

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 19 October 2011

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

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

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

MEMBERS ABSENT:

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

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE STEPHEN LAM SUI-LUNG, G.B.S., J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

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

DR THE HONOURABLE YORK CHOW YAT-NGOK, G.B.S., J.P.
SECRETARY FOR FOOD AND HEALTH

THE HONOURABLE TSANG TAK-SING, G.B.S., J.P.
SECRETARY FOR HOME AFFAIRS

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

MS JULIA LEUNG FUNG-YEE, J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE GREGORY SO KAM-LEUNG, J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

THE HONOURABLE RAYMOND TAM CHI-YUEN, J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

MISS ADELINE WONG CHING-MAN, J.P.
UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND
AFFAIRS

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY
GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

PRESIDENT (in Cantonese): Honourable Members, last Wednesday, at the first Legislative Council meeting of this session, I said that the commissioning of the Legislative Council Complex represented the start of a new era. At that time I pointed out that in terms of design, the new Complex had a high degree of transparency. The purpose was to bring members of the public into the Legislative Council so that they would have a better understanding of the work of the Council and convey their views to the Council with more confidence, thereby facilitating Legislative Council Members to monitor the Government's work more effectively on their behalf.

In the past few days, I have respectively listened to the views of Members from different parties or groupings on how I had chaired meetings and applied the Rules of Procedure. I understand that you expect the President of the Legislative Council to apply the same yardstick in handling any acts in violation of the Rules of Procedure in a stringent, timely and suitable manner in the Chamber. That is exactly what I have endeavoured to do. I hope that with your supervision and support, I can fully meet the expectations of Members and the public.

When discharging my duties in this new Chamber, I will pay particular attention to problems that may arise in the new environment. Similarly, when we examine how to provide the media with appropriate conditions for their reporting work, we have to take into consideration the differences between this new environment and the old building. Over the past week, the Legislative Council Secretariat has earnestly listened to the views of the media, and based on such views, a number of measures have been implemented to address the problems identified by the media in the course of their work. The ultimate aim is to provide the greatest convenience for the media in their reporting activities. The Secretariat will continue to pay heed to the views of Members and the media, and on the premise of not obstructing the work and activities of Members, strive to ensure that the media enjoys the best reporting environment in the Complex.

Honourable Members, Hong Kong people expect to see a more open and transparent Legislative Council. They also expect to see a dignified Legislative Council of high quality. Yet dignity and high quality will never come from bickering among Members or between Members and officials. The power of language lies with its inner qualities, not with the voice level. I truly believe

that all Members and officials in this Chamber can fully express their wisdom and feelings in civilized language.

Although there is only one more year to go in this term of the Legislative Council, I still look forward to making concerted efforts with you so that not only this Council will be able to represent the general public to express different kinds of views, but the way of expressing such views will also win the commendations and respect of the public.

TABLING OF PAPERS

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

- No. 3 — Occupational Safety and Health Council Annual Report 2010/2011
- No. 4 — Report by the Trustee of the Customs and Excise Service Children's Education Trust Fund for the year ended 31 March 2011 together with the Report of the Director of Audit and the audited financial statements
- No. 5 — Environment and Conservation Fund Trustee Report 2010-2011
- No. 6 — The Land Registry Trading Fund Hong Kong Annual Report 2010-11
- No. 7 — Companies Registry Trading Fund Annual Report 2010-11
- No. 8 — Fish Marketing Organization
Audited financial statements and the Auditor's report for the year ended 31 March 2011
- No. 9 — Vegetable Marketing Organization
Audited financial statements and the Auditor's report for the year ended 31 March 2011

- No. 10 — Marine Fish Scholarship Fund
Audited financial statements, the Trustee's report and the Auditor's report for the year ended 31 March 2011
- No. 11 — Agricultural Products Scholarship Fund
Audited financial statements, the Trustee's report and the Auditor's report for the year ended 31 March 2011
- No. 12 — Protection of Wages on Insolvency Fund Board Annual Report 2010-11
- No. 13 — The Government Minute in response to the Report of the Public Accounts Committee No. 56 of July 2011
- No. 14 — West Kowloon Cultural District Authority Annual Report 2010/11
- No. 15 — Electoral Affairs Commission
Report on the Recommended Delineation of Geographical Constituencies for the 2012 Legislative Council Election

Report No. 1/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

ADDRESSES

PRESIDENT (in Cantonese): Address. The Chief Secretary for Administration will address the Council on "The Government Minute in response to the Report of the Public Accounts Committee No. 56".

The Government Minute in response to the Report of the Public Accounts Committee No. 56 of July 2011

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, laid on the table today is the Government Minute responding to Report No. 56 of the Public Accounts Committee (PAC).

When presenting Report No. 56 on 6 July, the Chairman of the PAC set out comments on two chapters in the Director of Audit's Reports, *viz.* "Hong Kong 2009 East Asian Games" and "Hong Kong Housing Authority: Management of commercial properties".

We are grateful for the time and efforts that the PAC has devoted to discussing these topics. We accept various recommendations of the PAC. The Administration's specific responses are set out in the Government Minute. Today, I would like to highlight the key measures that we have taken in the relevant areas.

The Hong Kong 2009 East Asian Games (EAG) was the first major international multi-sport event ever held in Hong Kong. In general, the Administration accepts the recommendations made by the Audit Commission and the PAC on the 2009 EAG. The Home Affairs Bureau will compile an overall report on the EAG. It will be submitted to the Sports Commission soon and then to the PAC. In planning and organizing major international multi-sport events in the future, the Administration will share the experience gained from hosting the EAG with the event organizers. We will also collaborate with the event organizers to plan in advance and conduct post-implementation reviews so as to identify good practices and lessons learned.

It has all along been the Administration's practice that when seeking the acceptance-in-principle and funding approval of the Finance Committee for implementing a major event, the full financial implications of the proposal will be set out in the submission to the Finance Committee. In seeking the funding approval of the Finance Committee to host major international multi-sport events in the future, the Administration will endeavour to provide an estimate that is as comprehensive and accurate as possible at the time of submission. We will also endeavour to include all expenditure that can be foreseen at the time when the budget is prepared, including, for example, expenditure for implementing legacy projects, and present the best possible estimates of the costs of temporary improvement works in the submissions.

In addition, if there are significant changes to the estimates of a major event after funding approval of the Finance Committee has been obtained, bureaux concerned would inform the Legislative Council of such changes where

necessary. In case there are sources of income other than government funding approved by the Finance Committee (such as community or commercial sponsorship), bureaux will dispose of the surplus funding according to the terms of approval of the Finance Committee and those of the sponsorship. Where appropriate, bureaux concerned will consult the Legislative Council and the relevant sponsors regarding the disposal of the surplus. In a circular memorandum issued in September 2011, all bureaux and departments were reminded of the above requirements.

With regard to the liquidation of the EAG Company, after paying profits tax out of the company's liquidation account, the Liquidator refunded the remaining balance of around \$10 million to the Government in August 2011.

We believe that hosting the EAG helped raise the community's interest in sport. The Administration will take into account the experience gained from hosting the event when drawing up and implementing further initiatives to promote the development of sport in Hong Kong.

The Administration fully agrees with the importance of ensuring the effective use and attractiveness of the Hong Kong Housing Authority's (HA) commercial properties. The Housing Department (HD) has implemented new stringent measures to step up actions against improper use and unauthorized alteration of retail premises in consultation with the HA's Commercial Properties Committee (CPC). New regulatory actions by adopting a firm approach against the defaulted commercial tenants have been clearly disseminated for strict compliance by the HD's front-line staff. These actions include strengthened tenancy agreement, the Enhanced Marking Scheme for Commercial Properties, prompt referral of all suspected gambling activities to the police for law-enforcement actions, and debarring ex-commercial tenants who have been convicted of an offence or committed other breaches from leasing any HA's commercial premises within two to five years upon termination of tenancy.

The HD will continue to carry out joint operations with the police to combat illegal gambling activities in public areas of public housing estates. As an ongoing measure, surprise checks on site by the newly formed Headquarters Audit Teams in the HD have been implemented for performance monitoring

purpose. The HD is also conducting staffing review on the adequacy of resources deployed in managing commercial properties.

The overall vacancy rate for the HA's commercial premises is maintained at about 5%, in line with the performance target set by the CPC. However, we note the comparatively higher vacancy rates of retail facilities in some unpopular locations and older estates. To tackle this problem, the HD has examined critically their strengths and weaknesses followed by implementing market re-ordering and conversion plans with a view to turning them into other beneficial uses.

The HD will continue with the existing arrangement to publicize vacant premises for re-letting as frequently as practicable through advertisements and the HA/HD websites. In line with the Audit Commission's recommendation, the HD has implemented a new strategy to invite potential tenderers to suggest their preferred trades after two rounds of unsuccessful tendering. Moreover, leasing information on the proposed trades as well as invitation to suggest alternative trades have been posted on the shop front of vacant premises and uploaded to the HA/HD website to attract interested bidders.

With regard to the Audit's recommendation pertaining to the 2005 divestment exercise, though the Administration and the HA have no plan to further divest the HA's retail and commercial facilities, the HD is now conducting in conjunction with the Efficiency Unit a post-implementation review for the 2005 divestment exercise in the light of the Audit's recommendation. The HD will report to the PAC the review findings upon the completion of the study.

Finally, I would like to thank the PAC once again for its constructive comments and recommendations. President, the Administration will, as always, respond positively and implement necessary improvements earnestly. Thank you.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Court Judgment on Judicial Review on Right of Abode in Hong Kong Lodged by a Foreign Domestic Helper

1. **MR PAUL TSE** (in Cantonese): *President, given that the Court of First Instance (CFI) has handed down a judgment against the Government in the first judicial review case on the right of abode (ROA) in Hong Kong of foreign domestic helpers (FDHs), will the Government inform this Council:*

- (a) *of the measures and policy to be implemented during the period when the Government appeals against the aforesaid judgment to alleviate the concerns of Hong Kong people about the anticipated severe impact on Hong Kong brought by the lost case; and*
- (b) *whether the Government will, on the basis of the impact on the basic demographic structure of Hong Kong brought by FDHs enjoying the ROA and factors such as a timely interpretation of the Basic Law by the National People's Congress (NPC) may reduce procedural problems and ameliorate division in society as well as from the perspectives of national and local population policy and national sovereignty, consider making expeditious arrangements to seek interpretation of the Basic Law by the NPC?*

SECRETARY FOR SECURITY (in Cantonese): President, regarding the two parts of the questions, my reply is as follows:

Pursuant to Article 24(2)(4) of the Basic Law (BL24(2)(4)), persons not of Chinese nationality who have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region shall be permanent residents of the Hong Kong Special Administrative Region. Section 2(4)(a)(vi) of the Immigration Ordinance provides that a person shall not be treated as ordinarily resident in Hong Kong during any period in which he remains in Hong Kong while employed as a domestic helper who is from outside Hong Kong.

On 30 September 2011, the CFI handed down judgment on the judicial review on the ROA lodged by a FDH. The CFI has ruled that section 2(4)(a)(vi)

of the Immigration Ordinance is inconsistent with BL24(2)(4). The Government respects but is disappointed with the judgment of the CFI. The Government firmly believes that the constitutionality of the relevant provision of the Immigration Ordinance should be upheld.

The Government understands the immense public interest in the CFI judgment. After obtaining legal advice, the Government has made two applications to the Court in accordance with the law, including:

- (a) On 4 October, the Government has lodged an appeal to the Court of Appeal (CA), and at the same time applied to the CA to expedite the appeal hearing, because the Government believes that it serves the overall public interest to achieve final determination of the law as soon as practicable and minimize the unsettling factors pending appeal.
- (b) On the date of judgment, that is, 30 September, the Government has applied to the CFI for temporary relief such that the Government needs not process the ROA applications submitted by FDHs pending the outcome of the appeal. The application will be heard on 26 October. At this stage, the Government will not process the ROA applications submitted by FDHs.

The CFI judgment involves an important constitutional issue and great public interest. The Government has lodged an appeal to seek to reverse the relevant judgment. If the Immigration Department (ImmD) processes the ROA applications submitted by FDHs at this stage, there may be serious disruption to many households. There may also be events which cannot be unravelled, and detriments which cannot be remedied, should the legal position be reversed upon appeal.

The Government respects the rule of law. The Government will, in accordance with the law of Hong Kong, seek to reverse the CFI judgment within the judicial system on one hand, and prepare for all possible difficulties and challenges on the other, and seek to minimize possible disruptions to FDH-employing families pending appeal.

President, the Government is making the best preparation for the temporary relief hearing on 26 October and is making its best endeavours to convince the Court at the temporary relief hearing that it is necessary for the ImmD to withhold processing applications for verification of eligibility for permanent identity card submitted by FDHs until final determination of the law. If the application is granted by the Court, we consider it unnecessary at this stage to change the arrangements for the entry and employment of FDHs in order to avoid any disruption to the domestic arrangements of many families. Our priority is to pursue the appeal and present cogent arguments before the Court seeking to reverse the CFI judgment.

We will closely monitor the development and take all necessary steps to seek final determination of the law as soon as practicable. We are keen to explore all measures, which are within the law and serve the best interests of Hong Kong, and get fully prepared to address the issue.

MR PAUL TSE (in Cantonese): *President, the Secretary said that the Government is making the best preparation for the temporary relief hearing on 26 October, and I would like to know if the Secretary has prepared for the worst. It is clearly set out in Article 158(3) of the Basic Law that judgments previously rendered shall not be affected. In that case, if the Court disallows at the trial on 26 October in other words, if it exercises discretion and disallows a "stay of execution", what will happen then? Will the authorities concerned immediately adopt measures such as disallowing applications by FDHs to come to Hong Kong or disallowing them to work here for more than seven years? Has the Secretary prepared for the worst scenario?*

SECRETARY FOR SECURITY (in Cantonese): President, as I have mentioned in my speech, the Government will draw up corresponding proposals and get fully prepared to meet the difficulties and challenges that may arise, and it will seek to minimize possible disruptions to FDH-employing families pending appeal.

As the Court has yet to hear an application for temporary relief, I do not want to speculate or comment on the Court's judgment at this stage. Of course,

we will get prepared in various ways. The Member has just mentioned some approaches, such as whether or not the authorities concerned will impose an "cut-off" as mentioned by the general public. This may be one of our proposals but we do not have any finalized proposal.

MS MIRIAM LAU (in Cantonese): *President, there are comments that being granted the ROA is no big deal because the Director of Immigration can impose "four hurdles". If these hurdles are indeed effective, the Secretary may not need to make any preparations. Given that the Government needs to make so many preparations in relation to the appeal process, I would like the Secretary to tell us whether the "four hurdles" of the ImmD can successfully block the applicants, so that the Secretary does not need to make so many preparations. Can the Secretary tell us the actual effects of the "four hurdles"?*

SECRETARY FOR SECURITY (in Cantonese): President, I note that there are comments or some Members have mentioned that the requirement on "taking Hong Kong as their place of permanent residence" is subject to different interpretations. Some people consider that the Immigration Ordinance has already stipulated the so-called "four hurdles", thus the Director of Immigration can handle the ROA applications submitted by FDHs in strict compliance with the requirements.

I believe that the so-called "four hurdles" refer to paragraph 3(1)(a) of Schedule 1 to the Immigration Ordinance — allow me to read out the relevant provision: "For the purposes of paragraph 2(d) of Schedule 1 to the Immigration Ordinance, the person is required to furnish information that the Director reasonably requires" — the "information" as mentioned is not a "hurdle" — "to satisfy him that the person taking Hong Kong as their place of permanent residence. The information may include the following: (i) whether he has habitual residence in Hong Kong; (ii) whether the principal members of his family (spouse and minor children) are in Hong Kong; (iii) whether he has a reasonable means of income to support himself and his family; and (iv) whether he has paid his taxes in accordance with the law". The four information items concerned are set out as above.

Concerning the requirement of "taking Hong Kong as a place of permanent residence", the issue will be debated when two other judicial review cases are heard on 26 October, thus, it is inappropriate for us to have an open discussion on the legal issues involved. On the premise of not affecting these proceedings, I now provide Members with the following information: In the Prem SINGH case in 2003, the Court of Final Appeal (CFA) had already made a ruling on "taking Hong Kong as a place of permanent residence". The CFI judgment on the judicial review case on ROA of FDHs has also referred to the requirement of "taking Hong Kong as a place of permanent residence". I particularly ask Members to pay attention to paragraph 115 of the judgment passed down by Mr Justice LAM of the CFI. Citing the CFA ruling on the Prem SINGH case, the CFI points out that, though paragraph 3(1) of Schedule 1 of the Immigration Ordinance sets out certain information which an applicant for the ROA must provide, that paragraph has to be read as being subject to the CFA's interpretation of "taking Hong Kong as a place of permanent residence" under BL24(2)(4)."

Thus, although an applicant is required to furnish information as to whether the principal members of family are in Hong Kong, whether he has reasonable means to support himself and his family and whether he has paid any taxes, and these would be relevant information to be taken into account in applying the criteria laid down by the CFA, it does not follow that an applicant's application must fail if his family is not in Hong Kong or if he does not have adequate means to support himself.

For this reason, in handling a ROA application, the Director of Immigration must make adequate and full consideration on the basis of the information furnished by the applicant and his personal circumstances, and examine his permanent resident status in accordance with the law.

MRS REGINA IP (in Cantonese): *President, I would like to ask another supplementary question about the "four hurdles". I have also read the judgment on Prem SINGH's case in 2003 and the judgment recently made by Mr Justice LAM. As the Judge has explained, the applicant only needs to prove that he has taken actions to make Hong Kong his place of permanent residence. This is a very important checkpoint under the Basic Law. I would like to ask the Secretary if a FDH who has, in applying for ROA, provided evidence in her application to prove that her husband in the Philippines has resigned from his*

work, surrendered the lease or sold the house, with the intention of migrating to Hong Kong; and even her children have dropped out of school, will she be considered as having taken Hong Kong as her place of permanent residence? Will such evidence be rejected by the ImmD?

SECRETARY FOR SECURITY (in Cantonese): President, Mrs Regina IP has asked a hypothetical question. However, I can tell Mrs IP that we do not just consider a single information item. As I have just said when I answered Ms Miriam LAU's supplementary question, the Director of Immigration shall consider each ROA application in light of the circumstances of each case. Whether the applicant has sold his house before migrating to Hong Kong is just one of the information items that we need to take into consideration. I cannot exactly say whether or not I will approve his application for that reason — it is me, it is the Director of Immigration who approves his application. The Director must make full and adequate consideration in light of the personal circumstances of each applicant, especially the information provided, when examining his permanent resident status in accordance with the laws of Hong Kong.

DR PRISCILLA LEUNG (in Cantonese): *President, in the past 14 years, cases involving ROA have occurred one after another, causing impacts on our demographic structure. The NG Ka-ling case and the CHONG Fung-yuen case have given rise to medical and education problems in Hong Kong. Has the Government considered ways to address the demographic issues and deal with possible ROA-related lawsuits that may arise in the future, instead of relying on God's mercy and handling the problems only after they have occurred? Can we take the initiative to make timely amendments to our policies and the laws in Hong Kong? We must take the initiative. Should the executive authorities take the initiative in respect of population problems and make better preparations for our society as a whole?*

SECRETARY FOR SECURITY (in Cantonese): President, the Government attaches great importance to our population policies. An ad hoc committee led by the Chief Secretary for Administration constantly discusses and reviews our population policies. The issue of foreigners' ROA applications as Dr Priscilla

LEUNG has just mentioned is just one aspect of our population policies. I do not understand what is meant by "taking the initiative" as she has just mentioned. We have always been taking the initiative and adopting forward-looking measures to study issues such as the present demographic structure and an ageing population, so as to find out how we can prepare for the future workforce and how we can review our immigration policies to attract talents that Hong Kong lacks. We do have a comprehensive policy.

Just now, Dr Priscilla LEUNG mentioned that since the reunification, many judicial review cases related to the ROA have been initiated. We should not forget that Hong Kong is a free and open city. Under the Basic Law, all Hong Kong people have the right to seek judicial review in accordance with the law. I believe and we all know that the Government cannot take any actions to prevent people from seeking judicial review. In this connection, when a member of the public initiate a judicial review case in accordance with the law, we will handle the case according to the law. Insofar as this special case is concerned, the Government believes that we have sufficient legal basis to handle the lawsuit.

DR PRISCILLA LEUNG (in Cantonese): *President*

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

DR PRISCILLA LEUNG (in Cantonese): *Yes, the Secretary has not answered my supplementary question. I would like to ask if the Government will consider in advance whether there are legal loopholes and whether the laws should be amended, so as to avoid initiating legal proceedings to solve population-related problems should any ambiguities arise in the future.*

PRESIDENT (in Cantonese): Dr LEUNG, according to my understanding, you are trying to explain "taking the initiative" as you have just mentioned. Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): President, the main point of the judicial review case being initiated is that the Immigration Ordinance is unconstitutional. Actually, the Immigration Ordinance is well-written. If it is said that the Ordinance is unconstitutional, it is not our responsibility to amend the Basic Law. We all understand that amending the Basic Law is a very serious matter and it takes a lot of time.

MR TAM YIU-CHUNG (in Cantonese): *President, since the lodging of the judicial review case on the ROA of FDHs, members of the public have showed great concerns. Some DAB members working in the districts have collected 120 000 signatures and the signatures will later be submitted to the authorities concerned.*

In the course of collecting these signatures, according to my personal experience and from what I have heard, many people were extremely worried, and they asked the Government to lodge an appeal as soon as possible; not just to appeal, but to win the case. How will the Government address the people's worries and expectations? The Government has, in its reply, stated that it is prepared to lodge an appeal, is it going to appeal to the CA or the CFA? How can people's worries be alleviated? How can the Government win the case?

