the Bill, even the minors, are exempted from the BSD. However, as minors cannot sign legally binding agreements, if they want to acquire a residential property, they must have someone to represent them in the purchase. Therefore, the Bill proposes that if a residential property is purchased by the guardian or trustee on behalf of a minor who is Hong Kong permanent resident, the transaction concerned should also be exempted from the BSD. Of course, some Members are concerned whether such an arrangement will create a loophole. We must point out that under the mechanism currently conceived, the Inland Revenue Department will prevent the loopholes that may arise through administrative measures.

Some Members have also suggested further tightening the relevant arrangements. We are now conducting an in-depth study. However, we must point out that if we arbitrarily impose certain restrictions at will on minors who are Hong Kong permanent residents born to parents who are not Hong Kong permanent residents the exemption from the BSD, it may constitute

discrimination and violate Hong Kong permanent residents' right to be treated equally. We may thus be subject to legal challenges.

Mr MA Fung-kuok has reminded the Government that the concept of "putting Hong Kong people first" sounds rather vague in general and the authorities need to be careful in implementing the specific policies and avoid creating xenophobia. Mr NG Leung-sing has also cautioned the authorities not to turn that concept into a form of protectionism. These Members have reminded us out of kindness and their advice is very appropriate. I can assure Members that the specific policy on the allocation of public housing flats has been in place for years and it can withstand the test of time; it is acceptable to the public and has not given rise to much controversy. As regards the BSD from which Hong Kong permanent residents are exempted, as Mr MA has just said, is only a temporary arrangement and, as we say, an extraordinary measure introduced under exceptional circumstances in the face of the acute supply shortfall.

It is evident that the various demand-side management measures, including the BSD, have effectively curbed market exuberance and reversed the community's expectation that property prices would only go up but not come down, thereby reducing the risk of a property market bubble. Until the property market returns to a normal state, the Government has no intention to withdraw or relax these measures. If we were to withdraw or relax the measures now, there would be an inevitable impact on the property market, which send the wrong message to the community and call into question our determination to stabilize the property market. This may in turn trigger a return to the cycle of irrational exuberance in the property market again, and undermine the Government's efforts to cool off the market. This would expose the property market to an even higher risk of a property bubble, which would be to the detriment of the macro economy, and ultimately jeopardizing the interest of the entire community.

Lastly, I have to stress again that the Government understands the housing problem is a very serious livelihood issue and in the face of the current tight supply and serious supply-demand imbalance, the Government will continue to accord priority to addressing the housing and home ownership needs of the people of Hong Kong. Thank you, President.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, as resources are limited, local residents have always been given priority in the provision of public healthcare services. Once we find that the provision of healthcare services for non-Hong Kong residents have an impact on local residents, we will take appropriate measures to address the situation.

In fact, as the number of cases involving non-Hong Kong residents giving birth in Hong Kong had increased rapidly in the past few years, which affected the obstetric services for local women, the Hospital Authority had suspended the delivery booking of non-Hong Kong residents in public hospitals since April last year. At that time, the Chief Executive-designate stated "before we could have a full picture of the impact on Hong Kong's social services such as healthcare, maternal and child health services and education caused by non-local pregnant women who give birth in Hong Kong and whose husbands are non-Hong Kong residents ("doubly non-permanent resident (DNR) pregnant women"), private hospitals should stop accepting bookings for obstetric services in 2013 from these pregnant women". Various private hospitals agreed to make the relevant arrangements at that time.

This year, in the first Policy Address of the Chief Executive, it is stated that "babies born to non-local parents will add pressure to our medical, education and other services. The policy of no delivery bookings of pregnant Mainland women whose husbands are not Hong Kong residents has borne fruit. I have decided to maintain the "zero delivery quota" policy for expectant Mainland mothers whose husbands are not Hong Kong residents."