SECRETARY FOR SECURITY (in Cantonese): President, the Government fully understands people's concerns about the case. Likewise, the Government is also highly concerned. At present, we have made some preparations to alleviate the worries of the public.

First, we have lodged an appeal and we hope that the Court would hear the case as soon as possible. If the time of the proceedings can be shortened and the uncertainties can be clarified as soon as possible, people's worries can certainly be reduced. We all understand that a case involving legal matters must be resolved by law. As executive authorities, we can just try our best to get prepared at this stage. We will provide the Court with the best legal grounds, and strive to win this case. This is the strategy currently adopted by the Government in connection with this case.

Of course, we are well aware of the views or worries of the public in this respect. We have been informed about these views and worries through many channels, including the signatures that your party has given to us. The Liberal Party has also given us some advice. We understand the views and requests of the public but I ask them to be patient. After all, our society upholds the rule of law, thus, the best way to resolve legal issues is through legal proceedings.

PRESIDENT (in Cantonese): We have spent more than 20 minutes on this question. Second question.

Strategies for Managing Reserve Assets

2. **DR RAYMOND HO** (in Cantonese): *President, according to the relevant reports in August this year, the value of the United States Treasuries held by Hong Kong amounted to US\$121.9 billion and Hong Kong ranked eighth in the world in terms of total holdings. In this connection, will the Government inform this Council:*

- (a) *given that the sovereign credit ratings of the United States and some member states of the European Union have been downgraded one after another, whether the future prospects of their sovereign credit ratings will affect the decisions of Hong Kong's Exchange Fund (EF) on investing in the debt securities of these countries (particularly the United States); apart from the sovereign credit ratings of the relevant countries, what other factors will affect the EF's investment decisions;*
- (b) *given that in recent years, quite a number of countries and regions have established sovereign wealth funds (SWFs) to manage reserve assets in order to seek higher returns, of the major differences between the investment management and operation of the EF and that of SWFs at present; and*
- (c) *whether it has assessed if the approach of managing reserve assets by an SWF is suitable for Hong Kong; if the outcome of assessment is in the negative, of the reasons for that?*

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

- (a) In managing the investments of the EF, we have to take into account statutory purposes for and the uses of setting up the EF. Under section 3(1) of the Exchange Fund Ordinance, the EF shall be used primarily for such purposes as the Financial Secretary thinks fit affecting, either directly or indirectly, the exchange value of the currency of Hong Kong and may also be used to maintain the stability and the integrity of the monetary and financial systems of Hong Kong with a view to maintaining Hong Kong as an international financial centre.

As the EF is to maintain the monetary and financial stability of Hong Kong, investment decisions must be made to ensure its overall investment safety and liquidity.

The assets of the EF are primarily managed as two distinct portfolios: the Backing Portfolio, which backs up the Monetary Base, and the Investment Portfolio. At present, the Monetary Base roughly totals \$1.1 trillion. Under the Currency Board arrangements, its size may vary greatly. For example, there were inflows of over \$600 billion during the fourth quarter of 2008 and 2009. Since we must provide full backing to the Monetary Base with US dollar-denominated assets as required under the Currency Board arrangements, the Backing Portfolio can only be invested in high quality, very short-term and highly liquid US dollar-denominated debt instruments. Therefore, the Backing Portfolio must hold a considerable amount of short-term United States Treasuries. While the Investment Portfolio may comprise more diversified assets than the Backing Portfolio, it must also maintain a high degree of safety and liquidity so that the EF has sufficient liquidity to achieve its statutory purpose of maintaining monetary and financial stability. The Hong Kong Monetary Authority (HKMA) will review its investment strategies from time to time under the guidance of the Exchange Fund Advisory Committee and manage prudently the assets of the EF.

While the credit rating agency Standard & Poor's downgraded the United States credit rating by one notch to AA+ in August, other international credit rating agencies, including Moody's Investors Service and Fitch Ratings, maintain their AAA credit ratings for the United States. Taking into account the recent developments, we are of the view that the possibility of a default on United States Treasuries is very slim. The dollar is by far the world's most dominant, most traded and liquid reserve currency. It is not matched by any other major currencies in terms of safety and liquidity. Thus, we have no intention for the time being to adjust the share of holdings in United States assets by the EF in response to the downgrading of the United States credit rating by Standard & Poor's.

We also noted the downgrading of the sovereign credit ratings of some members states of the European Union. With stringent risk management measures in place, the EF reviews and adjusts as and when appropriate its investments in individual countries or debt instrument issuers in the light of developments in the financial markets, such as changes in credit ratings, economic outlook or regulatory rules, to ensure the overall asset safety and liquidity.

- (b) Regarding the differences between the management and operation of the EF and that of SWF as mentioned in part (b) of the main question, I would like to point out that the EF is not an SWF. It is different from an SWF in investment goals, strategies and performance. As mentioned above, the EF is established under the Exchange Fund Ordinance with the statutory purpose to maintain monetary and financial stability. Investments of the EF are required to preserve capital and ensure that the entire Monetary Base will at all times be fully backed by highly liquid US dollar-denominated assets. They are also aimed at ensuring that sufficient liquidity will be available for the purpose of maintaining Hong Kong's monetary and financial stability. Subject to the above principles, we will also strive to achieve a medium to long-term investment return that will preserve the long-term purchasing power of the EF. Given that the safety and liquidity of assets are of high

importance to the EF, what it pursues is a relatively stable investment performance.

On the contrary, there is no need in general for SWFs to encash their investments in the short term. To secure higher long term, or even cross-generational, investment return, SWFs tend to invest in higher risk and longer term assets with very low liquidity. As a result, the return performance is often more volatile. For example, some SWFs invest heavily in stock markets and new listings; their investment performance will inevitably be subject to high volatility due to the ebb and flow of stock markets. These SWFs will certainly make a considerable investment return when the markets are vibrant, but will suffer substantial losses at times of crash.

- (c) Part (c) of the main question is on whether the SWF approach is suitable for Hong Kong. As mentioned earlier in my reply, the EF was set up for statutory purposes. We consider the existing operation model of the EF, which is in line with the principle of prudent management, an effective tool to maintain the monetary and financial stability of Hong Kong. Under this operation model and on the premise that adequate liquidity will be maintained to uphold monetary and financial stability, the HKMA has been diversifying part of the EF investment, in a prudent and incremental manner, into a greater variety of asset classes, including emerging market bonds and equities, private equity funds, overseas investment properties and Mainland bonds and equities. This will serve the purpose of diversifying risks and enhancing investment returns in the medium and long term for the preservation of the long-term purchasing power of the EF. The HKMA will continue to adopt a prudent and pragmatic approach in implementing investment diversification in a cautious and gradual manner.

DR RAYMOND HO (in Cantonese): *For the US\$121.9 billion, if we calculate on the basis of 7 million people, the average value of United States Treasuries held by each Hong Kong resident is \$136,000, and Hong Kong ranked eighth in the world. Nonetheless, I do not believe many people would consider it necessary for such a small place as Hong Kong to fight for world ranking.*

I understand that the EF, under the monitoring of the Financial Secretary and being the HKMA's important asset, serves various purposes, such as stabilizing the banking system. This is very crucial and essential. Having regard to the current money supply, I believe the banking system will not be imperiled with an abundant EF. And yet, will Hong Kong make reference to Singapore and set up investment funds like the Tamesek SWF so as to safeguard our EF investment and achieve a higher rate of return? Will the Government consider doing so?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, as early as 2009, we have in fact, without prejudice to currency liquidity and monetary stability, engaged in relatively longer term investments to boost medium- to long-term returns.

In this connection, as mentioned in the main reply, we have started to engage in other investments. For instance, we have secured quotas from Mainland's interbank bond market and invested in Renminbi bonds. Furthermore, we have secured QFII quotas to invest in Mainland's listed securities. Apart from these, we have also invested in overseas investment properties and private equity funds. Without prejudice to the existing statutory purpose, we have gradually diversified part of the EF investment to achieve higher returns.

MR CHAN KIN-POR (in Cantonese): *In the third paragraph of part (a) of the main reply, the Secretary said that, "At present, the Monetary Base roughly totals \$1.1 trillion". Under the existing system, this amount may vary greatly. For instance, there were inflows of over \$600 billion during the fourth quarter of 2008 and 2009.*

My question is: As I believe this \$600 billion has yet to leave Hong Kong, how will the future outflow of this sum of money affect Hong Kong's financial system in terms of interest rate, the stock market and the property market?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, we are pretty concerned about this. Local banks have a

very large aggregate balance, that is, the \$600 billion inflows mentioned by Mr CHAN earlier.

As stated in the main reply, the inflows came between 2008 and 2009. While this sum of money did flow in and out in 2010, there was basically no significant net inflow or outflow.

Although the market is pretty volatile this year, the situation remains more or less the same. As the global economies and markets turn volatile, coupled with the strong demand for capital from the Mainland, interest rate in Hong Kong is seen to head up. However, notwithstanding the significant outflow of capital, we do not see great fluctuation in local interest rate. Under this circumstance, we will closely monitor how our market will fluctuate under the monitoring system.

MR PAUL CHAN (in Cantonese): *President, as Members may aware, in order to consolidate Hong Kong's successful position as an international financial centre, Renminbi offshore business is very crucial. In this connection, may I ask the Secretary of the role that the EF can play and is playing? Regarding the foreign exchange investment portfolio, for instance, will there be any investment in Renminbi offshore products as a support to the development of Renminbi offshore business in Hong Kong?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): *President, we do have investment in onshore Renminbi assets after securing a \$15 billion Renminbi-denominated quota in December last year for the purchase of bonds issued by Mainland enterprises or financial institutions. Also, a \$300 million US dollar-denominated QFII quota has been awarded for investment in securities issued by banks listed on the mainland stock market. At present, our Renminbi business primarily focuses on onshore investments. And yet, the SAR Government and the monitoring authority have done a lot to promote the development of Hong Kong into an offshore Renminbi centre. In fact, development efforts have also been made in policies and infrastructures.*

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

MR PAUL CHAN (in Cantonese): *President, my supplementary question is whether the EF's investment portfolio includes Renminbi products.*

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, generally speaking, we will not specify the individual bonds held. In this case, however, I would say that we do not hold any offshore Renminbi bonds.

MR CHIM PUI-CHUNG (in Cantonese): *President, with regard to the Secretary's explanation, given that the Hong Kong dollar has been pegged to the US dollar, have the authorities reviewed how much the Hong Kong dollar has depreciated? In the supplementary reply, the Secretary was complacent with the protection provided for the status of the Hong Kong dollar.*

President, my question is: Regarding the portfolio of the EF, has the Government considered setting aside a portion of the EF to render full support to local infrastructure and invest in Mainland infrastructure projects with high returns, in view of the robust infrastructural development in the Mainland at present and the Chief Executive's commitment to undertake 10 major infrastructure projects?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, as I have stressed time and again in the main reply earlier, the major statutory purpose of the EF is to stabilize Hong Kong dollar and, above all, to back up or support our Monetary Base, thereby fostering Hong Kong's position as an international financial centre and stabilizing our currency and the entire market. On this premise, most of our assets are backed up by the US dollar. Therefore, when considering whether to invest in Hong Kong or other

projects, it is essential and of paramount importance that the relevant investment tallies with the statutory purpose.

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

MR CHIM PUI-CHUNG (in Cantonese): *President, my question is whether the Government will consider investing on*

PRESIDENT (in Cantonese): Investing on infrastructure.

MR CHIM PUI-CHUNG (in Cantonese): *..... and she has not answered if she would do so.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the Government will consider investment matters in the Budget. As for the 10 major infrastructure projects, basically, approval will be sought from the Finance Committee for the use of public money for this purpose.

MR CHAN KAM-LAM (in Cantonese): *President, although the Secretary stated in the reply that "we are of the view that the possibility of a default on United States Treasuries is very slim", I hope she will be aware that the current economies of the United States and Europe do affect each other. In recent years, the United States has adopted some so-called quantitative easing measures, which have pushed the local economy to the brink of collapse. I think the Secretary should gain a better understanding of the risk involved. In this light, Members have expressed concern about the large amount of bonds held by Hong Kong, and suggested a change in our investment strategy or an adjustment to safeguard the purchasing power of our reserve. May I ask the Secretary if the Government has revisited our current investment strategy of the EF? While we support that the Government should take a cautious stance to safeguard our EF and reserve, we should also conduct reviews from time to time. Will the Government do so?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, as Mr CHAN has said earlier, the HKMA will review the distribution of investment from time to time under the guidance of the Exchange Fund Advisory Committee. The review may cover the suitability of the allocation and distribution of certain SWFs and the possibility of a default of the relevant countries. It may even set some quotas for risk control. Mr CHAN just now mentioned the slow recovery of the economy of the United States, which is also facing budget deficit. We will certainly closely monitor the situation. However, under the present circumstance, the default risk of United States Treasuries is still lower than other investment instruments, and the US dollar is considered an investment instrument with the highest degree of safety and liquidity. Therefore, after considering various factors, no change will be made as a result of the downgrading of the United States credit rating. Nonetheless, we will review from time to time the overall trend, including the European SWFs currently held by us.

PRESIDENT (in Cantonese): This Council has spent more than 19 minutes and 30 seconds on this question. Third question.

Government's Proposal to Abolish District Council Appointed Seats

3. **MR ALAN LEONG** (in Cantonese): *President, the former Secretary for Constitutional and Mainland Affairs indicated earlier that the Government intended to reduce one third of the number of appointed seats in the fourth term of the District Councils (DCs) in 2012, that is, reducing the existing 102 seats to 68 seats; he also indicated that after the DC election, public discussions may commence on whether, inter alia, the remaining 68 appointed seats would be completely abolished in 2016 or in 2020 the latest. In this connection, will the Government inform this Council:*

- (a) *of the justifications for the Government's decision to reduce one third of the number of appointed seats without consulting the public and the Legislative Council; whether it had considered consulting the public on this issue which concerns a major public policy before making the decision, and of the reasons for ultimately deciding not to consult the public;*

- (b) *of the distribution of the 34 appointed seats to be reduced in 2012 among the various DCs (list in table form); of the justifications for deciding that these 34 appointed seats be reduced; and*
- (c) *given that the former Secretary for Constitutional and Mainland Affairs indicated that the Government would "specify all of the arrangements as much as possible" within its current term, what such "arrangements" are and how it will "specify" each of the "arrangements"; whether the authorities will amend the District Councils Ordinance to remove the power of the Chief Executive to appoint DC members; if they will, of the legislative timetable; if not, the justifications for that?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President,

- (a) Over the past few years, there have been discussions in the community regarding how the issue of DC appointed seats should be dealt with. The views expressed are diverse. Some support the abolition of appointed seats in one go while others believe that appointed seats should be abolished in phases in recognition of the important contributions made by appointed members to the community work.

After considering views from different sectors, we announced on 14 September that the DC Appointment System could be abolished in phases by going through a transitional period. As a start, we intend to reduce by one third of the number of members to be appointed in the fourth term of the DCs in 2012, that is, appointing only 68 members instead of 102. We also indicated that after the DC election in November, we could embark on further public discussions as to how the DC Appointment System should be dealt with, including the duration of the transitional period and how the relevant legal provisions should be dealt with, and so on. Regarding whether the 68 appointed seats which remain after 2012 should be abolished over one term or two terms, the Government has an open mind.

- (b) We have already indicated that only 68 members would be appointed in the fourth term of the DCs in 2012. As for the allocation of these 68 seats, the number of appointed seats in each DC basically will be reduced by one third. If the number obtained after the reduction by one third is not an integer, minor adjustment will be made, for instance by rounding off the number. To give an example, for a DC with three appointed seats, the number will be reduced to two. For a DC with four appointed seats, the number will be reduced to three after rounding off. For a DC with five appointed seats, the number will be reduced to three after rounding off. The resultant total number of appointed seats in the 18 DCs will be 68.
- (c) Section 11 of the District Councils Ordinance stipulates that the Chief Executive may appoint as members of a DC a number of persons not exceeding the specified number. The specified numbers for the 18 DCs are set out in Schedule 3 to that Ordinance. According to the Ordinance, the Chief Executive is not required to appoint the full slate of the 102 DC members.

We have already announced that we are prepared to consider abolishing the 68 appointed seats which remain after 2012 over one term or two terms and that the Government has an open mind on this matter. Whether the remaining appointed seats will eventually be abolished over one term or two terms and how the relevant legislative amendments should be dealt with is a matter for public discussion. After considering the public views, we will put forth proposals for the next stage of work.

MR ALAN LEONG (in Cantonese): *President, the Secretary has pointed out in part (a) of the main reply that after the election, public consultation and public discussions would be held as to whether the 68 appointed seats which remain after 2012 should be abolished over one term or two terms. I ask in part (a) of the question why no public consultation was held before 14 September because the number of DC appointed seats concerns a major public policy. It is evident from the Secretary's reply that there was indeed no public consultation. Nonetheless, it seems that he has not answered my question about the reasons for*

not doing so. I want to give the Secretary an opportunity to answer part (a) of the main question.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, at various times over the past few years, there were indeed discussions in different sectors of the community regarding how the issue of DC appointed seats should be dealt with. The SAR Government notes the consensus arrived in all these discussions, that is, the DC Appointment System should be abolished from a policy perspective. The point of contention is the pace of implementation, that is, whether these seats should be abolished in one go, in phases or over a longer time frame. The community indeed has diverse views on this issue. Having considered and balanced these different views, we made the policy decision to initially reduce one third of the number of appointed seats in the ensuing term of the DCs. After the DC election, we will embark on a further round of public discussions as to how the remaining two thirds of the appointed seats should be dealt with.

MR FREDERICK FUNG (in Cantonese): *President, the Secretary's reply has seemingly ignored some hard historical facts, that is, on 21 June last year — two days before the 2012 constitutional reform package was passed in this Council on 23 June last year — the Chief Executive announced in a press conference that he would accept the Democratic Party's proposal and he also stated clearly that a consultation document would be issued by the end of the year (that is, the end of last year) to solicit public views on the abolition of the DC Appointment System.*

On 24 June last year, the Chief Executive held another press conference reiterating the above stance while stating that a consultation document would be issued by the end of last year to initiate discussions on the abolition of the DC Appointment System. In the beginning of this year, when Members raised the same question on different occasions, such as at meetings of the Council and the Panel on Constitutional Affairs, the former Secretary replied time and again that the consultation document would be issued in the middle of the year to initiate discussions on the abolition of the DC Appointment System. Has it become a habit of the Chief Executive and the Secretary to breach their undertakings such that they are free to do whatever they want?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, in answering the main question and the supplementary question raised by Mr Alan LEONG, I have already said that the authorities have been keeping track of the discussions by various sectors of the community on this issue and the views raised. We also agree with the views expressed by members of the public who want to see plans and actions from the authorities to abolish the appointed DC seats. However, there are indeed diverse views in the community as to the pace of abolishing these seats. Having heard these views, the authorities announced in September this year via the former Secretary that one third of the appointed seats in the ensuing term of the DCs would be abolished. Thereafter, further discussions would be held. In this regard, I think the authorities have already responded to the discussions held by various sectors of the community lately.

MR FREDERICK FUNG (in Cantonese): *President, the Secretary has not answered my question.*

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

MR FREDERICK FUNG (in Cantonese): *My question is not about the contents of its plan to abolish the appointed seats, but the two undertakings made by the Chief Executive as well as the former Secretary. On one occasion, an undertaking was made that a consultation document would be issued in autumn last year to initiate discussion on abolishing the DC Appointment System. This year, the former Secretary has indicated at meetings of the Council as well as the Panel on Constitutional Affairs that the consultation document would be issued by the middle of the year. My question is whether the authorities have already made a decision to breach these two undertakings?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, as I said just now, we will initially reduce one third of the number of appointed seats. Regarding the remaining two thirds of the appointed

seats, we will hold further discussions at length with the public, including the Legislative Council Members, after the election.

MR FREDERICK FUNG (in Cantonese): *The Secretary has still not answered my question. I am referring to the consultation document, not the number of appointed seats.*

PRESIDENT (in Cantonese): Mr FUNG, your question is very clear. Secretary, do you have anything to add?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I have nothing to add.

PRESIDENT (in Cantonese): If Members are not satisfied with the Secretary's replies, I am afraid they would have to follow up the matter on other occasions.

MR ANDREW CHENG (in Cantonese): *President, it seems that the new Secretary is also a "human flesh recorder", just like the former Secretary Stephen LAM. I am gravely disappointed about this. Both the Secretary's written and oral replies give us the impression that the Government goes back on its word. When it was enlisting Members' support for the passage of the constitutional reform package, it would accede to any requests. But once its goal was achieved, Members who had supported the Government, particularly those of the pro-democratic camp, my former fellow party members, were kicked out once their services were no longer needed. This saddens me very much.*

President, the written reply is even more disappointing. On what grounds can the Government dare to say that the DC Appointment System might not be completely abolished by 2020

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

MR ANDREW CHENG (in Cantonese): *My question is that, well, I hope the present Secretary will stop being a "human flesh recorder"; as it is possible that the Chief Executive will be elected by universal suffrage in 2017 — although I do not believe this will come true, at least, this undertaking is written down in black and white — how can the Government convince us that Hong Kong will achieve genuine democratic development if the appointment system remains in force for the next two terms of the DCs?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, first of all, as I mentioned on another occasion yesterday, Members using certain epithets to describe me was uncalled for. Secondly, regarding the discussions held before and after the passage of the constitutional reform package last year, I had also taken part in my previous position. I do not concur with the expressions such as "removing the bridge after crossing the river" and "kicking someone out after his services are no longer needed" as used by Mr Andrew CHENG to describe the situation. In fact, we have honoured the undertakings made previously by taking a first step today to abolish one third of the appointed seats in the next term of the DCs to be commenced in January. Therefore, in this regard, I do not concur with his views.