To deter non-local pregnant women without booking from gate-crashing the Accident and Emergency Departments (AEDs) for delivery, the fees for deliveries by non-local pregnant women without booking at public hospitals were increased from \$48,000 to \$90,000 in May last year.

Under the "zero delivery quota" policy for DNR pregnant women, private hospitals have administrative measures for accepting bookings by "singly non-permanent resident (SNR) pregnant women", hence a sufficient capacity of services has been reserved for local pregnant women. At present, non-local SNR pregnant women who are pregnant for 28 weeks or more have to produce the Certificate on Confirmed Antenatal and Delivery Booking issued by Hong Kong private hospitals for checking by immigration officers when they enter Hong Kong or else they may be refused entry.

The Immigration Department, the Office of the Licensing Authority of the Home Affairs Department and other law-enforcement agencies will step up interception and enforcement actions against DNR pregnant women. The measures include strengthening immigration examination of all Mainland pregnant women, combating illicit agency activities assisting Mainland pregnant women to give birth in Hong Kong, and stepping up inspection and enforcement against suspected unlicensed guesthouses, so as to deter Mainland pregnant women without prior bookings for obstetric services from entering Hong Kong and gate-crashing the AEDs, or entering Hong Kong in the early stage of pregnancy to evade immigration examination.

I would like to say that the importance attached to local residents is not only reflected in the public healthcare system, but also under the private healthcare system where appropriate. A case in point is that, as I have mentioned earlier, the Government has decided to maintain the "zero delivery quota" policy for DNR pregnant women, including those giving birth in private hospitals.

Since Hong Kong is a free economy, we must carefully strike a balance between restricting the use of private hospital services by foreigners through regulatory measures such as legislation and maintaining the free market principle. Even so, regarding the private hospital site at Wong Chuk Hang approved in March this year, with the consent of the successful bidder, we have stipulated in the service contract of the new hospital that at least 70% of in-patient bed days will be used for provision of services to local residents each year. In addition, the new hospital will also use at least 51% of in-patient bed days per year to provide services to local residents in the form of standard bed and package charge.

I know that Members are concerned about healthcare services, and they are also concerned about the supply of powdered formula policy. I reiterate that the Government's policy on the supply of powdered formula is also in the interests of Hong Kong people. The purpose is to ensure that the entire retail supply chain can provide adequate and stable supply of powdered formula to infants and young children in Hong Kong under 36 months.

In July, the Government established a cross-sector committee to examine measures for improving the supply chain management of powdered formula. The committee has discussed and examined the proposals submitted by major suppliers of powdered formula and the Hong Kong General Chamber of

Pharmacy Limited on improving the supply chain management. The committee has also conducted stress tests and reviews on the improvement measures during the National Day Golden Week and the days before and after. The consultancy firm engaged by the Government is now analysing the observations and data of the stress tests, and it will later submit a report to the Government and for the committee's discussion. The committee will subsequently give advice to the Government on improving the supply chain management. The Government will report the results to the Legislative Council within 12 months after completion of the review.

Members expressed concern about when the Government will revoke the Import and Export (General) (Amendment) Regulation 2013 (Amendment Regulation) on prohibiting the export of powdered formula for infants and young children under 36 months from Hong Kong. On the premise of protecting the health of local infants and young children, the Government will not casually revoke the provision added to the Amendment Regulation. Only when the improvement measures have been proven to be effective and sustainable, and can withstand the test of peak demand that the Government would consider revoking the Regulation.

The abovementioned points have confirmed that our food and healthcare policy gives priority to local residents in the provision of services. In planning for the future development of services, we will also consider the demand arising from the overall population growth due to Mainland people settling in Hong Kong. In addition, we will continue to uphold the principle of "putting Hong Kong people first" in providing the relevant services, so as to fully take care of the needs of Hong Kong people.

Thank you, President.