Thirdly, whether the remaining two thirds of the appointed seats should be abolished in one go in 2016 or whether other arrangements be made, I have stated in the main reply just now that the matter can be further discussed by the public at length after the DC election. At that time, we will of course make a decision after listening to the mainstream opinion in the community as well as the views of the Council. I invite Mr CHENG to give us his views when the matter is further discussed. We will of course listen to his views carefully.

MR ANDREW CHENG (in Cantonese): *President, the Secretary has not answered my supplementary question. The crux of my question is not about*

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

MR ANDREW CHENG (in Cantonese): *is he a "human flesh recorder". If the Government does not abolish the appointed seats instantly, how can it convince the people that there will be bona fide democracy in Hong Kong, and that the Chief Executive as well as the Legislative Council will be elected by universal suffrage? If the Government is so reluctant to abolish the appointment system for the DCs which lack real power, how can it convince the international society as well as the people of Hong Kong that there will be bona fide democracy in Hong Kong? That is the crux of the question.*

PRESIDENT (in Cantonese): Members are reminded that according to Rule 25(1)(c) of the Rules of Procedure, questions raised by Members should not contain arguments, imputations or epithets, or ironical or offensive expressions. I hope Members will pay attention to this point.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, last year when we discussed the proposals to further democratize the electoral system for 2012, we had already stated specifically that appointed and ex-officio DC members could not take part in selecting among themselves DC members of the DC subsector of the Election Committee; also they could not nominate DC members to run in the election for the "super seats" (as commonly known) in the Legislative Council election next year. In other words, only elected DC members can take part in the relevant election and nomination. In this respect, I think we have already paved the way for implementing universal suffrage elections on the road towards universal suffrage by the above arrangements which are in accordance with the spirit of universal suffrage.

MS AUDREY EU (in Cantonese): *President, what we have said are neither offensive nor ironic; they are not adjectives, but facts. My supplementary question to the Secretary is quite simple; likewise, the supplementary questions put to the Government today by Mr Frederick FUNG and Mr Andrew CHENG, a former member of the Democratic Party, are quite simple. The question is, when the Government lobbied for Members' support of the constitutional reform package back then, the Government had clearly stated that public consultation would be held on the abolition of the DC Appointment System; if the Government*

fails to honour even such a simple undertaking, is that not acting in bad faith, is that not "removing the bridge after crossing the river", is that not breaking its promise? How can we trust or support the Government again next time?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, likewise, I do not agree with the views expressed by Ms Audrey EU just now. As I said when answering Mr Frederick FUNG's question, I am aware that it is the hope of Mr FUNG as well as many Members present to see actions taken by the Government to abolish the DC Appointment System. As I also pointed out in my main reply just now, the authorities will initially reduce by one third of the number of members to be appointed in the ensuing term of the DCs. That is the concrete actions we have taken to honour the undertaking made last year because there were views back then that actions should be taken to abolish the appointment system.

However, there are indeed diverse views among various sectors of the community. Regarding the pace of abolishing these seats, while some may wish to see the matter be dealt with urgently, some wish to abolish all appointed seats in one go and some others wish to abolish these seats over two or even three terms. In this regard, I think we will have many opportunities for discussion after the conclusion of the DC election.

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

MS AUDREY EU (in Cantonese): *He has not answered my supplementary question. He said that my supplementary question was a view*

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

MS AUDREY EU (in Cantonese): *..... President, just now, I have not expressed any views, I have asked a question*

PRESIDENT (in Cantonese): Please repeat your question.

MS AUDREY EU (in Cantonese): *My question is, how can we trust the Government if it has failed to do such a simple thing as conducting consultation as previously undertaken? That is my supplementary question, it is not a view.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I have answered this question many times just now. I do not think there is anything further to add. However, I believe that the concrete actions taken by the authorities have already reflected and suitably balanced the views of the community.

MR WONG YUK-MAN (in Cantonese): *President, just like me, you suffer from eye disease, but to my surprise, your ears are not functioning well, you also have hearing problems*

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

MR WONG YUK-MAN (in Cantonese): *no, I am just voicing out my personal feelings while cashing in on you a bit*

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

MR WONG YUK-MAN (in Cantonese): *because you have also cashed in on me at the beginning of this meeting, right? Members like me should not be regarded as violent, but powerful, that is, full of power. President, the performance of the present Secretary is passable because his predecessor was just too lousy, yet that lousy former Secretary has now become the Chief Secretary*

PRESIDENT (in Cantonese): Mr WONG, please refrain from making comments and ask your supplementary question.

MR WONG YUK-MAN (in Cantonese): *As the saying goes, "a superior man may be imposed on by what seems to be as it ought to be". I do not know whether it is because people of the pro-democratic camp are "superior men" that they have been "imposed on by what seems to be as it ought to be" after the Government had successfully lobbied for their support, or is that a case of them throwing senseless tantrums now after they had unwisely "boarded the pirate's ship"? What had they said when they discussed and gave support for the constitutional reform package? What had Mr Frederick FUNG said in 2005? He said he would not support the constitutional reform package if the appointment system was not abolished. In the end, the authorities did not abolish the system, and he did not support the then constitutional reform package. The same thing is going to happen again in 2012. Thus, nobody should put the blame on others.*

Nonetheless, I have a question for the Secretary. As he just said, the appointed seats would be abolished in phases, consideration is still needed as to whether the remaining 68 appointed seats would be abolished over one term or two terms, and the authorities have an open mind in this regard. Why does he not state clearly when the remaining 68 appointed seats will be completely abolished? Why can he not do so? Why is it necessary to deal with the remaining 68 appointed seats in phases? Moreover, he has made a very ridiculous remark just now and I seek his clarification. He said that some people requested that the matter should be dealt with urgently, while others said that the matter should be handled slowly Why does he not simply say that some people requested that the appointed seats should be retained forever?

PRESIDENT (in Cantonese): Mr WONG, please sit down. The question time is not meant for debates. You have already asked your supplementary question. Your question to the Secretary is: Why can he not declare the timing for the abolition of those 68 appointed seats? Secretary, please answer.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, regarding the supplementary question put by Mr WONG Yuk-man, as I said just now, the discussions on how the 68 appointed seats should be dealt with would commence shortly after the conclusion of the DC election. I believe we do not need to wait too long and we can quickly come to a decision on how to abolish those 68 appointed seats. During the process, we will of course discuss the matter with Members in the Council. Moreover, we will listen to the views of Members carefully.

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

MR WONG YUK-MAN (in Cantonese): *But the Government already has a definite view. Can he tell me that the Government already has a definite view and that the present consultation by the Government is phoney?*

PRESIDENT (in Cantonese): Mr WONG, I have just said that this is not a debate session. The Secretary has already answered the question.

MR WONG YUK-MAN (in Cantonese): *The Government already has a definite view, how can this be a debate? That is a question.*

PRESIDENT (in Cantonese): The Secretary has already answered the supplementary question you raised just now. You can only ask one supplementary question at one time. If you still have other questions, please wait for a second turn.

MR PAUL TSE (in Cantonese): *President, I have also helped in the district election campaign and I understand how hard it is for elected DC members to take part in elections. From this experience, I can understand why members of the public and Members consider the appointment system inappropriate. Just now, the Secretary has given an account on the number of seats. The current assumption is that the appointed seats would be dealt with over three terms. In*

fact, the so-called "one third" of the number of appointed seats is not an assumption. In the end, there may be drastic changes. However, apart from the numbers, I would like to ask the Secretary whether measures would be taken in respect of quality? For example, when considering appointments to the new term of the DCs, whether the Government will require appointed DC members to undertake that they will not accept nominations as Chairman or Vice Chairman, so that changes can be made in terms of quality and that elected DC Members will feel more at ease and worth the efforts?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, under the District Councils Ordinance, the Chairman and the Vice Chairman of a DC would be elected from amongst members of that DC. I believe each DC will continue to abide by the laws. As to whether members appointed by the Government will give such an undertaking on their own accord, I believe they will have to decide for themselves when the time comes.

PRESIDENT (in Cantonese): This Council has spent more than 20 minutes on this question. Fourth question.

Study on Development of a Retirement Protection Scheme

4. **MR CHEUNG KWOK-CHE** (in Cantonese): *President, the Central Policy Unit (CPU) has so far completed five studies on retirement protection systems. Yet, the authorities have refused to make public certain parts of the study findings for reasons such as some data require updating in the light of changes in the social and economic environments as well as the latest development of the relevant policies, and further examination and analysis are needed, and so on. In this connection, will the Government inform this Council:*

- (a) whether it will reconsider honestly making public the full reports of the aforesaid studies for discussion and analysis by the public;*
- (b) as I have learnt that CPU has recently collaborated with a university to study the feasibility of implementing a comprehensive retirement protection scheme, of the details of the study results; and*

- (c) *whether the Government will make an undertaking to this Council that it will expeditiously complete studies on comprehensive retirement protection and set a timetable for actual implementation?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, my reply to Mr CHEUNG Kwok-che's questions is as follows:

The retirement protection system in Hong Kong draws reference to the World Bank's multi-pillar model. It consists of three pillars, namely the non-contributory social security system (comprising Comprehensive Social Security Assistance (CSSA), Old Age Allowance (OAA) and Disability Allowance), the Mandatory Provident Fund (MPF) system, and voluntary private savings.

- (a) The CPU completed five studies relevant to the sustainability of the above system between 2007 and 2010. Some of the findings of these studies were presented at the Conference on "Strengthening Hong Kong's Families: Obligation and Care Across the Generations" co-organized by the CPU, the University of Hong Kong, The Chinese University of Hong Kong, the City University of Hong Kong and the Family Council in June 2010. Some have also been uploaded to the CPU's website.

Other study findings have not been released, mainly because the socio-economic environment has changed subsequently and there has been new development in relevant policies. Some data therefore require updating, further examination and analysis. For example, soon after the CPU completed its "Study on Sustainability of Three Pillars of Retirement Protection in Hong Kong" between 2005 to 2008 (one of the five studies), which projected the expenditure changes of the retirement protection system over the next 30 years, the financial tsunami occurred, followed by various measures introduced by the Government such as the increase in OAA and implementation of the Statutory Minimum Wage. In addition, the Government is preparing for a healthcare financing scheme and improvement to the MPF System. All these changes have affected the accuracy of the projections already made. To

provide reliable information for assessing the sustainability of the existing system and recommending improvement measures, the CPU would need to update the data and make further projections.

- (b) Apart from refining its studies, the CPU has not been collaborating with any tertiary education institution to conduct a separate study on the feasibility of introducing a universal retirement protection scheme in Hong Kong.
- (c) As the Chief Executive said in his 2011-2012 Policy Address, Hong Kong has just implemented the statutory minimum wage, and is studying the voluntary Health Protection Scheme and ways to enhance the MPF schemes. Currently low-income workers enjoy a certain degree of retirement and basic livelihood protection. It is impractical to introduce fundamental changes to the existing system and adopt a resource reallocation approach to deal with retirement protection. It is also not easy for the community to reach a consensus in this respect. It is more constructive, more pragmatic and easier to achieve results by enhancing, consolidating and strengthening the existing retirement protection system with a view to maximizing the complementary effect.

In this connection, the CPU will continue its work in refining its studies. This includes conducting a territory-wide household survey covering 10 000 households on retirement planning and the financial situation of the elderly. The aim is to understand the latest economic situation of the elderly in Hong Kong and their retirement plans. Initial results are expected to be available for detailed analysis at the end of 2012 at the earliest. The CPU will also continue to collect public opinion through various channels, including focus groups involving academics, professionals, think tanks and relevant organizations. The Government will consider the way forward after the CPU has completed its studies.

MR CHEUNG KWOK-CHE (in Cantonese): *President, I regret that the Secretary has given such a reply. As we all know, the results of all studies may change, be the study conducted today, tomorrow or the day after tomorrow. The*

Secretary should not refuse to provide information on the studies for discussion and analysis by the public on this ground. Hence, I have to express my regret.

As the Secretary has not answered the question about timetable in his main reply, I would like to follow up on this issue. Earlier, when the Secretary mentioned refining the studies on retirement planning and the financial situation of the elderly, and the territory-wide household survey covering 10 000 households, he said that initial results would be available by the end of this year. May I ask the Secretary whether the results will be submitted to the Legislative Council early next year?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Mr CHEUNG for his supplementary question. I would like to clarify that the main reply has stated clearly that the CPU's territory-wide survey covering 10 000 households will be conducted in 2012, thus, the initial result will be available in the end of next year, not this year. When the results are available, we will have the basis to conduct in-depth analysis and studies. In fact, I fully understand that Members are concerned about the availability of the data of the studies for discussion. We will surely maintain close liaison with the CPU to examine how to deal with the issue and share the information with Members. We will definitely discuss the issue further with Members by then.

MR CHEUNG KWOK-CHE (in Cantonese): *President*

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

MR CHEUNG KWOK-CHE (in Cantonese): *..... Sorry, I read it incorrectly. I truly think that the authorities will complete the studies by the end of this year. I am not sure if all the 60 Members present will find it acceptable to have the results of the survey available by the end of 2012*

PRESIDENT (in Cantonese): Mr CHEUNG, the Secretary has already answered.

MR CHEUNG KWOK-CHE (in Cantonese): *..... yet I would like to follow up on the timetable, and the Secretary has not answered this point.*

PRESIDENT (in Cantonese): What is your supplementary question?

MR CHEUNG KWOK-CHE (in Cantonese): *My supplementary question is about the timetable.*

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

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I have given a clear outline of the timetable. The survey is to analyse the data of the first quarter of the coming year, and preliminary data and initial results of the survey will be available by the end of next year. I promise to maintain close liaison with the CPU upon obtaining the information, and I will share the relevant information with Members at the committees concerned.

MR WONG KWOK-HING (in Cantonese): *President, I would like to put forth a question to the Secretary through the President on the so-called improvement to the MPF System as mentioned in the main reply. Wage earners in general consider that the existing MPF System is fraught with problems. One of the most significant or crucial issues is the offsetting of MPF contributions with severance payment and long service payment. Under the current employment on contract terms and subcontracting practices, contributions accumulated will be offset once every few years. In that case, how can wage earners live in peace and contentment upon retirement on their MPF savings?*

Hence, may I ask the Secretary through the President, will a timetable be set for the studies and whether there will be plans to examine the abolition of the offsetting arrangement of MPF contributions, so that employees can indeed live peacefully on their MPF savings in their twilight years?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I would like to thank Mr WONG for his supplementary question. In respect of the offsetting arrangement, Members know clearly that prior to the implementation of the MPF System in 2000, employers were allowed under the Employment Ordinance to offset severance payment or long service payment with the contributions they made to the retirement schemes. We all know that this is a long established arrangement, and it has now been extended to the MPF scheme. Since the offsetting arrangement involves the overall relationship between employers and employees, consensus between the two parties has to be secured before any amendments can be made. For the time being, we have no plans to change the arrangement at the present stage. However, as I mentioned earlier, during the review of the MPF, the Mandatory Provident Fund Authority will surely examine issues in various aspects in the light of improving the MPF System.

MS CYD HO (in Cantonese): *If the Secretary refuses to publish the report on the pretext that there are changes in society and global conditions, he needs not release any reports in the future. Since the studies have been carried on for five years, from 2007 to 2011, changes in the circumstances are inevitable. However, the Secretary now tells us that the report will only be published by the end of next year. Secretary, you must carry out a task to the end. Since the term of this Government will end by the middle of next year, the Secretary should release the report before that time, so that conclusions can be drawn and recommendations proposed; otherwise, people would query that the Secretary is shifting the responsibility to the next Government.*

Hence, may I ask the Secretary, what are the reasons for not releasing the report before 30 June next year? If the Secretary cannot release the report, how can he be accountable to the public who query his shifting of responsibility?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, first, I have to clarify once again that it is the CPU but not a Government Bureau responsible for the studies. I must make this point clear, for the study is conducted by the think tank of the Government.

Second, I have given a detailed explanation in the reply. I have also studied the overall work flow of the CPU in this respect to find out why the reports are not yet available. We have explained to Members that three of the

five reports have been published on the Internet and at conferences. Moreover, a conference co-organized by various universities and the Family Council was held last year, and the findings of the studies were made known to the community. There are no secrets. As for the two remaining reports, the data of one of the survey has been rendered useless due to certain new development. In the past few years, since the onset of the financial tsunami, the authorities had implemented the minimum wage and increased the OAA; it is now preparing to introduce the "voluntary health protection scheme", and will commence on the study to improve the MPF System. Thus, it will be meaningless to conduct the assessment based on the outdated data. It is vital to update the relevant data. Regarding the timetable, we are also anxious, I am more concerned than Members as we are anxious to know the way forward. However, without data, it is very difficult for us to make policy consideration.

The Census and Statistics Department (C&SD) is now doing the preliminary work. In the first quarter of next year, it will collect data relating to the distribution, retirement plan, current financial position, saving status of 10 000 households and whether these households will move to the Mainland or emigrate overseas upon retirement. After obtaining a multitude of statistics, further consideration about the policy will be made by the end of the year. We are not procrastinating, absolutely not. Members should be able to discern the sincerity of the Government. The Chief Executive has stated unequivocally in the Policy Address that a consensus can hardly be reached on universal retirement protection. The present approach adopted is pragmatic and proactive, and achievement can be attained more easily.

Members may have the misunderstanding that the Government is only considering improving the MPF System and people not at work will not be able to benefit. However, this is not the case. Actually, we will also consider improving the three pillars. For the first pillar, the social security system which includes the CSSA, the "fruit grant" and the Disability Allowance, we will examine whether there is room for improvement with a view to reinforcing or perfecting the system. The second pillar is the MPF System, and Members are well aware of this. The third pillar is personal saving. We will identify ways or room to put in additional effort in this respect. For instance, will it be possible to teach the public about investment and finance management. Hence, we are not procrastinating. If I have such intention, I would not be standing here today presenting the many positive remarks to Members.

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

MS CYD HO (in Cantonese): *President, the Secretary said earlier that the C&SD would collect the data in the first quarter. If that is the case, and with the manpower and resources of the CPU, why the CPU cannot publish the report before 30 June after collecting the data in the first quarter?*

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

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, as we all know, in conducting this type of studies, the C&SD needs time to do the analysis work, for the raw data collected cannot be used right away, and it is necessary for them to conduct a series of analyses. Analysis is required not only for this report, and the same applies to the study on minimum wage. Let me cite the study on minimum wage as an example. After obtaining the information of the first and second quarter, the data will only be available for analysis early next year. We are all aware of this situation. We are definitely not making up excuses for procrastination; technically and professionally speaking, we need to do so.

MR IP WAI-MING (in Cantonese): *President, regarding a question from a colleague on the offsetting arrangement of MPF contribution with severance payment and long service payment, the Secretary said in the reply that this was an established system and was thus applied continuously. Moreover, the Secretary also said that the study on improving the MPF System did not cover the offsetting arrangement. May I ask the Secretary through the President, under what conditions will the Government consider it suitable to abolish the offsetting arrangement of MPF contribution with severance payment and long service payment? Will the Government consider abolishing the offsetting arrangement and reviewing the systems on severance payment and long service together in the future?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I have pointed out very clearly that the offsetting arrangement has its historical background. The arrangement was in place before the implementation of the MPF, and we only extended the arrangement to the MPF System at that time. Actually, Members should recall that this was an acceptable compromise to various parties at the time the MPF System was passed. Changes cannot be made abruptly, as I mentioned in my reply to Mr WONG, and consensus between employers and employees must be secured. We must examine the feasibility carefully and maintain a good balance. As I said earlier, if a consensus can be reached in the days to come, we will not rule out the possibility of considering the arrangement.

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

MR IP WAI-MING (in Cantonese): *I am asking about the conditions required there must be consensus between employers and employees, yet my question is about the conditions under which the Government will take action.*

PRESIDENT (in Cantonese): Mr IP, the Secretary has already given his answer, stating that the condition is to have a consensus reached between employers and employees.

MS LI FUNG-YING (in Cantonese): *President, at present, many members of the public rely heavily on the MPF as their retirement protection. However, since the MPF System ties in with employment, the grassroots in general, particularly housewives, cannot be benefited. The unemployed are not required to make contribution to the MPF and the accrued benefits eventually received by low-income earners will be utterly meagre. As such, may I ask the Secretary how the improvements he mentioned will enable housewives of grass-roots families, low-income earners and the unemployed to enjoy retirement protection without relying on CSSA payment?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Ms LI Fung-ying for her supplementary question. As we all know, the first of the three pillars is the social security system, which includes the CSSA, the eligibility of which must be means-tested, as for the OAA and the Disability Allowance, they are generally non means-tested. The test on the OAA is very lenient, persons aged between 65 and 69 can apply, and no means test is required for people aged 70. This allowance can offer them some financial relief. Certainly, as we know, this allowance is not provided as a support for living, it only serves to meet special needs.

Moreover, for women in need of assistance, they may receive assistance under the CSSA. The Member asked earlier what support will be given to the non-working population. In this connection, I think families and personal savings will have some roles to play. After all, we consider that provision for the elderly in Hong Kong must be considered from various perspectives. Families have the responsibility to take care of the elderly. The Government is definitely obliged to assist the public in fulfilling this responsibility. However, we must bear in mind that Hong Kong is, after all, a Chinese society, and we should not overlook social values, family values and the concept of mutual support among family members. Therefore, we will continue to make improvements to the three pillars, not only will the MPF System be improved, the CSSA System and the social security system will also be enhanced. The "fruit grant" is a case in point. The Guangdong Scheme introduced in the Policy Address this year well illustrates that we adopt a flexible approach and have innovative thinking. In respect of the CSSA, we will take a step forward to provide elderly CSSA recipients with a "community living supplement" amounting to \$250 starting from October this year. It is pointed out in the Policy Address that the supplement will be also be provided to elderly CSSA recipients age 60 or above residing in non-subsidized home for the elderly. All these initiatives prove that we are not at a standstill but will make constant advancement. We wish to enhance each and every protection to attain the people-based target.

MR LEE CHEUK-YAN (in Cantonese): *President, I must tell the Secretary that we cannot afford any more delays in handling the problems of ageing population and retirement protection. Come to think about this, if there are further delays, how many more elders would die before they can enjoy retirement protection. The study has been dragged on for five years and many elders had died. I*

wonder how many people would pass away by the time the universal retirement protection is implemented. Really, we cannot afford to have further delays! President, I think the Secretary is talking gibberish and shirking responsibilities in his reply. What kind of gibberish is he talking about? He said that the basic living of the grassroots after retirement was protected in some measure, for the MPF System, voluntary health protection scheme and statutory minimum wage had already been put in place. However, I do not understand how the implementation of statutory minimum wage and voluntary health protection scheme are related to retirement protection. President, the next remark he made is utterly irresponsible. He said that social consensus could hardly be reached and thus universal retirement protection could not be implemented. May I ask the Secretary, what is the point of having a government if consensus has to be reached on every issue? Is there a consensus in society in appointing Stephen LAM as the Chief Secretary for Administration?

PRESIDENT (in Cantonese): Mr LEE, please state your supplementary question clearly.

MR LEE CHEUK-YAN (in Cantonese): *My question is simple. If we have to reach a consensus on every issue, what is the point of having a government? Will the Government only take action on issues that have reached a consensus? Definitely, no consensus has been reached on the Stephen LAM incident*

PRESIDENT (in Cantonese): Please be seated after you have stated your supplementary question.

MR LEE CHEUK-YAN (in Cantonese): *..... but he is appointed as the Chief Secretary for Administration, and he is allowed to take office so soon. However, when it comes to the offsetting arrangement of MPF contribution with long service payment, it is said that consensus has to be reached.*

PRESIDENT (in Cantonese): Mr LEE, stop giving your views. Please be seated and let the Secretary reply.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I would like to reiterate that we absolutely have no intention to procrastinate in handling this issue. Members should have noticed that the Government's stance is very clear. If we intend to procrastinate, the Chief Executive would not have stated unequivocally in the Policy Address the need to improve the three pillars. I have to reiterate that improvements will not only be made to the MPF System, we will not rule out the possibility of improving the social security system and we will adopt an open attitude in this respect. We are truly sincere in examining the ways to improve the three existing pillars. First, this approach is more pragmatic, which is a fact. Universal retirement protection is only a slogan, a political slogan. The issues involved are indeed very complicated. A simple example is the issue regarding contribution. Young people are required to make contribution, but many of them are unwilling to set aside part of their MPF as contribution, for they do not understand why part of their MPF contribution has to be taken out and be used by others. In future, when the population ages, there will not be enough young people to support the system. Contribution from employers and employees will thus be increased, which will in turn enhance their burden. Mr LEE, you may notice that we have foreshadowed this. It is crystal clear that the Government is sincere in addressing but not dodging the problem. We want to improve the three pillars. Upon the publishing of the report of the study by the CPU, we will set out the direction, and then discuss and negotiate with Members.

MR LEE CHEUK-YAN (in Cantonese): *President, the Secretary has not answered me. Is the Government now adopting a new governing direction of taking action only when a consensus has been reached on every issue? I have evidence that this is not the case, and I urge him to withdraw the remark of requiring a consensus*

PRESIDENT (in Cantonese): Mr LEE, you only need to repeat briefly the part of your supplementary question which the Secretary has not answered, and there should be no debate.

MR LEE CHEUK-YAN (in Cantonese): *no, he has not answered me whether the existing governing approach of the Government has all*

PRESIDENT (in Cantonese): Secretary, on the issue of consensus and government policies, do you have anything to add?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Regarding consensus, it has been the established policy of the Government that consensus of society should be secured as far as possible before the implementation of policies with far-reaching effect. The issues now under discussion, including the universal retirement protection or the improvement plans, involve policies which will be sustained for several decades or over a century; they are not transient or one-off handout policies. Hence, we must have a solid basis well supported by justifications and we have to take into consideration various statistics. If we hastily implement any policy at a time pending the data from the C&SD and the completion of the analysis by the CPU, I believe Members of the Legislative Council will not render their support.

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

Judicial Review on Environmental Impact Assessment Reports for Hong Kong-Zhuhai-Macao Bridge

5. **MR JEFFREY LAM** (in Cantonese): *President, it has been reported that after the Court of Appeal had allowed the Director of Environmental Protection's appeal in respect of the judicial review (JR) on the Environmental Impact Assessment reports for the Hong Kong-Zhuhai-Macao Bridge, the plaintiff told the media that someone had asked her to file the lawsuit; it has also been reported that the plaintiff was granted legal aid for this JR case and specify which lawyer to represent her. In this connection, will the Government inform this Council:*

- (a) *whether the police will investigate if the aforesaid case involved champerty; of the number of prosecutions instituted by the police against cases involving champerty in the past five years and the number of convicted persons;*
- (b) *how the Legal Aid Department (LAD), when vetting and approving legal aid applications, ensures that the applicants have sufficient understanding of their litigation cases; and ensures that legal aid services will not be abused; and*
- (c) *among the legal aid applications approved by the LAD in the past five years, of the number of cases where the aided persons were represented by the solicitors or counsel specified by them in court proceedings; the details of such cases (including the names of the solicitors or counsel, particulars of the cases and the amounts of the legal aid involved)?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I thank Mr Jeffrey LAM for his question. My reply to the three-part question is as follows:

- (a) Generally speaking, the police will assess if there are reasonable doubts to believe that criminal elements are involved in the case having regard to whether reports from informants are received, whether reliable intelligence is available, and so on, so as to decide whether investigation should be conducted. As regards the incident raised in the question (that is, the proceeding concerning the Hong Kong-Zhuhai-Macao Bridge), to the best of my knowledge, neither reports from informants have been received nor any investigation has been commenced. Anyone who wishes to provide information or report a case may contact the police direct, and the police would take follow-up actions as appropriate. In the past five years, the police instituted prosecution against one case involving champerty and two persons were convicted.
- (b) Anyone who wishes to apply for legal aid is required to complete the application form and questionnaire relating to the type of

proceedings and provide the relevant information and documents to support his/her application. In accordance with normal procedure, the LAD will interview the applicant to get an in-depth knowledge of his application and the applicant has to undergo means and merits tests. In assessing the merits of the application, the LAD will consider the background of the case, evidence provided and the legal principles applicable to the case to determine whether there are reasonable grounds to grant legal aid.

Legal aid is the support which the Legal Aid Ordinance (LOA) renders to all citizens. According to the professional guide of The Law Society of Hong Kong (Law Society), a solicitor is under a duty, both at the commencement of a retainer and during the retainer, where circumstances so warrant, to explain to a client about the legal aid service and the ways to obtain the service.

Under the LAO, it is the duty of the Director of Legal Aid (Director) to grant legal aid to cases with reasonable grounds.

To ensure that only those with reasonable grounds for taking the proceedings are granted legal aid, all applications are processed by in-house lawyers who are legally qualified. If the application is refused, the applicant may appeal against the Director's decision to the Registrar of the High Court. The decision of the Registrar is final.

A mechanism is in place in the Legal Aid Regulations to safeguard against abuse of legal aid services. If anyone has repeatedly applied for legal aid after being refused, the Director may order that no consideration shall be given to any future application by that person for three years if it appears to the Director that his conduct has amounted to an abuse of the facilities provided by the LAO. To my understanding, however, this may not necessarily be the abuse which Mr LAM has mentioned in his question.

- (c) The number of civil cases where legal aid was granted and the number of cases where the assigned solicitors were nominated by the

aided persons in the past five years are set out as follows. In order to save time, I will not read out the details:

| <i>Year</i> | <i>Number of civil cases where legal aid was granted</i> | <i>Number of cases where the assigned solicitors were nominated by the aided persons</i> |
|-------------|--|--|
| 2006 | 9 356 | 4 047 |
| 2007 | 7 937 | 3 423 |
| 2008 | 7 513 | 3 401 |
| 2009 | 9 031 | 4 287 |
| 2010 | 8 263 | 4 320 |

With respect to counsel, the LAD does not keep record on the number of cases where the assigned counsel are solely nominated by the aided persons. It only keeps record on the number of cases where the assigned counsel are nominated by the assigned solicitors or the aided persons. Such cases are set out below for Members' reference.

| <i>Year</i> | <i>Number of cases where the assigned counsel are nominated by the assigned solicitors or the aided persons</i> |
|-------------|---|
| 2006 | 1 041 |
| 2007 | 924 |
| 2008 | 902 |
| 2009 | 1 012 |
| 2010 | 651 |

Pursuant to the Personal Data (Privacy) Ordinance and section 24 of the LAO, the LAD is not at liberty to disclose the names of the assigned solicitors/counsel nominated and details of the cases involved. The LAD does not keep record on the amounts of legal costs incurred in cases handled by the solicitors and counsel nominated by the aided persons.

MR JEFFREY LAM (in Cantonese): *President, on that day, everyone in Hong Kong saw on television or read in newspapers that the plaintiff, an old lady surnamed CHU, explicitly said that someone had asked her to file the lawsuit,*

and that she was befuddled. Later, her solicitor came out and disclaimed knowledge of her remark.

Obviously, Madam CHU was being manipulated. The Secretary said just now that if the police did not receive any reports on a case, they would not handle the case. If a child was hit by a car outside the building and a policeman saw the accident, would he not handle the case even though no report has been received? Would the policeman not call an ambulance to the scene to save the child? The argument is not justifiable. I hope the Secretary will later retrieve the news reports or television footage on that day and examine what should be done.

President, I wish to raise a question in relation to part (c) of the main reply. The Secretary said that the LAD does not keep record on the amounts of legal aid incurred in cases handled by solicitors nominated by the aided persons. May I ask why the LAD does not keep such record? I believe taxpayers are very interested to learn in what areas the public coffer has been spent. Moreover, why not disclose the names of the nominated solicitors? It is unnecessary to keep them in the dark; anyway, we all know who these nominated solicitors are when they show up at court.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, regarding the police investigation mentioned in the supplementary question, we should place our trust in the professional judgment of the police. It is up to the police to decide whether they will initiate investigation on a certain case and whether they will announce the investigation results to the public.

With respect to the legal costs incurred in cases involving legal aid, the LAD has not compiled statistics on the total legal costs incurred by cases in which the aided person nominated his solicitor or counsel. However, we can provide the legal cost incurred in a certain case. For instance, in our reply to a relevant written question raised by Ms Starry LEE today which specifically asked the amount of legal aid involved in the judicial review litigation over the Environmental Impact Assessment reports of the Hong Kong-Zhuhai-Macao Bridge, we can specifically point out that the amount involved was \$1.49 million.

MR LAU KONG-WAH (in Cantonese): *President, at least \$6.5 billion of taxpayer money has been wasted on this JR case. We also note that during the JR, the leader of the Civic Party has provided advice, a volunteer of the Civic Party has been manipulated to apply for legal aid and a lawyer, an executive committee member of the Party, is involved in the litigation and has pocketed almost \$1.5 million of legal aid. The incident not only involves a waste of public money, but also involves the operation of the political party and a major public interest. Thus, may I ask*

(Mr Alan LEONG raised his hand)

PRESIDENT (in Cantonese): Mr Alan LEONG, what is your point?

MR ALAN LEONG (in Cantonese): *President, a point of order.*

PRESIDENT (in Cantonese): Mr LAU Kong-wah, please sit down first. Mr Alan LEONG, please raise your point of order.

MR ALAN LEONG (in Cantonese): *Mr LAU Kong-wah just said that the leader of the Civic Party had provided legal advice. I want to know on what ground does he say so. Is this his personal opinion? I am the incumbent party leader, does he mean that I have provided legal advice? I think Mr LAU*

PRESIDENT (in Cantonese): Mr LEONG, are you asking the Member who has asked the question to clarify what he just said?

MR ALAN LEONG (in Cantonese): *Yes.*

PRESIDENT (in Cantonese): Mr LAU Kong-wah, do you wish to clarify?

MR LAU KONG-WAH (in Cantonese): *President, according to some news reports, Mr Alan LEONG told the media that he had provided some advice regarding this case. However, the news reports did not specify whether it was legal advice. President, I wish to continue with my question.*

Obviously, I wish to ask the Secretary

MR ALAN LEONG (in Cantonese): *President*

PRESIDENT (in Cantonese): Mr Alan LEONG, what is your point?

MR ALAN LEONG (in Cantonese): *President, can I ask Mr LAU Kong-wah to point out directly the specific news reports and advice? I have never provided any advice. I do not think he has sufficiently clarified his remark.*

PRESIDENT (in Cantonese): Mr LAU, do you wish to clarify?

MR LAU KONG-WAH (in Cantonese): *No problem. I have done a thorough search. I will provide him with the information afterwards.*

President, in this case, is there an obvious conflict of interests? Is this an act of misconduct? Has this not jeopardized the interests of the public? Worse still, as pointed out by Mr Jeffrey LAM just now, the applicant said afterwards that she did not want to do so and thought that she was befuddled. This obviously is against the applicant's

MS AUDREY EU (in Cantonese): *President, a point of order.*

PRESIDENT (in Cantonese): Ms Audrey EU, what is your point of order?

MS AUDREY EU (in Cantonese): *President, I have a point of order. Under Rule 41 of the Rules of Procedure, Members shall not offend another Member or impute improper motives to another Member. In raising his question just now, Mr LAU Kong-wah mentioned our party leader, claiming that he has provided advice and has acts of misconduct, and even accusing him of having conflicts of interests.*

President, I wish to seek your ruling on whether he has offended Mr Alan LEONG because Mr Alan LEONG has already clarified that he has not provided any advice or legal opinion and that he has asked Mr LAU Kong-wah to provide the source and details of information based on which this remark is made. Thus, President, Mr LAU Kong-wah's subsequent accusations of misconduct or conflicts of interests have obviously offended Mr Alan LEONG and imputed improper motives to him.

PRESIDENT (in Cantonese): Ms EU, please sit down first. Mr LAU Kong-wah, are you saying that a Member of this Council has acts of misconduct and improper motives?

MR LAU KONG-WAH (in Cantonese): *President, I certainly understand why members of the Civic Party are so agitated. Nevertheless, I am only asking the Secretary a question and seek his reply. President, I am displeased that I have been repeatedly interrupted when I try to ask a supplementary question. May I have the opportunity to finish my question for the Secretary to*

PRESIDENT (in Cantonese): Mr LAU, if a Member has raised a point of order, I am obliged to stop you and handle the point of order first. A Member has now raised a point of order, saying that the content of your question just now is offensive to another Member. Thus, I want you to clarify whether you are saying that a Member of this Council has acts of misconduct or improper motives.

MR LAU KONG-WAH (in Cantonese): *President, I have not named the Member. I was not referring to that Member either. I said*

PRESIDENT (in Cantonese): Were you referring to any one of our Members?

MR LAU KONG-WAH (in Cantonese): *No. My question is about whether the operation as a whole involves any conflicts of interests and acts of misconduct. I would like the Secretary to answer my question.*

(Mr Paul TSE raised his hand)

PRESIDENT (in Cantonese): Mr Paul TSE, what is your point?

MR PAUL TSE (in Cantonese): *I also wish to raise a point of order.*

PRESIDENT (in Cantonese): Mr LAU Kong-wah, please sit down first.

MR PAUL TSE (in Cantonese): *For the sake of order in this Council, may I ask the President to clarify, regarding the present problem pointed out by Members, whether the applicable Rule under the Rules of Procedure should be Rule 25, rather than Rule 42 or Rule 41 as quoted by Ms Audrey EU? The accusation made by Member or the problem which they consider out of order should thus be handled in accordance with Rule 25. If Ms EU would study Rule 25, she may find that some of the provisions which she has quoted are also applicable here, and she can better support her point that the accusation is out of order by quoting the right rule.*

PRESIDENT (in Cantonese): What Mr TSE has said is correct. However, as Mr TSE is aware, the requirement laid down in Rule 25(1) of the Rules of Procedure is even more stringent than the requirement laid down in the rule quoted by Ms Audrey EU. Hence, would Mr LAU Kong-wah please take note that Members should not include any imputations in their questions, nor should they use any ironical expressions or raise any arguments.

DR MARGARET NG (in Cantonese): *President, I can hardly review the Rules of Procedure in a short time, I do not have enough time to do so, but I hope that the President would make a ruling. If a Member makes an imputation against another Member, particularly if he severely accuses the other Member of acts of misconduct, he should not raise the accusation directly, let alone asking a public officer to answer such a question. If he is of the opinion that a Member of this Council has acts of misconduct, he should raise this issue in a formal way.*

President, I hope that you would make a ruling on whether Mr LAU Kong-wah's remark just now is appropriate.

MR LAU KONG-WAH (in Cantonese): *President, let me make myself clear. I am certainly delighted to hear that several Members just now said that Members should not use offensive expressions against each other, nor should they make imputations against other Members. I agree with them in this point, and I think that the colleagues who said so should live up to their words in the future. However, just now I only put forth a supplementary question and I was referring to the operation as a whole. I did not specify which Member was involved.*

PRESIDENT (in Cantonese): *When you raised your supplementary question, did you say that certain Member of this Council has acts of misconduct or improper motives?*

MR LAU KONG-WAH (in Cantonese): *No. All along I have been asking whether the involvement and operation of the Civic Party as a whole involve any conflict of interests, misconduct and infringement on public interests. I have made it very clear.*

PRESIDENT (in Cantonese): *If Member's question is about whether the participation of a certain political party in a certain matter involves any misconduct or infringement on public interests, the question has not violated the Rules of Procedure.*

MR LAU KONG-WAH (in Cantonese): *Thank you, President. I wish to finish with my supplementary question.*

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

MR LAU KONG-WAH (in Cantonese): *President, I am not the one stalling on the subject.*

President, what I wish to say is, the applicant said that she did not wish to file the lawsuit and that she was befuddled. Obviously it was against her will to be the applicant. May I ask the Secretary whether he will urge the Director, who is the approving authority of legal aid applications, to re-examine whether the applicant filed and signed the application on a voluntary basis?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the Director discharges his authority and duties in accordance with the LAO. In discharging his duties, he would only consider the merits of the case and the relevant legal provisions. The litigation is now over and I do not think he needs to conduct other investigation on the case.

MR IP KWOK-HIM (in Cantonese): *President, I have studied part (b) of the main reply in detail. The Secretary has repeatedly emphasized that under normal practice, the LAD will interview the applicant to get an understanding of the application, and that all legal aid applications are processed by legally-qualified lawyers of the LAD, so as to ensure that only those with reasonable grounds for taking the proceedings are granted legal aid.*

However, I note that, as also mentioned by Mr Jeffrey LAM or Mr LAU Kong-wah just now, Madam CHU said that (allow me to quote her words) she was "befuddled", adding that she personally would not take legal action, but someone had asked her to "file the lawsuit". However, she would not disclose who had asked her to "file the lawsuit".

May I ask the Secretary, has he considered whether the existing vetting and approving procedure for legal aid applications can prevent people with legal

knowledge to reap lawyer fees by making use of judicial review to initiate proceedings? I heard just now that the lawyer fee amounted to \$1.49 million. As such, will consideration be given by the Government to reviewing the practice concerned, so as to plug this loophole?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, at the interview with an applicant for the vetting and approving of his legal aid application, the LAD will not ask questions other than those related to the application and those concerning the merits of the case. In particular, if the application involves, among others, a judicial review, the LAD will definitely not ask questions not related to the merits of the case.

Mr IP Kowk-him asked just now whether the existing procedure will give rise to "champerty". "Maintenance" and "champerty" are both criminal offence under common law. Maintenance may be defined as the giving of encouragement to one of the parties to litigation by a person who has neither an interest in the litigation nor any other motive recognized by the law as justifying his interference. Champerty is the maintenance of an action in consideration of a promise to give the maintainer a share in the proceeds. The above conducts are forbidden in the Code of Practice of The Law Society of Hong Kong and the Hong Kong Bar Association.

PRESIDENT (in Cantonese): We have spent over 21 minutes 30 seconds on this question. Although some other Members have occupied some of Mr LAU Kong-wah's question time to express their opinions, I have to end this question here. This also explains why more stringent requirements are laid down in the part on questions in the Rules of Procedure.

I wish to remind Members once again that in putting your questions, you should seek to avoid verbosity, imputations and using ironical or offensive expressions. These usually will become points of contention. I hope Members can be clear and concise in putting your questions and allow time for other Members to put their supplementary questions.

Last question seeking an oral reply.