**PRESIDENT** (in Cantonese): Ms Claudia MO, you may move your amendment.

**MS CLAUDIA MO**: Sorry, I was half asleep.

**MS CLAUDIA MO** (in Cantonese): I move that Mr Gary FAN's motion be amended.

**Ms Claudia MO moved the following amendment: (Translation)**

"To add ", as China-Hong Kong conflicts are intensifying," after "That"; to delete "China-Hong Kong conflicts" after "to proactively handle" and substitute with "the related social problems"; and to add "; specific measures should include: (1) to encourage the various sectors in the society to retain the use of Cantonese and traditional characters, and to proactively promote the local cultural characteristics of Hong Kong; and (2) to fully implement a policy of ethnic integration, so as to allow Hong Kong people, irrespective of their ethnic origin, to enjoy the same treatment and development opportunities" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Claudia MO to Mr Gary FAN's motion, 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)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Ms Claudia MO rose to claim a division.

**PRESIDENT** (in Cantonese): Ms Claudia MO has claimed a division. The division bell will ring for five 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:

Mr Frederick FUNG, Prof Joseph LEE, Mr Charles Peter MOK and Mr Kenneth LEUNG voted for the amendment.

Mr Abraham SHEK, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted against the amendment.

Mr Albert HO, Mr James TO, Mr CHEUNG Kwok-che, Mr MA Fung-kwok and Mr IP Kin-yuen abstained.

Geographical Constituencies:

Mr Alan LEONG, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN and Dr KWOK Ka-ki voted for the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Paul TSE, Mr LEUNG Che-cheung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted against the amendment.

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Cyd HO, Mr Michael TIEN, Mr WU Chi-wai, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, four were in favour of the amendment, 15 against it and five abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, eight were in favour of the amendment, 11 against it and nine 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 negated.

**MR ANDREW LEUNG** (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Adhering to the need to 'put Hong Kong people first' in formulating policies" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): 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.

(No hands raised)



**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion on "Adhering to the need to 'put Hong Kong people first' in formulating policies" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Mr Kenneth LEUNG, you may move your amendment.

**MR KENNETH LEUNG** (in Cantonese): President, I move that Mr Gary FAN's motion be amended.

**Mr Kenneth LEUNG moved the following amendment: (Translation)**

"To add ", as over the years, the Government has not formulated a comprehensive policy in respect of Hong Kong's population changes, thus resulting in imbalance in the supply of and demand for individual social services and giving rise to sentiments of China-Hong Kong conflicts in society," after "That"; to delete "proactively handle China-Hong Kong conflicts, and to adhere to the need to 'put" after "the Government to" and substitute with "formulate corresponding measures according to the existing population data, so as to meet social needs; the Government should also formulate a long-term population policy, so as to properly make corresponding preparations for Hong Kong's future population structure in areas such as housing, education, employment and healthcare, etc.; in formulating the relevant policies, the Government should, apart from taking account of 'putting"; and to delete "in formulating policies" immediately before the full stop and substitute with ", also ensure that the rationale of such policies complies with basic human rights principles"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Kenneth LEUNG to Mr Gary FAN's motion, 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)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr Kenneth LEUNG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Kenneth LEUNG has claimed a division. The division bell will ring for one minute.

**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:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Prof Joseph LEE, Mr CHEUNG Kwok-che, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Christopher CHEUNG, Mr IP Kin-yuen, Mr Martin LIAO, Mr POON Siu-ping and Mr Tony TSE voted for the amendment.

Mr KWOK Wai-keung and Mr CHUNG Kwok-pan voted against the amendment.

Mr Abraham SHEK, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing and Ir Dr LO Wai-kwok abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Cyd HO, Mr Paul TSE, Mr Alan LEONG, Mr Albert CHAN, Ms Claudia MO, Mr Michael TIEN, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mr WONG Kwok-hing and Mr WONG Kwok-kin voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Yuk-man, Mr LEUNG Che-cheung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 13 were in favour of the amendment, two against it and nine abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 17 were in favour of the amendment, two against it and nine abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

**PRESIDENT** (in Cantonese): Mr Michael TIEN, as the amendment of Mr Kenneth LEUNG has been passed, you may now move your revised amendment.