Provision of Subsidies to Improve Health of Persons in need

6. **MR JAMES TO** (in Cantonese): *President, the present situation of poverty in Hong Kong has aroused public concern. Apart from the problem that poor families suffer from malnutrition, hundreds of thousands of elderly persons also suffer from serious dental problems. As revealed in an oral health survey conducted by the Government in 2001, among the 65-year-old and above institutionalized older persons (IOPs), 76% had fewer than 20 teeth left, which was the minimum number of teeth for minimum level of function, and 27% IOPs had no tooth at all (edentulous). It was also found that among the 65 to 74-year old non-institutionalized older persons (NOPs), about 50% of them had fewer than 20 teeth left and 8% NOPs were edentulous. Most of them cannot afford to pay for dental treatment, thus affecting their health and quality of life. In this connection, will the executive authorities inform this Council:*

- (a) *given that a recent survey conducted by a local organization has found that working-poor households cannot afford to buy nutritious food, what measures the authorities have to address this problem, and whether they will consider providing subsistence allowances to the working poor; if they will, of the details; if not, the reasons for that; given that community canteens have all along been offering assistance to the persons in need, whether the authorities will increase the amount of subsidies for providing such services; if they will, of the details; if not, the reasons for that;*
- (b) *given that the Community Care Fund (CCF) announced earlier that \$170 million would be reserved in 2011-2012 for conducting a study on the feasibility of three programmes (including the provision of dental services for the elderly such as denture-fixing, and so on), of the amount of funding reserved for the study on the provision of for denture-fixing service; of the maximum amount of funding that the CCF may allocate to the provision of denture-fixing service and the estimated number of elderly persons who will benefit from such service; whether the CCF will examine the criteria for providing subsidies; when such study is anticipated to be completed and such service provided; whether the authorities will consider including denture-fixing service, and so on, in the scope of regular dental care services, and expanding the coverage of the "Pilot Project on*

Outreach Primary Dental Care Services for the Elderly in Residential Care Homes and Day Care Centres", with a view to providing the elderly in need with comprehensive subsidized dental services (including denture-fixing and tooth-filling services); and

- (c) *whether the authorities will reconsider the re-establishment of the Commission on Poverty (CoP) which is led by high-ranking officials; if they will, of the details; if not, the reasons for that?*

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

- (a) At present, the Comprehensive Social Security Assistance (CSSA) Scheme already provides cash assistance to families which cannot support themselves financially to help them meet basic needs, including expenses on food. Besides, the Social Welfare Department (SWD)'s short-term food assistance service projects (the projects) can immediately and directly provide food to persons who have difficulty coping with their food expenditure in the short term. Operators of the projects will take into account food nutrition when providing the services.

To continue the service and introduce improvement, such as providing more food varieties and fresh food, the Labour and Welfare Bureau plans to seek the approval of the Legislative Council towards the end of this year for using the \$100 million already earmarked in the Budget this year. The SWD will closely monitor the operation of this service. If necessary, the Government will further inject \$100 million to the service.

Apart from subsidizing the services mentioned above, the Government also encourages non-governmental organizations (NGOs) to provide food assistance in different ways, including operating community canteens. The Partnership Fund for the Disadvantaged also provides funding support for NGOs to run these services in partnership with the business sector.

- (b) The Government's oral health policy seeks to improve oral health and prevent dental diseases through promotion and education, thereby raising public awareness of oral health, and facilitating the development of proper oral health habits. According to a territory-wide oral health survey conducted by the Department of Health (DH) in 2001 in accordance with the recommendations of the World Health Organization (WHO), the oral health status of the elderly population in Hong Kong compared favourably to that of many developed countries. For instance, about 9% of the non-institutionalized older persons aged between 65 and 74 were found toothless, which was far lower than the percentage recorded in other developed countries. The DH is now conducting another territory-wide oral health survey to keep track of the oral health status of our population.

Elderly people residing in residential care homes or receiving services in day care centres are often prevented from accessing conventional dental care services due to their frail physical conditions. In the light of this, the Government has launched a pilot project, in collaboration with NGOs for a period of three years starting from April 2011, to provide them with outreach primary dental care and oral healthcare services including dental check-up, scaling, polishing, and so on. For those in need of follow-up curative treatments, participating NGOs will provide the necessary treatments and, where necessary, arrange to apply for dental grant under the CSSA Scheme or to provide financial assistance to cases in need. We envisage that the pilot project can provide over 100 000 attendances benefiting some 80 000 elderly in residential care homes and day care centres. The Government will monitor the implementation of the project and conduct a review after accumulating experience on its operation.

The Steering Committee on the CCF has reserved \$100 million for implementing the proposed programme to provide financial assistance on dental services (including dentures) for the elderly. The Medical Sub-committee under it has set up a task group to devise the specifics of the programme, including target beneficiaries, scope and level of assistance, mode of operation, and so on, with a

view to initiating the programme as soon as possible to provide services to needy elderly. The Steering Committee on the CCF will announce details of the programme after they have been formulated.

- (c) The Government attaches great importance to poverty alleviation. With the conclusion of work of the former CoP, the Government set up in October 2007 the Task Force on Poverty (TFP), headed by the Secretary for Labour and Welfare and comprising senior officials from relevant bureaux/departments, to monitor the progress in implementing the recommendations made by the former CoP and to co-ordinate efforts across the Government in poverty alleviation. Most of the 53 recommendations made by the CoP have been or are being implemented. We consider the current arrangement appropriate and thus have no plan to re-establish the CoP. The Government will continue to closely monitor the poverty situation in Hong Kong and explore new measures to help alleviate poverty.

MR JAMES TO (in Cantonese): *President, the Government seems to suggest that, as the former CoP had put forward tens of recommendations, the implementation of such recommendations is sufficient for resolving the problem of poverty and the disparity between the rich and the poor, and there is no need to set up another task force to follow up the issues. President, let me illustrate with an example. In part (b) of the Government's main reply, which is about dental services, it is stated that "about 9% of the non-institutionalized older persons were found toothless". The Government seems complacent as this percentage was lower than those recorded in other places. I want to ask the Government, in making the comparison, were edentulous elders who did not even have dentures counted in the statistics? I hope the Government would understand, elders without dentures can only take liquid food. As early as 2001, we already noted that 30% of the elderly were so poor that they could not afford denture-fixing. Ten years have passed and only by now that assistance is provided through the CCF. I want to ask the Government: when will these projects be made long-term measures so that poor edentulous elders can have more food choices other than liquid food?*

PRESIDENT (in Cantonese): Which Secretary will answer this question? Secretary for Food and Health, please reply.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I would like to provide additional information on dental services with regard to part (b) of the main reply.

As you know, the survey conducted in accordance with the recommendations of the WHO only covered elders in the specific age group of 65 to 74. For many IOPs, they are at the age of 74 or above. Some are even in their eighties or nineties. Their dental condition will certainly be worse than those under 74. That is why our targets are those elders in residential care homes or elderly care centres; we have to find out their specific needs first and then take care of them. We will have a clear picture of their needs in a couple of years. If they need denture-fixing, their dentists will surely make such recommendations. However, we should understand that the provision of denture-fixing service or any other dental services involves professional judgment. Such matters cannot simply be resolved by a general measure. We must consider the views of the task group before devising details of this service.

As I said earlier, the CCF has reserved \$100 million this year for implementing relevant programmes. We believe that some 10 000 elderly persons can be benefited. We hope that these initiatives can provide the elderly with better oral health services and dental services in the future. I would like to invite Secretary Matthew CHEUNG to answer the question on the CoP.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Regarding the question on poverty alleviation raised by Mr James TO, I would like to highlight two points.

Firstly, the CoP had made 53 major recommendations before concluding its work in 2007. A cross-departmental task force was set up by the Government to make continuous efforts in implementing these recommendations. The public may wonder what progress has so far been made. Some specific examples include the rolling out of the Child Development Fund, the enhancement of the Transport Subsidy Scheme to cover all citizens in Hong Kong and the

enhancements made to the CSSA. What I want to emphasize is that we have all along been working hard to implement the recommendations on poverty alleviation. Poverty alleviation is an urgent task which requires enduring efforts, hence, we have to keep working. That is why we are exploring other feasible new measures in addition to the implementation of the 53 recommendations. We will adopt a new mindset and make unremitting efforts to meet the challenges.

Mr TO, I would like to share with you two figures. In this financial year, the Government has spent \$27.5 billion on social security, a policy area under my purview, for the provision of the CSSA, old age allowance and disability allowance, and so on. This amount accounts for 12% of the Government's recurrent expenditure. If we take a macro point of view, we can see that a total of \$147.5 billion has been spent on social welfare, medical services, education and housing, accounting for 57.3% of the Government's recurrent expenditure. The commitment of the Government is crystal clear.

I agree that we must make enhanced efforts in poverty alleviation. I do not have the slightest objection to this point of view. Therefore, we have never been slack off at work. We would never consider that implementing the CoP's recommendations would be sufficient, we will not do so. If the community comes up with any new ideas which we consider practicable, we are willing to bid for additional resources to realize such ideas. Actually, resources allocated to us increase year on year. This year, \$44.2 billion has been allocated to my Bureau in the envelope for operating expenditure, representing an increase of some \$4 billion or 11% when compared with the provision of last year. Among all bureaux, we have got the most significant increase in funding.

Expenditure on social welfare currently accounts for 17.4% of the Government's recurrent expenditure but I will continue to bid for more resources. Of course, apart from social welfare, the expenditure on medical services and education also have increased. The establishment of the CCF and the implementation of a series of initiatives have reflected our enhanced efforts in poverty alleviation over the last few years. However, I agree that there is still room for improvement and we must continue with our efforts.

MR WONG SING-CHI (in Cantonese): *President, Secretary Matthew CHEUNG has just responded to Mr James TO's question on poverty alleviation. Regarding his response, I want to point out that it has been four years since the dissolution of the CoP in 2007; and in the past four years or so, we can see that the Secretary said earlier that the TFP was set up to implement the recommendations of the CoP. However, over the past four years, the problem of wealth gap has not only been unaddressed, but has also been aggravated. The existing TFP merely implements the recommendations previously made by the CoP, and obviously, even if all the recommendations were implemented, many problems still exist.*

While Secretary Matthew CHEUNG kept on saying that they have adopted a new mindset, all he has told us in his reply was how much money had been spent and how much efforts had been made. He failed to tell us how he would solve the problem of poverty and how this problem could actually been ameliorated in Hong Kong

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

MR WONG SING-CHI (in Cantonese): *..... he did not mention how to solve the poverty problem; he only stressed how much efforts had been put in and how much money had been spent, as if he had made some significant achievements*

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

MR WONG SING-CHI (in Cantonese): *..... yet the problems remain unsolved. My supplementary question is: as the new mindset mentioned by the Secretary fails to resolve the disparity between the rich and the poor; and the TFP has not made any special achievements in realizing the new mindset, where comes the new mindset? Why can't the Government re-establish the CoP to bring in collective wisdom and new ideas so that the Government can do better? Why not consider the reestablishment of the CoP?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, we are clearly doing some pragmatic works. Although Mr WONG said that we seem to mention old measures without coming up with any new initiatives, the provision of transport subsidy is a good case in point. At first, the scheme was intended to be a short-term and time-limited project to be implemented in four districts. Now, the scheme is implemented in all 18 districts across the territory with enhancements in every aspect. If we have not kept on making improvement, how can this new measure be developed?

Secondly, for welfare measures as other areas are within the ambit of other Secretaries, I am not familiar with them and will not comment on those measures. If we just talk about the welfare measures under my purview, we can see that many schemes, which were first launched on a pilot basis, have now been fully implemented. A case in point is the home-based child care service. The Integrated Discharge Support Programme for Elderly Patients, which provides one-stop support services, was also launched on a trial basis at the beginning. Similarly, when it comes to the various measures recommended by the CoP, we have also listened to the views of the public and Members of the Legislative Council in the process of implementation with an aim to find out how we can enhance, consolidate and perfect our work.

I agree that poverty alleviation is not a task for a time but a long-term mission requiring continuous efforts. In view of this, we will not stop our work after implementing all the 53 recommendations made by the CoP. This is not going to happen. Instead, we will continue to forge ahead. Thank you, Mr WONG.

MR FRED LI (in Cantonese): *President, I would like to ask Secretary Dr York CHOW one question. I have previously visited various elderly centres. Please note that I am not talking about residential care homes for the elderly. The Government in its reply said that it had launched a three-year project which mainly targeted at elderly people residing in residential care homes. However, for elders who are not residing in care homes, many of them are also in need of dental care provided by the Government.*

As you know, illness comes in by mouth. If elders do not have healthy teeth, the food they eat may easily make them sick. I would like to ask the

Secretary, given that it has a huge financial surplus, can the Government allocate more resources to provide dental care to the NOPs? The Government should at least provide them with dental check-ups. As for the follow-up actions, we may discuss later. Otherwise, the Government may have to bear a greater cost on medical services if the elderly cannot masticate or take in proper food.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as I said earlier, the pilot project targets at the elderly residing in residential care homes or receiving elderly services because their need is particularly clear.

However, we should not forget that we have the Elderly Health Care Vouchers. All elders aged 70 or above may make use of the vouchers to see a dentist. There have been 270 dentists enrolled for the Health Care Voucher Scheme so far. Our statistics show that about 130 000 healthcare vouchers have been used on dental services, indicating that the elderly do make use of these vouchers to see a dentist.

I would like to remind the elderly that they may use these vouchers for receiving dental check-ups or other dental services whenever they need such services.

MR LEUNG KWOK-HUNG (in Cantonese): *As the saying goes: "If you have a clear conscience all your life, you need not fear a knock at the door at midnight." First of all, I want to ask Secretary Matthew CHEUNG to relay my message to the Chief Executive, telling him not to fear. I hurled things at him because he failed to allocate \$50 billion for establishing a universal retirement protection*
.....

PRESIDENT (in Cantonese): Mr LEUNG, please raise your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): yes, please let me finish first. I will speak on the subject immediately.

It has been four years since the dissolution of the CoP in October 2007, four years have passed but some recommendations are still not yet implemented. The Secretary said that many of the CoP's recommendations have been implemented but he did not list out which recommendations have yet to be implemented. What does he mean by "many" and "few"?

I only want to ask the Secretary a very simple question. The Secretary said that he has adopted a new mindset. Then, I would like to ask if he has ever thought of using \$50 billion to establish a universal retirement protection scheme? If he does not have the provision for the scheme, has he ever thought of deploying the \$50 billion earmarked for healthcare financing for such purpose first, instead of leaving the money idle? Is this a new idea? Will he consider it?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Mr LEUNG for his question.

Regarding the universal retirement protection, I have already elaborated the stance of the Government in my response to the fourth question. I do not want to repeat it here. In my reply to the fourth question, I have stated our viewpoints in detail, that is, we will enhance the existing three-pillar model by further consolidating, enhancing and strengthening the pillars.

Nevertheless, I want to make one point. Mr LEUNG said that we did not seem to have a new mindset and he is wrong. Apart from implementing the 53 recommendations made by the CoP, we have also launched some new projects, among which food bank is the most typical example.

The food bank project, which was first launched in February 2009, has been implemented for two and a half years. The idea of setting up food banks did not come from the CoP but from the TFP. After heading the TFP, we took heed of the many views from the community and accepted some of their ideas. This experience reviews that many measures can be implemented other than the 53 recommendations. We will continue to put in efforts and respond to public sentiments and community needs in a flexible and pragmatic manner.

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

MR LEUNG KWOK-HUNG (in Cantonese): *No.*

PRESIDENT (in Cantonese): Mr LEUNG, which part of your supplementary question has not been answered by the Secretary?

MR LEUNG KWOK-HUNG (in Cantonese): *The Secretary said that he has already elaborated the stance of the Government in his response to the fourth question*

PRESIDENT (in Cantonese): Regarding the issue of retirement protection, the Secretary had already answered questions raised by Members when we dealt with the fourth question.

MR LEUNG KWOK-HUNG (in Cantonese): *Yes, I know. He said that he had given his reply on this issue but I had not listened to it for I was not in the Chamber at that time. However, I am not asking him to repeat*

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

MR LEUNG KWOK-HUNG (in Cantonese): *..... I am not asking him to repeat his answer. My question is: given that he said he has adopted a new mindset, will he redeploy \$50 billion for providing universal retirement protection? If there is no such provision in hand, he may redeploy the \$50 billion earmarked for the mandatory healthcare fund. This is a new idea. As money has been reserved, can provision be made immediately for providing universal retirement protection? It does not cost the Government any extra money. This is a new idea but he has not given it a thought. He has not*

answered this part of my question. A lot of money has been reserved for the mandatory healthcare fund.

PRESIDENT (in Cantonese): You have put forward your recommendation. Do you want to ask the Secretary if he has specifically considered your recommendation?

MR LEUNG KWOK-HUNG (in Cantonese): *Yes, that is a new idea.*

PRESIDENT (in Cantonese): Please sit down and let the Secretary answer.

MR LEUNG KWOK-HUNG (in Cantonese): *He has to answer.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, in my reply to the fourth question, I have made it clear that we will consider the way forward after the Central Policy Unit publishes its initial analysis on data collected from a territory-wide household survey at the end of 2012. We will not rule out any recommendations.

PRESIDENT (in Cantonese): This Council has spent almost 21 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Protection of Workers Against Heat Stroke

7. **MR IP WAI-MING** (in Chinese): *President, it has been reported that a construction site worker was suspected to have died from heat stroke in the course of employment this summer. In this connection, will the Government inform this Council:*

- (a) *of the number of industrial accidents, in each of the past three years, which involved employees working when the Very Hot Weather Warning was in force, the casualties resulted from such accidents, causes of the accidents, as well as the industries in which the employees concerned were engaged;*
- (b) *whether the authorities had, in the past three years when the Very Hot Weather Warning was in force, conducted inspections at certain or all workplaces with a high risk of heat stroke (for example, working on outdoor scaffoldings and performing cleaning work, as well as carrying out maintenance, alteration and extension works on external walls of buildings) and inspected whether the employees concerned had been given sufficient protection; if they had, of the details, including whether any employer was prosecuted for failing to provide sufficient ancillary facilities (for example, drinking water); if not, the reasons for that;*
- (c) *whether the authorities had held regular discussions in the past three years with employers in industries requiring long periods of outdoor work on enhancement of protection for staff; if so, of the details; if not, the reasons for that; and*
- (d) *apart from the Occupational Safety and Health Ordinance (Cap. 509), the Factories and Industrial Undertakings Ordinance (Cap. 59) and the guidelines on "Prevention of Heat Stroke at Work in a Hot Environment", what other legislation and working guidelines are currently in place to protect employees at work under hot weather; whether the authorities have plans to amend the relevant legislation (including the imposition of heavier penalties for contravention)?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to Mr IP Wai-ming's question is as follows:

- (a) The Labour Department (LD) does not keep statistics on the occurrence of industrial accidents in different weather conditions, including the issue of Very Hot Weather Warning. Nonetheless,

the LD has analysed the 34 occupational injury cases that were suspected to be related to heat stroke as notified by employers during May to September 2011. These include three fatal cases, and the rest related to workers having symptoms such as dizziness and vomiting. In respect of occupational distribution, 10 cases involved cleansing workers, three involved construction site workers, four involved professional drivers, and the remaining 17 involved different occupations such as security, maintenance and goods transportation. These suspected heat stroke cases were not confined to days when the Very Hot Weather Warning was in force.

- (b) Employers have a duty to take adequate precautions to prevent employees from suffering heat stroke at work in hot weather. In the past three years, the LD conducted a special inspection campaign in summer every year, targeting outdoor cleansing work, construction work, container handling and other work with a higher risk of heat stroke. The LD inspected whether employers had taken adequate measures, which included providing adequate drinking water at convenient locations, providing shelters and ventilation facilities, and arranging regular rest breaks or job rotation for workers. In 2009 and 2010, the LD conducted a total of 33 900 special inspections, issued 264 warnings and eight improvement notices, and took out three prosecutions. The LD further stepped up inspections this year, and from April to September conducted about 28 900 special inspections, with 437 warnings and 14 improvement notices issued. The Department is considering taking out seven prosecutions. The prosecution cases involve employers' failure to provide adequate drinking water or a work system that prevents heat stroke.
- (c) In the past three years, the LD liaised with the sectors engaged in long-term outdoor work from time to time to promote measures to prevent heat stroke at work to employers and employees, so as to safeguard the occupational safety and health of workers. For the construction industry, the LD promoted prevention of heat stroke among construction workers in collaboration with the Construction Industry Council, relevant employers' associations and trade unions, through distributing guidelines on preventive measures and risk

assessment checklists, and conducting promotional visits to work sites. With the LD's co-ordination, the Hong Kong Construction Association, together with some contractors, launched a pilot scheme in summer this year at some construction sites to adjust workers' rest and meal breaks to reduce the risk of heat stroke at work in hot weather. Furthermore, the LD organized large-scale occupational safety and health talks for the cleansing industry and, in collaboration with cleansing contractors, conducted site visits to outdoor cleansing workplaces and distributed relevant publications to promote the implementation of heat stroke preventive measures. For the transport industry, the LD, in collaboration with the Occupational Safety and Health Council and relevant trade unions, distributed publications and promotional items at various stations throughout Hong Kong in summer this year to raise their awareness of heat stroke and preventive measures. The LD also organized tailor-made health talks for captains of non air-conditioned buses, and recommended to the relevant company a number of heat stroke prevention measures. These measures include providing cool drinking water and cooling devices, and increasing rest breaks for these bus captains. The LD also provided recommendations on strengthening heat stroke preventive measures to the airport ground handling service operators and the Hong Kong Airport Authority, and organized health talks for the managerial and front-line staff of the organizations concerned to enhance their awareness of heat stroke prevention.

- (d) The Occupational Safety and Health Ordinance (Cap. 509) and the Factories and Industrial Undertakings Ordinance (Cap. 59) stipulate that every employer must, so far as reasonably practicable, ensure the safety and health at work of all their employees, including considering their risk of heat stroke and taking appropriate preventive measures. An employer who fails to comply with the aforementioned general duty provision commits an offence and is liable on conviction to a maximum fine of \$500,000 and imprisonment for six months. Besides, the relevant subsidiary regulations stipulate that a person responsible for a workplace must ensure that sufficient potable water is provided to the employees. An employer who fails to comply with these regulations commits an

offence and is liable on conviction to a maximum fine of \$10,000. The LD has published the guide on "Heat Stroke Prevention at Work in a Hot Environment" to assist employers in drawing up specific preventive measures with respect to different work nature and work processes, such as providing drinking water, setting up sunshades and arranging rest breaks. Apart from the aforementioned legislation and guide, the LD has published specific heat stroke risk assessment checklists with respect to the unique situations of construction sites and outdoor cleansing work.

The LD will review the relevant legislation and guidelines from time to time to ensure that the occupational safety and health of employees are fully protected.

MTR Services and Facilities

8. **MR WONG SING-CHI** (in Chinese): *President, regarding the train services and station facilities of the MTR Corporation Limited (MTRCL), will the Government inform this Council:*

- (a) *whether it knows the design carrying capacity and the estimated patronage of various rail lines when they were built and whether the MTRCL had, in the past five years, examined the improvement of train frequencies to alleviate the crowded conditions; if it had, the details; if not, the reasons for that; and provide a breakdown of such information by rail line;*
- (b) *given that the information provided to this Council by the authorities on 6 April 2011 indicated that the MTRCL had displayed a set of "Don't be a Silent Victim, Report Indecent Assault" posters at most of the MTR stations:*
 - (i) *of the respective number of sex crimes which occurred within the area of MTR stations in each year since 2010 and, among such cases, the respective numbers of reported cases and persons being arrested, broken down by nature of the crime;*

- (ii) *whether it knows the names of the stations at which the aforesaid posters are not displayed at present and the reasons for that; the percentage of the number of such stations in the total number of MTR stations along various rail lines; whether all MTR stations and Light Rail stations will be required to display the aforesaid posters; whether the MTRCL has displayed a set of "Don't be a Silent Victim of Indecent Assault, Seek Help Immediately" notices; if it has, whether such notices are displayed at each MTR station at present; if not, whether such notices will be required to be displayed at all MTR stations and Light Rail stations;*
- (iii) *whether it knows if the aforesaid posters or notices are at present displayed in train compartments; if not, the reasons for that, and whether the MTRCL will display such posters or notices in the train compartments; if it will, the details and the specific timetable; and*
- (iv) *whether it knows, other than displaying posters and notices, what other publicity and education programmes the MTRCL has put in place to promote safety awareness among female passengers;*
- (c) *whether it knows, in each year since 2005, the respective total number of Railway Police District staff as well as station staff and station assistants discharging duties at MTR stations and Light Rail stations, with a breakdown by rail line;*
- (d) *whether it knows if there were Railway Police District staff as well as MTRCL station staff and station assistants discharging duties at various stations daily in each year since 2005; if not, list respectively by year and rail line the day(s) of the week when no such staff discharged duty at stations, and whether the authorities and the MTRCL will deploy more manpower on such days respectively; if they will, the details and the timetable; and*
- (e) *whether it knows the progress of retrofitting lifts at MTR stations since the Secretary for Transport and Housing replied to a question*

concerning the progress of retrofitting lifts at existing stations by the MTRCL raised by a Member of this Council on 19 January 2011 (set out in the table below)?

| <i>Station</i> | <i>Progress update in the Government's reply on 19 January 2011</i> | <i>Present progress</i> |
|-----------------------|--|-------------------------|
| <i>Wong Tai Sin</i> | <i>In progress</i> | |
| <i>Lai Chi Kok</i> | <i>To start in mid-2011</i> | |
| <i>Cheung Sha Wan</i> | <i>In progress</i> | |
| <i>Sham Shui Po</i> | <i>In progress</i> | |
| <i>Shek Kip Mei</i> | <i>To start in early 2011</i> | |
| <i>Yau Ma Tei</i> | <i>The MTRCL is now co-ordinating with the Transport Department (TD) on the temporary traffic arrangements</i> | |
| <i>Jordan</i> | <i>In progress</i> | |
| <i>Tsim Sha Tsui</i> | <i>Works integrated with the Tsim Sha Tsui North Subway and Entrance Modification Works</i> | |
| <i>Sai Wan Ho</i> | <i>To start in the second half of 2011</i> | |

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the replies to various parts of the question are as follows:

- (a) According to the information provided by the MTRCL, the designed carrying capacity and the actual patronage in 2010 of various railway lines are set out in Annex 1.

The carrying capacity of the MTR railway lines is sufficient to cope with the present passenger demand and there is still spare capacity. In fact, in drawing up the service timetable for each railway line, the MTRCL has already taken into consideration the travelling patterns of passengers and patronage of different areas and stations in order

to ensure that railway service meets passenger demand. For example, MTR passengers are benefited from enhanced train services on the West Rail Line, Tsuen Wan Line and Kwun Tong Line from mid-June 2011. In particular, the frequency of trains on the West Rail Line during the evening peak period has been enhanced to four-minute intervals from the existing 4.5 minutes per train. Service hours in the Tuen Mun-bound direction has also been extended with the last train departing Hung Hom Station at 12.25 am, rather than the current 12.08 am.

The TD examines regular reports submitted by the MTRCL on its service performance. The TD also conducts on-site investigations and inspections to ensure that railway service meets passenger demand. If necessary, the TD will urge the MTRCL to adjust its service arrangements based on changes in passenger demand within the constraints of the operational system (such as the signalling system and track available).

- (b) According to the information provided by the police, the breakdown of the number of reported cases on sex crime which occurred within the railway station premises from 2010 to August 2011 is set out in Annex 2.

The MTRCL collaborates with the Railway Police District to promote prevention of crimes. The poster titled "Don't be a Silent Victim, Report Indecent Assault" was displayed in all MTR stations, including designated Light Rail stops in rotation in mid-2011 to encourage victims of indecent assault to report offences. The locations and the quantity of posters put up at individual stations are determined in a co-ordinated manner taking into account the need to provide other information to passengers such as safety and ticketing.

Another series of notices titled "Don't be silent. Cry out immediately to report indecent assault, when considered safe" have also been put up in front of entry gates in different MTR stations since 2009 to remind passengers to stay alert to prevent crime. Besides, the newly designed anti-crime poster "Stay alert, watch out" has been put up at stations and some train compartments. The same

message is also being disseminated through electronic displays in train compartments and passenger information displays at platforms.

In addition, the MTRCL also organizes promotional activities from time to time to remind passengers to stay alert and watch out for each other to prevent crime within the railway premises. A new round of joint anti-crime campaign with the Railway Police District was launched on 15 September this year, which aims to combat crimes such as theft and indecent assault within the railway premises. Moreover, a special squad of "Senior Crime Fighters" comprising senior citizens visit different MTR stations to remind passengers to stay alert to prevent crime. The MTRCL will continue to work with the police to pro-actively review the effectiveness of the measures from time to time to curb crime in the railway network.

(c) and (d)

The police reviews the establishment of the Railway Police District as necessary in the light of the MTRCL's developments and the crime trends within the railway station premises. At present, the Railway Police District has a strength of about 370 officers. The police flexibly deploys the manpower of each railway line as necessary having regard to the passenger flow, crime situation, and so on, of each railway line. Officers of the Railway Police District perform duties every day at various stations in the railway system. The Railway Police District, having regard to the crime blackspots and trends, deploys police officers to conduct targeted patrols at stations and on train compartments. Static post duty is also carried out at stations which have a higher volume of passenger flow or more reported crime cases in order to prevent and combat crime.

The MTRCL indicates that all MTR stations are always manned by staff during operating hours. The major duties of station staff and station assistants are to maintain order and security at stations, manage passenger flow and provide assistance to passengers so as to ensure smooth station operations. Instead of being assigned to perform duty at a designated location, these station staff and station assistants are deployed according to the needs of different stations

and time periods. The MTRCL also strengthens its manpower during festive days. The number of station staff and station assistants is tabulated in Annex 3.

- (e) The latest progress of retrofitting lifts at existing MTR stations is appended in Annex 4.

Annex 1

Actual Patronage and Train Loading of MTR Railway Lines in 2010

| | | <i>East Rail Line</i> | <i>West Rail Line</i> | <i>Tung Chung Line</i> | <i>Ma On Shan Line</i> | <i>Tseung Kwan O Line</i> | <i>Island Line</i> | <i>Kwun Tong Line</i> | <i>Tsuen Wan Line</i> | <i>Disneyland Resort Line</i> | <i>Airport Express</i> | <i>Light Rail</i> |
|------|--|-------------------------------|-------------------------------|--------------------------------|--------------------------------|-----------------------------------|------------------------|-------------------------------|-------------------------------|---------------------------------------|----------------------------|-----------------------|
| 2010 | Designed capacity ⁽¹⁾ (Maximum one-direction capacity per hour) | 101 000 | 64 000 | 66 000 | 32 000 | 85 000 | 85 000 | 85 000 | 85 000 | 10 800 | 10 000 | 33 000 ⁽⁵⁾ |
| | Average passenger flow during peak periods ⁽²⁾ | 56 400 | 27 400 | 22 000 | 14 100 | 42 100 | 52 000 | 43 800 | 49 600 | 1 100 | 2 000 | N/A ⁽⁴⁾ |
| | Average train loading during peak periods ⁽²⁾ | 68% | 58% | 59% | 53% | 70% | 69% | 63% | 71% | 25% | 50% ⁽³⁾ | 82% ⁽⁴⁾ |
| | Average passenger flow during non-peak periods ⁽²⁾ | 12 800 | 3 600 | 3 500 | 3 000 | 6 500 | 13 500 | 14 500 | 14 000 | 440 | N/A ⁽³⁾ | N/A ⁽⁴⁾ |
| | Average train loading during non-peak periods ⁽²⁾ | 23% | 17% | 19% | 20% | 17% | 36% | 39% | 37% | 10% | N/A ⁽³⁾ | 40% ⁽⁴⁾ |

Notes:

- (1) Calculated in terms of the highest train frequency allowed under the existing signalling system.
- (2) Calculated using the passenger flow between the two busiest stations of the concerned railway line within one hour. The train loading is calculated according to the carrying capacity derived from the prevailing actual train frequency and passenger flow per hour.
- (3) The train service frequency of Airport Express is 12 minutes during the whole traffic day. There is no peak or non-peak period. This patronage level is calculated by the highest patronage in one hour.
- (4) As Light Rail adopts an open design, and there may be Light Rail vehicles of more than one route calling at the same stop, there is no information on which route a passenger will take after he/she purchases a ticket or validates his/her Octopus card. Therefore, the ridership is obtained through observation surveys.
- (5) The figure is the current maximum carrying capacity of Light Rail. Different from heavy railway systems, Light Rail adopts an open design and its operations are affected by other road vehicles and traffic signals at road junctions. Therefore designed capacity is not applicable to Light Rail.

Annex 2

The breakdown of the number of reported cases on sex crime which occurred within the railway station premises from 2010 to August 2011 (the figures in brackets denote the number of arrested persons)

| <i>Type</i> | <i>2010</i> | <i>2011 (January to August)</i> |
|----------------------------------|-------------|-------------------------------------|
| Indecent assault | 151(110) | 105(70) |
| "Under skirt photo-taking" cases | 91(84) | 55(52) |

Annex 3

Number of station staff and station assistants performing duties at stations between 2005 and 2010

| <i>Year</i> | <i>2005</i> | <i>2006</i> | <i>2007</i> | <i>2008</i> | <i>2009</i> | <i>2010</i> |
|-----------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Number of staff | 2 860 | 2 872 | 2 896 | 2 811 | 2 845 | 2 937 |

Annex 4

Latest progress of retrofitting lifts at existing MTR stations

| <i>Station</i> | <i>Progress</i> |
|----------------|---|
| Wong Tai Sin | Works in progress |
| Lai Chi Kok | As the design and tender processes require more time, the works contract is expected to be awarded by end 2011 |
| Cheung Sha Wan | Works in progress |
| Sham Shui Po | Works in progress |
| Shek Kip Mei | Due to waterworks near the station exit, works are expected to commence by end 2011 |
| Yau Ma Tei | The MTRCL is now in discussion with the District Council and the TD on the temporary traffic arrangements during the works period |
| Jordan | Works in progress |
| Tsim Sha Tsui | Works are expected to commence in 2nd Quarter 2012 |
| Sai Wan Ho | Works contract is expected to be awarded by end 2011 |

| <i>Station</i> | <i>Progress</i> |
|----------------|--|
| Prince Edward | Works contract is expected to be awarded by end 2011 |
| Sheung Wan | Works in progress |
| Admiralty | Design in progress |

Cycling Policy in Hong Kong

9. **MR KAM NAI-WAI** (in Chinese): *President, it has been reported that in recent years, the number of traffic accidents involving bicycles in Sha Tin District accounts for more than a quarter of the total number of such accidents each year in Hong Kong as a whole, and the several traffic accidents involving bicycles that occurred earlier in Hong Kong have aroused concern about whether the relevant policies, planning and ancillary facilities are adequate in safeguarding the safety of cyclists. In this connection, will the Government inform this Council:*

- (a) *of the number of traffic accidents involving bicycles in each year since 2006, and the respective numbers of persons who were slightly injured, seriously injured or even killed in such accidents, broken down by the 18 District Council (DC) districts, as set out in the table below;*

| <i>District</i> | | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 (latest figures) | Total |
|--------------------------|----------------------------|---------------|------|------|------|------|-----------------------------|-------|
| | <i>Number of accidents</i> | | | | | | | |
| | <i>Casualties</i> | <i>Deaths</i> | | | | | | |
| <i>Seriously injured</i> | | | | | | | | |
| <i>Slightly injured</i> | | | | | | | | |
| | <i>Number of accidents</i> | | | | | | | |
| | <i>Casualties</i> | <i>Deaths</i> | | | | | | |
| <i>Seriously injured</i> | | | | | | | | |
| <i>Slightly injured</i> | | | | | | | | |

- (b) *of the locations and length of cycle tracks and the number of bicycle parking spaces in various districts, as well as the annual changes in the provision of such facilities since 2006, broken down by the 18 DC districts;*
- (c) *of the number of complaints concerning existing cycling facilities (such as cycle tracks and ancillary facilities, and so on) received by the authorities in each year since 2006, together with a breakdown of such number by the contents of the complaints; in addition, of the details of the regular inspections conducted on existing cycle tracks and ancillary facilities at present;*
- (d) *whether it had, in the past three years, conducted any study on the public's habit of using bicycles; if it had, of the details; if not, the reasons for that;*
- (e) *whether at present the Government will, when formulating transport policies and planning for Hong Kong, consider and plan for strengthening the role and functions of bicycles (such as promoting bicycles as one of the means of transport in Hong Kong), apart from positioning cycling as a form of recreational activity; if it will, of the details and the specific timetable; if not, the reasons for that; and*
- (f) *of the respective locations of existing waterfront promenades with and without cycle tracks; the length of such cycle tracks; whether it has considered constructing cycle tracks at those waterfront promenades without cycle tracks as well as those waterfront promenades which are under planning at present; if it has, of the details (such as the locations and length of cycle tracks, as well as the locations of entrances, and so on) and the timetable for completion?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, my reply to the various parts of the questions is as follows:

- (a) The breakdown of traffic accidents involving bicycles by year, DC district and severity in the past five years is at Annex I.

- (b) The length and location of cycle tracks and the number of bicycle parking spaces in various districts as at September 2011 are at Annex II. The Transport Department (TD) does not keep records of the detailed breakdown of the yearly increase or decrease (from the completion date to now) in cycle tracks and bicycle parking facilities.
- (c) The numbers of complaints received by the TD concerning cycle tracks and ancillary facilities in the past five years (2006 to September 2011) are at Annex III. Cycle tracks and ancillary facilities managed and maintained by government departments such as the TD, Leisure and Cultural Services Department (LCSD) and Highways Department (HyD) are inspected regularly by the respective departments for early detection of irregularities that may cause danger or inconvenience to the public, and for arrangement of repairs and follow-up actions. Also, these departments will conduct detailed examination of cycle tracks on a regular basis to find out in detail their condition and structure for collating relevant data. Such data are used in mapping out medium to long-term maintenance works under which planned maintenance works are carried out to forestall problems.
- (d) The TD is conducting the Travel Characteristics Survey 2011 to collect, *inter alia*, views from members of the public on the use of bicycles and related information, such as ownership and usage of bicycles as well as their opinions on issues such as locations of bicycle parking spaces and cycling safety. The data collection process will be completed in January 2012. The TD will then compile and analyse the data collected, and will complete the relevant survey report at a later date.
- (e) Hong Kong is densely populated. To address the problems of traffic congestion and air pollution, the Government has been actively implementing the policy of using the public transport system as the main transport mode and encouraging the public to make use of the highly efficient mass transit transport systems and other public transport services.

Any measure to encourage cycling as a means for commuting must take into account the fact that Hong Kong is a small city with a dense population and concentrated development, and cycling safety should be the most important consideration. While we have well-developed road network and public transport system in Hong Kong, our road traffic is heavy and the roads and footpaths are highly congested, making it difficult to provide spaces to develop tracks designated for cycling. Allowing a large number of bicycles to use busy roads together with other vehicles in urban areas without providing designated cycle tracks will increase the risk of accidents.

In view of the above safety consideration, the Government does not encourage the public to use the bicycle as a transport mode in urban areas. Compared with urban areas, new towns in the New Territories or new development areas, where density is relatively low, have better conditions for using bicycle for short-distance travel. If situation permits, we will provide cycle tracks and ancillary facilities in new towns and new development areas to enable the public to cycle safely for recreational purposes and short distance travel.

The Civil Engineering and Development Department (CEDD) is currently studying the development of a cycle track network in the New Territories by phased interconnection of various new towns between Ma On Shan and Tuen Mun. It is expected that some 70 km of new cycle tracks will be provided upon completion of the network expansion. In new development areas like Kai Tak, the CEDD is actively exploring the extension of the district cycling track network within the Kai Tak new development area to cover other major leisure facilities and destinations. There is also a plan to build a cycle track at the Central Harbourfront. Details are set out in part (f) below and Annex IV. On ancillary facilities, there are currently a total of about 40 000 bicycle parking spaces throughout the territory. The TD strives to provide additional parking spaces at major transport hubs in the New Territories. For instance, a total of more than 300 additional parking spaces have recently been installed near two public transport interchanges in Tseung Kwan O and Sha Tin. The TD has also commenced the retrofitting and replacement of the existing cycle parking racks near railway stations and public

transport termini. It is expected that 1 000 additional parking spaces will be provided within the next two years.

- (f) According to the Development Bureau, HyD, LCSD, CEDD and TD, most of the 18 districts in Hong Kong have been provided with promenade walkways or walking trails; and cycle tracks have been built in some waterfront areas for public use. The relevant bureaux and departments are planning or studying the provision of cycle tracks at a number of waterfront sites. Details are at Annex IV.