**MR MICHAEL TIEN** (in Cantonese): President, I move that Mr Gary FAN's motion as amended by Mr Kenneth LEUNG be further amended by my revised amendment.

**Mr Michael TIEN moved the following further amendment to the motion as amended by Mr Kenneth LEUNG: (Translation)**

"To add "; the Government should also consider the possible impact of the policies on the country" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr Michael TIEN's amendment to Mr Gary FAN's motion as amended by Mr Kenneth LEUNG 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)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

**PRESIDENT** (in Cantonese): I think the question is not agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment negatived.

**PRESIDENT** (in Cantonese): Mr Albert HO, as the amendment of Mr Kenneth LEUNG has been passed, you may now move your revised amendment.

**MR ALBERT HO** (in Cantonese): President, I move that Mr Gary FAN's motion as amended by Mr Kenneth LEUNG be further amended by my revised amendment.

**Mr Albert HO moved the following further amendment to the motion as amended by Mr Kenneth LEUNG: (Translation)**

"To add "; this Council also calls on the various sectors not to have any discriminatory mindset on and perception of new arrivals and visitors, and definitely not to make discriminatory remarks to intensify social conflicts and the dissension among races and ethnic groups" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr Albert HO's amendment to Mr Gary FAN's motion as amended by Mr Kenneth LEUNG 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)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr WONG Yuk-man rose to claim a division.

**PRESIDENT** (in Cantonese): Mr WONG Yuk-man has claimed a division. The division bell will ring for one minute.

**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 stop now and the result will be displayed.

Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Prof Joseph LEE, Mr CHEUNG Kwok-che, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr IP Kin-yuen, Mr Martin LIAO, Mr POON Siu-ping and Mr Tony TSE voted for the amendment.

Mr CHUNG Kwok-pan voted against the amendment.

Mr Abraham SHEK, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr KWOK Wai-keung, Mr Christopher CHEUNG and Ir Dr LO Wai-kwok abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Cyd HO, Mr Paul TSE, Mr Alan LEONG, Mr Michael TIEN, Mr WU Chi-wai, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Ms Claudia MO voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Albert CHAN, Mr WONG Yuk-man, Mr Gary FAN, Mr CHAN Chi-chuen, Mr LEUNG Che-cheung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 12 were in favour of the amendment, one against it and 11 abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 13 were in favour of the amendment, one against it and 14 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 IP Kwok-him, as the amendment of Mr Kenneth LEUNG has been passed, you may now move your revised amendment.

**MR IP KWOK-HIM** (in Cantonese): President, I move that Mr Gary FAN's motion as amended by Mr Kenneth LEUNG be further amended by my revised amendment.

**Mr IP Kwok-him moved the following further amendment to the motion as amended by Mr Kenneth LEUNG: (Translation)**

"To add "; in the meantime, this Council opposes discriminatory words and deeds against new arrivals, for instance, publishing advertisements outside Hong Kong, blatantly discriminating against new arrivals who came to Hong Kong for family reunion, and urges the Government to proactively expand the room for social and economic development, and review the co-operation policies on the exchanges between the two places, and ensure that the services and resources Hong Kong residents are entitled to will not be affected in formulating policies involving allocation of public resources," immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr IP Kwok-him's amendment to Mr Gary FAN's motion as amended by Mr Kenneth LEUNG 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)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr WONG Yuk-man rose to claim a division.

**PRESIDENT** (in Cantonese): Mr WONG Yuk-man has claimed a division. The division bell will ring for one minute.

**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:

Mr Abraham SHEK, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted for the amendment.



Mr Frederick FUNG, Prof Joseph LEE and Mr Kenneth LEUNG voted against the amendment.

Mr Albert HO, Mr James TO, Mr CHEUNG Kwok-che and Mr IP Kin-yuen abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Paul TSE, Mr Michael TIEN, Mr LEUNG Che-cheung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted for the amendment.

Mr LEUNG Yiu-chung, Mr Alan LEONG, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki and Mr SIN Chung-kai voted against the amendment.

Mr LEE Cheuk-yan, Ms Emily LAU, Ms Cyd HO, Mr WU Chi-wai, Dr Fernando CHEUNG and Dr Helena WONG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 17 were in favour of the amendment, three against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 12 were in favour of the amendment, 10 against it and six 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 LEE Cheuk-yan, as the amendment of Mr Kenneth LEUNG has been passed, you may now move your revised amendment.

**MR LEE CHEUK-YAN** (in Cantonese): President, I move that Mr Gary FAN's motion as amended by Mr Kenneth LEUNG be further amended by my revised amendment.

My amendment is mainly to add the contents which are pointed out by Mr CHAN Kam-lam just now as offending the dignity of the country. But in our view, such contents are the roots of China-Hong Kong conflicts. Thank you, President.

**Mr LEE Cheuk-yan moved the following further amendment to the motion as amended by Mr Kenneth LEUNG: (Translation)**

"To add "; this Council also reiterates that maintaining Hong Kong's uniqueness is the essence of 'one country, two systems' and in line with the interests of the people of Mainland and Hong Kong, and urges the SAR Government to be courageous to refuse the Beijing authorities' intervention in Hong Kong affairs, to firmly uphold the autonomy of the SAR governance, and to adhere to the need to give priority to safeguarding Hong Kong's core values and protecting Hong Kong people's basic political, economic, social and cultural rights, etc., in formulating policies" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr LEE Cheuk-yan's amendment to Mr Gary FAN's motion as amended by Mr Kenneth LEUNG 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)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

**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:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Prof Joseph LEE, Mr CHEUNG Kwok-che and Mr IP Kin-yuen voted for the amendment.

Mr Abraham SHEK, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr Martin LIAO, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted against the amendment.

Mr POON Siu-ping abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Cyd HO, Mr Alan LEONG, Mr Albert CHAN, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Paul TSE, Mr Michael TIEN, Mr LEUNG Che-cheung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted against the amendment.

Mr WONG Yuk-man abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, six were in favour of the amendment, 17 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 15 were in favour of the amendment, 12 against it and one 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): Dr Fernando CHEUNG, as Mr Kenneth LEUNG's amendment has been passed, you may now move your revised amendment.

**DR FERNANDO CHEUNG** (in Cantonese): President, I move that Mr Gary FAN's motion as amended by Mr Kenneth LEUNG be further amended by my revised amendment.

**Dr Fernando CHEUNG moved the following further amendment to the motion as amended by Mr Kenneth LEUNG: (Translation)**

"To add "; this Council also urges the Government to safeguard Hong Kong's uniqueness and planning autonomy, firmly uphold the people-based principle, ensure Hong Kong people's right to family reunion, and resolutely oppose any xenophobic and discriminatory remarks on new arrivals or other ethnic groups" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Dr Fernando CHEUNG's amendment to Mr Gary FAN's motion, as amended by Mr Kenneth LEUNG, 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)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr WONG Yuk-man rose to claim a division.

**PRESIDENT** (in Cantonese): Mr WONG Yuk-man has claimed a division. The division bell will ring for one minute.

**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:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Prof Joseph LEE, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr IP Kin-yuen, Mr POON Siu-ping and Mr Tony TSE voted for the amendment.

Mr NG Leung-sing, Mr KWOK Wai-keung, Mr Martin LIAO and Mr CHUNG Kwok-pan voted against the amendment.

Mr Abraham SHEK, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Christopher CHEUNG and Ir Dr LO Wai-kwok abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Cyd HO, Mr Alan LEONG, Mr Albert CHAN, Ms Claudia MO, Mr Michael TIEN, Mr WU Chi-wai, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mr WONG Kwok-hing and Mr WONG Kwok-kin voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr Paul TSE, Mr WONG Yuk-man, Mr Gary FAN, Mr LEUNG Che-cheung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 10 were in favour of the amendment, four against it and 10 abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 15 were in favour of the amendment, two against it and 11 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 negated.