Annex I

Number of traffic accidents involving bicycles by district
(2006 to September 2011)

| <i>District</i> | | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 (Jan-Sep) [#] | Total | |
|---------------------|---------------------|-------------------|------|------|------|------|--------------------------------|-------|----|
| Central and Western | Number of accidents | 9 | 12 | 15 | 12 | 15 | 9 | 72 | |
| | Casualties | Deaths | 0 | 0 | 0 | 1 | 0 | 0 | 1 |
| | | Seriously injured | 1 | 2 | 2 | 0 | 3 | 1 | 9 |
| | | Slightly injured | 8 | 11 | 13 | 11 | 14 | 8 | 65 |
| Wan Chai | Number of accidents | 12 | 26 | 19 | 17 | 13 | 12 | 99 | |
| | Casualties | Deaths | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | | Seriously injured | 2 | 1 | 1 | 0 | 1 | 3 | 8 |
| | | Slightly injured | 11 | 28 | 18 | 17 | 12 | 10 | 96 |
| Eastern | Number of accidents | 11 | 13 | 10 | 15 | 17 | 15 | 81 | |
| | Casualties | Deaths | 0 | 0 | 1 | 0 | 1 | 0 | 2 |
| | | Seriously injured | 2 | 3 | 1 | 1 | 5 | 7 | 19 |
| | | Slightly injured | 10 | 16 | 11 | 14 | 12 | 8 | 71 |
| Southern | Number of accidents | 5 | 2 | 3 | 6 | 10 | 6 | 32 | |
| | Casualties | Deaths | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| | | Seriously injured | 1 | 0 | 1 | 1 | 3 | 1 | 7 |
| | | Slightly injured | 5 | 2 | 2 | 6 | 10 | 4 | 29 |
| Kowloon City | Number of accidents | 13 | 14 | 14 | 13 | 10 | 12 | 76 | |
| | Casualties | Deaths | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | | Seriously injured | 0 | 2 | 2 | 0 | 0 | 2 | 6 |
| | | Slightly injured | 14 | 13 | 12 | 15 | 10 | 10 | 74 |

| <i>District</i> | | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 (Jan-Sep) [#] | Total | |
|------------------|---------------------|-------------------|------|------|------|------|--------------------------------|-------|-------|
| Sham Shui Po | Number of accidents | 29 | 34 | 22 | 27 | 32 | 19 | 163 | |
| | Casualties | Deaths | 0 | 1 | 0 | 0 | 0 | 2 | 3 |
| | | Seriously injured | 4 | 6 | 4 | 7 | 3 | 0 | 24 |
| | | Slightly injured | 26 | 27 | 20 | 20 | 31 | 17 | 141 |
| Kwun Tong | Number of accidents | 30 | 18 | 14 | 17 | 19 | 21 | 119 | |
| | Casualties | Deaths | 1 | 0 | 2 | 1 | 0 | 2 | 6 |
| | | Seriously injured | 3 | 4 | 4 | 7 | 7 | 4 | 29 |
| | | Slightly injured | 31 | 15 | 9 | 10 | 19 | 16 | 100 |
| Kwai Tsing | Number of accidents | 19 | 26 | 22 | 29 | 27 | 22 | 145 | |
| | Casualties | Deaths | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | | Seriously injured | 5 | 8 | 5 | 8 | 9 | 4 | 39 |
| | | Slightly injured | 14 | 18 | 17 | 22 | 19 | 18 | 108 |
| Yau Tsim Mong | Number of accidents | 56 | 58 | 55 | 50 | 45 | 37 | 301 | |
| | Casualties | Deaths | 1 | 1 | 1 | 0 | 1 | 0 | 4 |
| | | Seriously injured | 8 | 8 | 3 | 3 | 5 | 2 | 29 |
| | | Slightly injured | 49 | 50 | 55 | 48 | 39 | 38 | 279 |
| Wong Tai Sin | Number of accidents | 9 | 9 | 13 | 5 | 6 | 10 | 52 | |
| | Casualties | Deaths | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| | | Seriously injured | 2 | 0 | 5 | 2 | 1 | 3 | 13 |
| | | Slightly injured | 7 | 8 | 9 | 3 | 5 | 8 | 40 |
| Islands | Number of accidents | 56 | 71 | 60 | 74 | 109 | 86 | 456 | |
| | Casualties | Deaths | 0 | 0 | 0 | 1 | 0 | 0 | 1 |
| | | Seriously injured | 10 | 14 | 10 | 18 | 18 | 16 | 86 |
| | | Slightly injured | 47 | 60 | 56 | 60 | 93 | 75 | 391 |
| North | Number of accidents | 150 | 128 | 163 | 177 | 180 | 163 | 961 | |
| | Casualties | Deaths | 3 | 2 | 2 | 0 | 1 | 1 | 9 |
| | | Seriously injured | 14 | 8 | 9 | 12 | 16 | 8 | 67 |
| | | Slightly injured | 142 | 119 | 166 | 168 | 173 | 155 | 923 |
| Sai Kung | Number of accidents | 18 | 28 | 19 | 22 | 28 | 18 | 133 | |
| | Casualties | Deaths | 0 | 1 | 0 | 1 | 0 | 0 | 2 |
| | | Seriously injured | 5 | 4 | 6 | 4 | 8 | 8 | 35 |
| | | Slightly injured | 15 | 25 | 14 | 18 | 22 | 12 | 106 |
| Sha Tin | Number of accidents | 416 | 387 | 459 | 504 | 495 | 451 | 2 712 | |
| | Casualties | Deaths | 1 | 1 | 1 | 1 | 1 | 2 | 7 |
| | | Seriously injured | 72 | 68 | 79 | 66 | 57 | 48 | 390 |
| | | Slightly injured | 361 | 333 | 401 | 460 | 463 | 421 | 2 439 |

| <i>District</i> | | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 (Jan-Sep) [#] | Total | |
|-----------------|---------------------|-------------------|------|------|------|------|--------------------------------|-------|-------|
| Tuen Mun | Number of accidents | 135 | 124 | 106 | 121 | 121 | 129 | 736 | |
| | Casualties | Deaths | 0 | 1 | 1 | 2 | 4 | 2 | 10 |
| | | Seriously injured | 17 | 23 | 13 | 18 | 14 | 24 | 109 |
| | | Slightly injured | 127 | 105 | 98 | 106 | 105 | 113 | 654 |
| Tai Po | Number of accidents | 320 | 357 | 368 | 407 | 406 | 348 | 2 206 | |
| | Casualties | Deaths | 2 | 1 | 3 | 1 | 1 | 1 | 9 |
| | | Seriously injured | 21 | 23 | 17 | 31 | 33 | 25 | 150 |
| | | Slightly injured | 313 | 361 | 371 | 392 | 387 | 342 | 2 166 |
| Tsuen Wan | Number of accidents | 19 | 23 | 27 | 30 | 51 | 44 | 194 | |
| | Casualties | Deaths | 0 | 0 | 0 | 1 | 0 | 0 | 1 |
| | | Seriously injured | 10 | 7 | 12 | 6 | 18 | 12 | 65 |
| | | Slightly injured | 10 | 17 | 21 | 23 | 36 | 34 | 141 |
| Yuen Long | Number of accidents | 252 | 242 | 201 | 267 | 330 | 265 | 1 557 | |
| | Casualties | Deaths | 2 | 4 | 0 | 1 | 2 | 3 | 12 |
| | | Seriously injured | 41 | 33 | 36 | 45 | 47 | 35 | 237 |
| | | Slightly injured | 220 | 213 | 170 | 236 | 287 | 235 | 1 361 |

Note:

Provisional figures

Annex II

Length and location of cycle tracks
and number of bicycle parking spaces in various districts
(as at September 2011)

| <i>District Council district</i> | <i>Length of cycle tracks (km)</i> | <i>Number of bicycle parking spaces</i> | <i>Location of cycle tracks</i> |
|----------------------------------|--|---|---------------------------------|
| Central and Western | 0 | 0 | - |
| Wan Chai | 0 | 0 | - |
| Eastern | 0 | 10 | - |
| Southern | 0.3 | 0 | Cyberport |
| Kowloon City | 0 | 0 | - |
| Sham Shui Po | 0 | 60 | - |
| Kwun Tong | 0 | 0 | - |
| Kwai Tsing | 0 | 0 | - |

| <i>District Council district</i> | <i>Length of cycle tracks (km)</i> | <i>Number of bicycle parking spaces</i> | <i>Location of cycle tracks</i> |
|----------------------------------|------------------------------------|---|---|
| Yau Tsim Mong | 1.5 | 0 | West Kowloon Waterfront Promenade |
| Wong Tai Sin | 0 | 0 | - |
| Islands | 14 | 5 050 | Tung Chung Road, Yu Tung Road, Mui Wo, and so on |
| North | 27 | 3 190 | Pak Wo Road, Wo Hop Shek, Shek Wu Hui, Luen Wo Hui, Sha Tau Kok Road — Lung Yeuk Tau Section, and so on |
| Sai Kung | 15 | 3 370 | Po Lam, Hang Hau, Tiu Keng Leng, Wan Po Road near Tsueng Kwan O Industrial Area, and so on |
| Sha Tin | 50 | 10 620 | Shing Mun River (Tai Wai), Wo Che, Yuen Chau Kok, Siu Lek Yuen, Shek Mun, A Kung Kok, Ma On Shan, Tolo Highway, Fo Tan, and so on |
| Tuen Mun | 20 | 3 890 | Wu King Road, Lung Mun Road near Butterfly Beach Park, Tuen Mun River near Wu Shan Riverside Park, Tuen Mun Station, Tin King, Lam Tei, and so on |
| Tai Po | 35 | 3 480 | Tai Wo Road, Ting Kok Road, Nam Wan Road, Tolo Highway, and so on |
| Tsuen Wan | 0 | 170 | - |
| Yuen Long | 44 | 11 560 | Hung Shui Kiu, Ping Shan, Wang Chau, Castle Peak Road — Yuen Long section, Kam Tin Road, Tin Shui Wai, and so on |
| Total | 206.8 | 41 440 | - |

Annex III

Number of complaints concerning cycle tracks and ancillary facilities
(2006 to September 2011)

| <i>Complaint classification</i> | <i>Number</i> |
|--|---------------|
| Design of cycle tracks/safety facilities | 279 |
| Connectivity of cycle tracks | 124 |
| Provision of bicycle parking facilities | 266 |
| Abandoned bicycles | 237 |
| Others | 180 |
| Total | 1 086 |

Annex IV

Information about cycle tracks
at existing waterfronts and those under planning/study

I. Existing

| <i>Waterfront</i> | <i>Length of cycle track (km)</i> |
|--|-----------------------------------|
| Both shores of Shing Mun River, Sha Tin | 9 |
| Waterfront at Tolo Harbour | 5.4 |
| Ma On Shan Promenade | 3.2 |
| Waterfront at A Kung Kok, Sha Tin | 1.6 |
| Tai Po Waterfront Park | 2 |
| Pak Shek Kok Promenade in Tai Po | 1.9 |
| Waterfront along Ting Kok Road, Tai Po | 1.1 |
| Waterfront along Tung Chung Waterfront Road | 0.7 |
| Waterfront along Ngan Kwong Wan Road, Mui Wo | 0.3 |
| West Kowloon Waterfront Promenade | 1.5 |

II. Under planning/study

| <i>Waterfront</i> | <i>Length of cycle tracks (km)</i> | <i>Location</i> |
|--|------------------------------------|---|
| Waterfront at the new Kai Tak Development Area | 6.6 | Within the new Kai Tak Development Area |

| <i>Waterfront</i> | <i>Length of cycle tracks (km)</i> | <i>Location</i> |
|--|------------------------------------|---|
| Tsuen Wan Waterfront | 2.3 | From Tsing Tsuen Bridge to Bayview Garden |
| Waterfront at Town Centre South, Tseung Kwan O | 1.1 | Waterfront at Town Centre South, Tseung Kwan O |
| Northern waterfront of Mui Wo | 0.4 | From Mui Wo Pier to Silver River |
| New Central Harbourfront | To be decided | Promenade at new Central harbourfront ⁽¹⁾ |
| Hong Kong Island East Harbourfront | To be decided | (Suggested site: North Point Ferry Pier and the proposed permanent promenade at Hoi Yu Street, Quarry Bay) ⁽²⁾ |

Notes:

- (1) The proposed development is subject to detailed assessment and design in future.
- (2) The proposed development is subject to detailed assessment and design in future.

Professional Liability Insurance for Doctors

10. **DR LEUNG KA-LAU** (in Chinese): *President, according to the Code of Practice for Private Hospitals, Nursing Homes and Maternity Homes (Code of Practice) issued by the Department of Health (DH), private hospitals must establish a vetting and monitoring mechanism for doctors with practising privilege, which includes checking the indemnification/medico-legal protection taken out by such doctors to ensure that reasonable compensation will be available to patients in cases of medical incidents. All along, private doctors may choose freely either to take out insurance plans with no indemnity ceiling provided by the Medical Protection Society (MPS) whose headquarter is in the United Kingdom, or take out professional liability insurance (insurance) provided by authorized insurance companies, which has an indemnity limit of \$7.5 million or more, and the highest compensation limit may reach as high as \$75 million, so as to enable the doctors to make compensation to patients in accordance with court rulings. Recently, the Hong Kong Private Hospitals Association*

(HKPHA), which has a total of 12 member hospitals, uses the DH's Code of Practice as the basis to strictly require doctors to take out insurance policies which contain terms specifying that there is no indemnity ceiling and which are issued on an "occurrence basis" before they may refer patients to the hospitals. In this connection, will the Government inform this Council:

- (a) whether the DH has introduced guidelines on the indemnity limit and arrangements in respect of the relevant protection when formulating the Code of Practice; if so, of the details;*
- (b) given that the Hong Kong Doctors Union has pointed out (by quoting from its insurance consultant) that as the highest compensation amount awarded by the consultant in a single case over the past 12 years amongst all its insurance plans was less than \$500,000, the insurance policies currently taken out by many private general practitioners, which have an indemnity limit of no less than \$7.5 million, are considered to be sufficient, and it has further pointed out that HKPHA's latest insurance requirements are so stringent that the MPS may probably be the sole supplier of such protection plans, and monopolization will occur eventually, whether HKPHA's latest insurance requirements are consistent with the DH's original intention of formulating the Code of Practice;*
- (c) given that there is information that the MPS is neither an insurance company, nor is it registered in Hong Kong, of the laws of Hong Kong which govern the MPS at present; whether the authorities have assessed if the affected doctors, patients and families will be protected by the existing laws when the MPS closes down and fails to honor its undertakings for protection or fails to perform its duties; if they have, of the details; if not, the reasons for that; and*
- (d) given that the aforesaid requirements of HKPHA will, to a certain extent, affect private doctors and patients when choosing medical facilities, whether the DH has plans to clarify the requirements of the Code of Practice on insurance arrangements and specifics (especially in respect of the amount and forms of indemnity); if so, of the details; if not, the reasons for that?*

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

accordance with the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165), the DH registers private hospitals subject to their conditions relating to accommodation, staffing and equipment. The Code of Practice for Private Hospitals, Nursing Homes and Maternity Homes (COP) issued by the DH also sets out the standards of good practice for private hospitals to adopt, with an aim to provide quality healthcare services to patients.

Section 4.4.1 of the COP requires private hospitals to have in place a mechanism to check the indemnification/medico-legal protection of practitioners with admission or practising privilege. The COP does not specify any indemnity limit or arrangements in respect of the relevant protection, neither does it designate any organization to provide indemnification/medico-legal protection for doctors practising in private hospitals.

As we understand it, the MPS, the world's leading mutual medical protection society established in 1892, operates in over 40 countries by subscription and provides protection to around 270 000 members in the world. According to the information provided by Hong Kong Medical Association (HKMA), at present, around 8 800 medical practitioners (about 70% of registered medical practitioners in Hong Kong) participate in the Professional Indemnity Insurance (PII) scheme managed by the MPS through HKMA. In case of a negligence claim, members of the MPS will be provided with indemnity against legal costs and damages awarded on a discretionary basis according to the track record of the members. For medical practitioners employed by the Government, their liability for damages arising from the actions in the performance of their duties is covered by the Government. For medical practitioners working in the Hospital Authority, a master policy is in place to cover liabilities arising from their medical practice in the course of their employment. In Hong Kong, our law recognizes that the victims of personal injuries, including medical negligence, are entitled to be awarded by courts full compensation for loss attributable to the fault of the tortfeasor.

The PII scheme for medical practitioners seeks to protect them from legal problems arising from their professional practice and the service recipients against malpractice and negligence. The medical profession has a responsibility to bear to cost incurred by the risks associated with their practice. Under the principle of professional autonomy, the Administration respects the arrangements made by the medical profession regarding the taking out of PII and does not intend to intervene with the details of the PII such as the limit and forms of indemnity. Private hospitals and doctors should choose the appropriate

indemnification/medico-legal protection, taking into account the level of risks associated with their relevant professional practices.

Emissions from Aircraft and Their Impact on Tung Chung

11. **MR ALBERT CHAN** (in Chinese): *President, at the meeting of this Council on 20 October 2010, I asked the authorities about the various levels of emissions from aircraft movements and aircraft parking at the Hong Kong International Airport (HKIA) in each year between 2007 and 2009 and whether the authorities would take measures to reduce emissions from aircraft so as to alleviate the problem of air pollution in Tung Chung and hence reduce the impact of such emissions on the health of Tung Chung residents. The authorities, however, could only provide data on emissions from aircraft from 2006 to 2008. The authorities also advised that measures had been taken to reduce emissions from aircraft. Yet, residents in Tung Chung have still relayed to me that the number of flights operating at the HKIA has been growing constantly in the recent three years and emissions from aircraft have also increased correspondingly, hence worsening the air quality in Tung Chung and affecting the health of the residents in the district. In this connection, will the Government inform this Council:*

- (a) *whether it knows the various levels of emissions from aircraft movements and aircraft parking at the HKIA from 2009 to 2010, with a breakdown in table form by the model of aircraft, as well as which models had the highest level of emissions, and what measures the authorities have at present for reducing emissions from aircraft of such models;*
- (b) *whether there is any relation between the worsening of air quality in Tung Chung and the increase in emissions from aircraft; if so, to what extent the increase in emissions from aircraft has led to the worsening of air quality in Tung Chung; if not, of the reasons for that; and*
- (c) *whether it will take new measures to reduce the impact of emissions from aircraft on the health of Tung Chung residents; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

- (a) The aircraft arrival and departure data of the HKIA and the air pollutant emissions related to aircraft movements from 2009 to 2010 are set out in Annex 1. We have also set out the data for 2008 in Annex 1 to give Members a clearer picture of the trend.

In 2010, aircraft emissions accounted for about 1%, 7%, 1%, 1% and 3% of the total emissions of sulphur dioxide, nitrogen oxides, respirable suspended particulates, volatile organic compounds and carbon monoxide in Hong Kong respectively.

The total quantities of air pollutants emitted from individual models of aircraft depend on a number of factors including the numbers of their arrivals and departures in a year, the type, size and number of their engines. Even for aircraft of the same model, they may not have engines of the same types or sizes and could have different quantities of emissions. In general, bigger aircraft with higher arrival and departure frequencies will have greater quantities of emissions. The percentage shares of emissions for different types of aircraft from 2009 to 2010, based on aircraft arrival and departure data of the HKIA released by the Civil Aviation Department (CAD), are set out in Annex 2.

Air pollutants emissions from different types of commercial aircraft vary with the engine design, aircraft size and passenger load. The CAD has adopted the standards set out at Annex 16 to the Convention on International Civil Aviation (hereinafter referred to as "the Chicago Convention"), Volume 2, Part III, Chapter 2 (Turbojet and turbofan engines intended for propulsion only at subsonic speeds) to certify engines on commercial aircraft registered in Hong Kong. This document specifies the standards for four types of emissions that an aircraft engine has to meet, namely, smoke, unburned hydrocarbons, carbon monoxide and nitrogen oxides. Commercial aircraft registered elsewhere also meet generally the standards set out at Annex 16 to the Chicago Convention. Aircraft that meet the international standards for aircraft emissions can use the HKIA so as to ensure that all the engines installed on commercial aircraft meet those standards.

- (b) Air quality in Tung Chung is affected by various factors, one of which is air pollutant emissions from aircraft. Over the past three years, the air pollutant concentration data recorded at the Tung Chung general air quality monitoring station bore evidence of air quality improvement in Tung Chung. Except for a slight increase in ozone concentration due to regional photochemical smog, there were reductions in the concentration of sulphur dioxide, nitrogen dioxide and respirable suspended particulates. Please refer to Annex 3 for details.
- (c) Since 22 October 2009, the CAD has implemented new air routes which shorten the travelling distance for aircraft approaching from the west and north of Hong Kong. Hence, a flight to Hong Kong from the Mainland, South East Asia and Europe can save up to about 210 km in flight journey or 14 minutes in flight time. The shortened air routes and the reduced flight time can help reduce aircraft's air pollutant emissions. In 2010, a total of 57 000 flights adopted these shortened routes. Besides, the CAD will continue to implement international standards in certifying aircraft engines, and to closely monitor and follow the international requirements in this respect.

At the airport, the Airport Authority (AA) provides electricity powered fixed ground power (FGP) and pre-conditioned air (PCA) systems for aircraft at parking stands to reduce the need for aircraft to use their onboard fuel combustion auxiliary power generation units. Aircraft using these systems can substantially reduce their emissions of air pollutants and carbon. About 80% of passenger flights have now adopted the FGP and PCA systems. In mid-2011, the AA further launched a renewal and upgrade programme for these systems, thereby making FGP system more readily available for use by aircraft. The upgraded PCA system will adopt a new refrigerant and a more efficient system to reduce the emissions of air pollutants and carbon. The works are due for completion in 2013, when more than 90% of passenger flights will use the FGP and PCA systems.

Annex 1

The Number of Aircraft Arrivals and Departures at the HKIA and
Air Pollutants Emissions from Aircraft from 2008 to 2010

| Year | Annual Air Pollutant Emissions (in Tonnes) | | | | Number of | | |
|------|--|-----------------|-----------------------------------|----------------------------|-----------------|-------------------|---------------------|
| | Sulphur Dioxide | Nitrogen Oxides | Respirable Suspended Particulates | Volatile Organic Compounds | Carbon Monoxide | Aircraft Arrivals | Aircraft Departures |
| 2008 | 312 | 5 450 | 24 | 302 | 2 170 | 150 579 | 150 563 |
| 2009 | 285 | 5 193 | 22 | 238 | 2 054 | 139 715 | 139 684 |
| 2010 | 309 | 5 669 | 24 | 262 | 2 265 | 153 277 | 153 257 |

Note:

The emissions for 2010 are preliminary figures.