**PRESIDENT** (in Cantonese): Mr Gary FAN, you may now reply and you have 24 seconds.

**MR GARY FAN** (in Cantonese): President, my motion must have touched a sore spot of the pro-establishment camp, otherwise, 30 to 40 people from the Association for Family Reunion would not have come to my two regional offices early this morning to protest and exert pressure. As exposed by the media, in the two Legislative Council elections held in 2008 and 2012, the Association was electioneering for candidates from the pro-establishment camp, which was against the rules.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Gary FAN, as amended by Mr Kenneth LEUNG, be passed.

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

**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:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Prof Joseph LEE, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG and Mr IP Kin-yuen voted for the motion as amended.

Mr Abraham SHEK, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr Martin LIAO, Ir Dr LO Wai-kwok and Mr CHUNG Kwok-pan voted against the motion as amended.

Mr POON Siu-ping and Mr Tony TSE abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Cyd HO, Mr Paul TSE, Mr Alan LEONG, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the motion as amended.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr LEUNG Che-cheung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted against the motion as amended.

Mr Michael TIEN abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.



THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, eight were in favour of the motion as amended, 14 against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 17 were in favour of the motion as amended, 10 against it and one 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 as amended was negatived.

#### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11 am on Wednesday 6 November 2013.

*Adjourned accordingly at twenty-six minutes to Midnight.*

## Professional Accountants (Amendment) Bill 2013

**Committee Stage**Amendments moved by the Honourable Charles Peter MOK

<u>Clause</u>	<u>Amendment Proposed</u>
3	By adding—  “(6A) Section 28D(3)(c)(ii)(A), English text— <b>Repeal</b> “requirements of subparagraph (i)” <b>Substitute</b> “requirement of subparagraph (i)”.”.
4	By adding—  “(6A) Section 42(1)(ii)— <b>Repeal</b> “company” <b>Substitute</b> “body corporate”.  (6B) Section 42(4)(a)— <b>Repeal</b> “company” (wherever appearing) <b>Substitute</b> “body corporate”.”.

**Appendix I****WRITTEN ANSWER****Written answer by the Secretary for Development to Mr WU Chi-wai's supplementary question to Question 6**

As regards whether the Government had categorized the over 50 000 outstanding removal orders issued by the Buildings Department (BD), the BD has conducted various large-scale operations to remove unauthorized buildings works (UBWs) since 2001. Over 400 000 UBWs, many of them high-risk UBWs, were removed during the period from 2001 to 31 March 2011. In response to public comments, the BD reviewed its enforcement strategy against UBWs and implemented a revised enforcement policy against UBWs since 1 April 2011 by broadening the scope of actionable UBWs to cover UBWs on rooftops and podiums as well as those in yards/courtyards and lanes of private buildings, irrespective of their degree of risk to public safety or whether they are newly constructed.

From 2001 to 2012, the department issued about 320 000 removal orders and over 80% had been complied with, removing about 440 000 UBWs. The total number of removal orders not yet complied with was around 59 000. Among them, some are cases in which appeals in accordance with the statutory appeal mechanism under the Buildings Ordinance are underway. In other cases, removal works are being arranged by the owners themselves while there are also cases where the owners who have personal or family problems are being helped by the BD's social services teams.

While the BD does not categorize the outstanding removal orders, the department deals with such removal orders through prioritization of enforcement. It has put in place a mechanism to closely monitor the high-risk items like UBWs on cantilevered slab balconies, unauthorized large glass panel on building façade, signboards and display panels which involve about 400 removal orders. The department reviews from time to time the situation and progress of removal and will take immediate action when the department identifies cases with imminent risk.