Annex 2

Percentage Shares of Emissions from Individual Models of Aircraft
in the Total Emissions from Aircraft in 2009 to 2010

| Aircraft Model | Sulphur Dioxide | Nitrogen Oxides | Respirable Suspended Particulates | Volatile Organic Compounds | Carbon Monoxide |
|----------------|-----------------|-----------------|-----------------------------------|----------------------------|-----------------|
| A330 | 24% | 23% | 14% | 15% | 18% |
| B747 | 33% | 29% | 36% | 42% | 37% |
| B777 | 18% | 24% | 12% | 20% | 22% |
| A320 | 4% | 3% | 8% | 3% | 4% |
| B737 | 4% | 3% | 4% | 4% | 4% |
| A321 | 3% | 3% | 5% | 2% | 2% |
| A340 | 5% | 6% | 12% | 6% | 5% |
| A319 | 1% | 1% | 1% | 2% | 1% |
| B767 | 2% | 2% | 2% | 1% | 2% |
| Other Models | 6% | 5% | 6% | 5% | 6% |

Annual Average Concentration of Air Pollutants Recorded
at Tung Chung Air Quality Monitoring Station

| <i>Air Pollutant</i> | <i>Annual Average Concentration (ug/m3)</i> | | |
|-----------------------------------|---|-------------|-------------|
| | <i>2008</i> | <i>2009</i> | <i>2010</i> |
| Sulphur Dioxide | 18 | 13 | 12 |
| Respirable Suspended Particulates | 52 | 46 | 45 |
| Nitrogen Dioxide | 49 | 45 | 44 |
| Ozone | 41 | 47 | 44 |

Resumption of Tenants Purchase Scheme

12. **MR LEE WING-TAT** (in Chinese): *President, to assist the grassroots in purchasing their own homes, the Hong Kong Housing Authority (HA) had once launched the Tenants Purchase Scheme (TPS) to enable sitting tenants to purchase their public rental housing (PRH) units. Yet, when there was a downturn in the property market, the Government requested HA to terminate the Scheme. In this connection, will the Government inform this Council:*

- (a) *of the number and percentage of the 183 000-odd units in the 39 public housing estates available under TPS which have so far been sold, together with a breakdown of the ratios of the units sold by district and estate;*
- (b) *in view of the latest property market and economic situations, whether the authorities will consult public housing tenants on the resumption of TPS; and*
- (c) *when or under what conditions the authorities will consider resuming TPS?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): *President, the TPS was introduced in 1998 by the HA to enable PRH tenants to buy the flats*

they lived in at a discounted price, thereby helping to achieve the then policy objective of attaining a home ownership rate of 70% in Hong Kong in 10 years' time.

In 2002, the Government repositioned the housing policies, and decided to focus on the provision of PRH to low-income families who cannot afford private rental accommodation, with a target of maintaining the average waiting time (AWT) for general Waiting List (WL) applicants at around three years. As there was no longer a target for home ownership, there were no longer any grounds for continuing the TPS. Accordingly, the HA decided to cease the sale of PRH flats upon the completion of Phases 6A and 6B of the TPS.

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

- (a) Out of the total of 183 568 flats in 39 estates under the TPS, 118 978 flats (excluding those bought back by the HA) were sold as at the end of June 2011, representing 65% of the total number of flats available for sale. The proportion of flats sold in each district and housing estate is at Annex.

(b) and (c)

Recovered PRH flats are an important source of supply for WL applicants. PRH flats, once sold to tenants, can never be reallocated, thereby affecting the turnover and supply of PRH flats and undermining the HA's ability to maintain the AWT of general applicants at around three years. There are currently over 150 000 applications on the WL. We have no plan to relaunch the TPS at this stage.

Since the introduction of the TPS, the HA has encountered many problems with the management of PRH flats in TPS estates. In the 39 TPS estates, there are some 64 000 rental flats (representing 35% of the total number of flats in the TPS estates). Regardless of the number of flats sold, a TPS estate, as in the case of any private development, has to be managed by its Owners' Corporation (OC). Empowered by the Building Management Ordinance and the Deed of Mutual Covenant, the OC will decide on the mode of management

and how the public areas of an estate are to be managed. In the TPS estates, the HA's estate management policies cannot be fully implemented. As a result, tenants living in the TPS estates and those living in the PRH estates are subject to different management regimes. For example, the Marking Scheme for Estate Management Enforcement is not implemented in the public areas of the TPS estates. The HA can only deal with the misdeeds committed in rental flats of the TPS estates.

Although we do not intend to relaunch the TPS, under the current policy, the sitting tenants in the TPS estates can still opt to buy the flats they are living in. PRH residents who would like to acquire a home may also choose to buy TPS and Home Ownership Scheme flats with premium not yet paid in the secondary market.

Annex

Statistics on TPS (as at the end of June 2011)

| <i>District</i> | <i>Name of TPS Estate</i> | <i>Number of flats sold</i> | <i>Number of flats unsold</i> | <i>Total</i> | <i>% Sold</i> |
|-----------------|---------------------------|-----------------------------|-------------------------------|--------------|---------------|
| Urban | Chuk Yuen North | 5 274 | 1 462 | 6 736 | 78% |
| | Lei Tung | 4 493 | 2 719 | 7 212 | 62% |
| | Lei Cheng Uk | 3 371 | 1 454 | 4 825 | 70% |
| | Tung Tau (II) | 3 981 | 2 570 | 6 551 | 61% |
| | Nam Cheong | 1 085 | 813 | 1 898 | 57% |
| | Fung Wah | 857 | 292 | 1 149 | 75% |
| | Choi Ha | 1 587 | 619 | 2 206 | 72% |
| | Wah Kwai | 2 562 | 631 | 3 193 | 80% |
| | Lower Wong Tai Sin (I) | 2 879 | 1 840 | 4 719 | 61% |
| | Tsui Ping North | 2 905 | 3 240 | 6 145 | 47% |
| | Tsui Wan | 1 690 | 650 | 2 340 | 72% |
| | Fung Tak | 3 911 | 1 380 | 5 291 | 74% |
| | Tak Tin | 3 368 | 1 733 | 5 101 | 66% |
| | Hing Tin | 1 910 | 538 | 2 448 | 78% |
| | Sub-total | 39 873 | 19 941 | 59 814 | 67% |

| <i>District</i> | <i>Name of TPS Estate</i> | <i>Number of flats sold</i> | <i>Number of flats unsold</i> | <i>Total</i> | <i>% Sold</i> |
|-----------------|---------------------------|-----------------------------|-------------------------------|--------------|---------------|
| Extended Urban | Cheung On | 5 858 | 1 480 | 7 338 | 80% |
| | Cheung Fat | 1 171 | 1 307 | 2 478 | 47% |
| | Tsing Yi | 2 393 | 820 | 3 213 | 74% |
| | Heng On | 4 872 | 1 004 | 5 876 | 83% |
| | Pok Hong | 4 131 | 1 329 | 5 460 | 76% |
| | King Lam | 3 456 | 1 463 | 4 919 | 70% |
| | Kwai Hing | 1 152 | 376 | 1 528 | 75% |
| | Tsui Lam | 3 087 | 1 845 | 4 932 | 63% |
| | Kwong Yuen | 2 938 | 1 434 | 4 372 | 67% |
| | Po Lam | 3 143 | 1 865 | 5 008 | 63% |
| | Yiu On | 3 571 | 1 227 | 4 798 | 74% |
| | Hin Keng | 5 008 | 868 | 5 876 | 85% |
| | | Sub-total | 40 780 | 15 018 | 55 798 |
| New Territories | Shan King | 1 957 | 6 687 | 8 644 | 23% |
| | Tin Ping | 4 366 | 1 334 | 5 700 | 77% |
| | Tai Ping | 1 067 | 362 | 1 429 | 75% |
| | Tai Wo | 4 666 | 2 166 | 6 832 | 68% |
| | Tin King | 2 114 | 1 070 | 3 184 | 66% |
| | Leung King | 3 554 | 3 290 | 6 844 | 52% |
| | Kin Sang | 2 009 | 643 | 2 652 | 76% |
| | Long Ping | 3 775 | 4 708 | 8 483 | 45% |
| | Cheung Wah | 2 865 | 2 255 | 5 120 | 56% |
| | Fu Heng | 3 726 | 1 994 | 5 720 | 65% |
| | Fu Shin | 2 849 | 2 651 | 5 500 | 52% |
| | Wah Ming | 3 423 | 1 798 | 5 221 | 66% |
| | Wan Tau Tong | 1 954 | 673 | 2 627 | 74% |
| | Sub-total | 38 325 | 29 631 | 67 956 | 56% |
| | Overall | 118 978 | 64 590 | 183 568 | 65% |

Incident of a Work Barge Hitting Shore near Heng Fa Chuen

13. **MR WONG KWOK-HING** (in Chinese): *President, when Hong Kong was hit by Typhoon Nesat on 29 September this year, it was suspected that a semi-submersible work barge had broken free from its anchor chain and was*

carried by wind and waves towards the oil depot on the shore of Chai Wan before it stranded off the shore between Block 49 and Block 50 of Heng Fa Chuen, thereby causing damage to the pipelines of the oil depot and the pier facilities as well as the seawall at Heng Fa Chuen. As the concrete conveying pipe on the work barge was very close to Block 49 of Heng Fa Chuen at that time, around 60 residents had to undergo emergency evacuation while Typhoon Signal No. 8 was in force. Regarding this serious incident, will the Government inform this Council:

- (a) during a site visit on 6 October this year jointly conducted by representatives of the Marine Department (MD) and myself, they initially informed me of a preliminary plan to remove the work barge involved in the incident, but the detailed removal plan had yet to be submitted by the shipping company concerned to the relevant government department for approval, whether the authorities can give details of the approved plan for removing the work barge and the safety measures concerned, so as to ease the worries of the residents in Heng Fa Chuen;*
- (b) apart from this incident, whether the authorities had received complaints or reports during typhoons in the past 10 years regarding damages caused to the waterfront of Heng Fa Chuen due to strong gales and waves or vessels and objects washed to the shore by waves; if they have, of the details, and how the authorities followed up such cases;*
- (c) given that the concrete conveying pipe on the work barge involved in the incident was just some 10 m away from the residential building when the barge drifted to the shore near Heng Fa Chuen, whether the authorities will contact representatives of the residents in Heng Fa Chuen, so as to review and study the feasibility of carrying out safety or stabilizing works on the seawall near Heng Fa Chuen (including the provision of additional facilities to strengthen and protect the seawall from any impact from vessels) in order to ensure safety of the residents in Heng Fa Chuen; if they will, of the timetable for such a study;*

- (d) *given that the barge involved in the incident was originally berthed at the anchorage area in Tseung Kwan O, and it was carried along by the wind and waves to the shore near Heng Fa Chuen, whether the authorities will carry out a detailed review on the safety, guidelines and inspection regarding the use of anchorage areas as well as the impact of the anchorage area on the safety of adjacent shores, and draw up improvement measures accordingly;*
- (e) *given that this incident has also caused damages to the pier of the oil depot in Chong Fu Road, Chai Wan as well as the nearby bridge facilities, residents in the vicinity were worried about the safety of the oil depot (including the risks of explosion, fire and pollution from oil leakage), whether the authorities have contacted the oil company concerned after the incident and reviewed afresh the safety of the oil depot (including risks posed to the oil depot by typhoons and tremendous waves); if they have, of the details of the review and the outcome concerned; and*
- (f) *whether the authorities will study the feasibility of permanently relocating the oil depot in Chong Fu Road, Chai Wan, which is close to residential areas, and building additional seawalls or other barrier facilities in the vicinity of Heng Fa Chuen and Chai Wai, so as to avoid recurrence of similar incidents?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, since the incident which involved the stranding of a semi-submersible work barge off the seawall of Heng Fa Chuen, the MD has been closely monitoring the situation and has tasked the owner of the work barge to take follow-up actions to ensure that the vessel would not pose threat to nearby residential development. At the request of the Administration, the owner has dismantled the crane on the semi-submersible work barge and the conveying pipe of the concrete mixing vessel and has taken additional measures to secure the work barge. Our response to the different parts of the question is as follows:

- (a) The MD has received the salvage plan from the owner of the stranded semi-submersible work barge. The plan was prepared by a qualified surveyor commissioned by the owner, having regard to such factors as the damages to the work barge, characteristics of the

seabed at the location at which the barge is stranded, and tidal conditions. The MD is looking into the operational details and safety measures for the various stages of the plan. Meanwhile, the owner and his contractor are proceeding with the relevant preparatory work. If weather permits, it is expected that the barge can be salvaged and towed away in early November.

- (b) According to records in the past 10 years, the relevant departments received report of one case of damage to certain public facilities and those of Heng Fa Chuen at the waterfront due to high waves or objects being washed ashore. The case took place during the passage of Typhoon Hagupit in September 2008. Repair works for damaged facilities was subsequently carried out by the relevant departments and the estate management company of Heng Fa Chuen (the company).
- (c) The MD has been liaising with the owners' committee and the company on the incident and had jointly conducted on-site inspection in conjunction with other relevant department. Having regard to the fact that the primary function of the seawall at Heng Fa Chuen, which is managed and maintained by the company, is to protect the land adjacent to it from the erosion and impact of waves, the relevant technical department will continue to follow up with the company on the repair works required so that the seawall can continue to perform its protective function.
- (d) An anchorage is a water area designated for vessels to berth. The safe use of the anchorages depends on whether vessels anchored thereat have taken appropriate measures as circumstances may warrant (such as whether suitable precautionary measures are taken during typhoons). In this regard, the MD has re-assessed the precautionary measures that vessels similar to the one stranded should take under adverse weather. To ensure safety, the MD will also make adjustments and arrangements such as anchorage locations having regard to the prevailing situation. The MD will also remind vessel operators to take early precautionary measures through radio broadcast once typhoon signals are hoisted.

(e) and (f)

All oil depots in Hong Kong are required to comply with the Government's risk guidelines and the relevant legislation. Oil depots and their facilities must undergo risk assessment conducted by the relevant departments including the Fire Services Department, the MD and Buildings Department in accordance with internationally recognized safety standards. The licence to operate and store oil would only be issued after the depots/facilities have passed the assessment and are in compliance with the statutory and specific safety requirements. As the storage tanks of the oil terminal of Sinopec Hong Kong on Chong Fu Road (the oil terminal company) are located onshore and at a considerable distance from the mooring pier, the Administration considers that the risk for them to be hit by vessels is low. Nonetheless, the oil terminal company has agreed to explore measure to better protect the pier and review the safety of the oil terminal.

As for the suggestion on whether a breakwater or other protective facilities could be built around the Heng Fa Chuen and Chai Wan area, the Administration is of the view that the construction of a breakwater would have implications on marine traffic and navigational safety in the vicinity. It might also adversely affect the current and water quality in the area. The preliminary view is that such installations might not be necessary but the situation would be kept in view.

Subsidies for Hiring Services of Physiotherapists and Occupational Therapists Under Enhanced Bought Place Scheme

14. **DR JOSEPH LEE** (in Chinese): *President, in the 2011-2012 Budget, the Government proposed to increase annual recurrent funding by \$40 million to raise government subsidies in the price for EA1 places under the Enhanced Bought Place Scheme (EBPS) and to require the residential care homes for the elderly (RCHEs) concerned to employ physiotherapists or engage relevant professional services, so as to arrange physiotherapy treatment and rehabilitation training for the frail elderly in RCHEs. In addition, the Government increased annual recurrent funding by \$45 million to provide*

support by means of supplements for demented or infirm elderly persons staying in RCHEs or using the services provided by day care centres for the elderly (D/Es), thereby enabling the service units concerned to arrange physiotherapy treatment and rehabilitation training for such elderly persons with the supplements. In this connection, will the Government inform this Council:

- (a) since 1 April this year, of the respective numbers of RCHEs and D/Es which have arranged physiotherapy treatment and rehabilitation training for the elderly with the two aforesaid subsidy arrangements, and the respective percentages of such numbers in the total numbers of RCHEs and D/Es;*
- (b) whether the authorities know the respective numbers of physiotherapists and occupational therapists providing services through RCHEs and D/Es concerned to the elderly under the two different arrangements of making use of the aforesaid subsidies to employ physiotherapists/occupational therapists or engage the relevant professional services by RCHEs and D/Es;*
- (c) whether the authorities have assessed why some RCHEs and D/Es do not arrange physiotherapy treatment and rehabilitation training for the elderly; if they have, of the details; if not, whether they will consider making such an assessment so as to conduct a review; whether they will consider enhancing the aforesaid subsidy arrangements, so as to attract the participation of more RCHEs and D/Es; if they will, of the details; if not, the reasons for that; and*
- (d) whether the authorities have assessed if there is adequate supply of allied health professionals, such as physiotherapists and occupational therapists, in the manpower market at present to provide the aforesaid services; if they have, of the details; if not, whether an assessment will be made; and if the assessment outcome indicates an insufficient supply of manpower, whether they will consider enhancing the relevant training?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to Dr Joseph LEE's question is as follows:

(a) to (c)

Additional funding under the EBPS

To enhance the service quality of RCHEs under EBPS, the Government has, since 2011-2012, increased the recurrent funding by \$40 million to raise the purchase price for EA1 places. The RCHEs concerned are required to provide physiotherapy treatment and rehabilitation training for the elderly.

At present, 12 EA1 homes have employed physiotherapists and nine are purchasing physiotherapy services. Another 12 EA1 homes have done both. These 33 RCHEs constitute 92% of all the EA1 homes. The remaining three RCHEs are unable to engage suitable physiotherapy services for the time being. The Social Welfare Department (SWD) will closely monitor the situation in this regard.

Infirmity Care Supplement (ICS) and Dementia Supplement (DS)

Besides, additional recurrent funding of \$45 million has been allocated by the Government since 2011-2012 to increase ICS and DS for subvented RCHEs and EBPS homes and, for the first time, provide DS to day care centres/units for the elderly.

The RCHEs can flexibly use these supplements to employ additional staff (including physiotherapists, occupational therapists, nurses, health workers and care workers, and so on) or purchase relevant professional services. Nonetheless, they are required to report to the SWD details of the expenditure to ensure that the supplements were used for the specified purpose. Since the funding was approved at the beginning of this financial year and the RCHEs are using it to gradually employ additional staff and purchase services, the SWD is unable to provide relevant figures at this stage.

As to the day care centres/units, they have all along been deploying existing resources flexibly to employ the necessary paramedical staff (such as physiotherapists and occupational therapists, and so on). DS is additional resources for them and hence the SWD does not specifically require that the day care centres/units spend it on

additional professional services. However, the SWD requires them to submit information on training activities conducted each year for the purpose of service monitoring.

- (d) The Administration understands that there is a strong demand for paramedical staff in the social welfare sector. We therefore have an established mechanism to assess the manpower demand and supply and will draw up long-term plans accordingly.

Specifically, the Government will advise the University Grants Committee (UGC) regularly on the demand for tertiary training places, so that the tertiary institutions can make reference to such information when preparing academic development proposals. When the UGC was working on the academic plans for the 2012-2013 to 2014-2015 triennium, the SWD had updated its projections on the demand (including present and future demand) for various types of paramedical staff in the social welfare sector. The projections have been relayed to the UGC through the Education Bureau. The Policy Address has announced that in the triennium mentioned above, the Government will increase the number of training places for health professionals, including 146 for allied health professional (for example, physiotherapists and occupational therapists, and so on).

Applications from Non-Chinese Persons for Permanent Right of Abode in Hong Kong

15. **MR LAU WONG-FAT** (in Chinese): *President, will the Government inform this Council of the number of applications for permanent right of abode in Hong Kong received by the authorities in each of the past seven years from non-Chinese persons who had ordinarily resided in Hong Kong for not less than seven years (excluding those employed as domestic helpers from outside Hong Kong); and among them, of the number of applications rejected, together with a breakdown of such number by the reasons why the applications were rejected?*

SECRETARY FOR SECURITY (in Chinese): President, the statistics of applications for verification of eligibility for permanent identity card submitted

by persons claiming under paragraph 2(d) of Schedule 1 to the Immigration Ordinance (that is, a person not of Chinese nationality who has entered Hong Kong with a valid travel document, has ordinarily resided in Hong Kong for a continuous period of not less than seven years and has taken Hong Kong as his place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region) (excluding those submitted by foreign domestic helpers) from 2004 to now are tabulated below. The Immigration Department does not maintain statistics on the reasons of refusal.

| <i>Year</i> | <i>Applications Received</i> | <i>Applications Approved*</i> | <i>Applications Refused*</i> |
|---------------------------|------------------------------|-------------------------------|------------------------------|
| 2004 | 13 906 | 11 989 | 257 |
| 2005 | 12 870 | 11 699 | 346 |
| 2006 | 9 282 | 7 940 | 419 |
| 2007 | 9 131 | 7 167 | 543 |
| 2008 | 9 491 | 8 113 | 627 |
| 2009 | 8 754 | 6 803 | 513 |
| 2010 | 8 314 | 6 681 | 578 |
| 2011 (up to September) | 8 580 | 6 755 | 455 |

Note:

* number of applications concluded in that year

Regulation of Nitrite Content in Bird's Nests

16. **MR FRED LI** (in Chinese): *President, in recent months, the Mainland authorities have found that nitrite is present in various types of bird's nests available on the market; and sample tests on bird's nests available for sale in Hong Kong conducted recently by The Hong Kong University of Science and Technology reveal that all samples contained nitrite formed in natural environment. Although the existing Preservatives in Food Regulation (Cap. 132BD) stipulates the maximum permitted levels of nitrite in a number of food categories (such as cured meat products, and so on), bird's nests and other food containing naturally formed nitrite are not subject to this Regulation. In this connection, will the Government inform this Council:*

- (a) *whether the authorities had conducted sample tests in the past three years on bird's nests available for sale in Hong Kong to ascertain if they contained nitrite or other preservatives; if the test results showed that the samples contained such substances, whether they had assessed if these substances were formed in the course of processing or in the natural environment; and*
- (b) *whether it will amend the relevant Regulation to regulate the maximum permitted levels of nitrite in Chinese medicinal materials (such as bird's nests) or vegetables; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, section 54 of the Public Health and Municipal Services Ordinance (Cap. 132) provides that all food that is offered for sale and intended for human consumption must be fit for this purpose. The use and the levels of food additives in food shall also comply with the following Regulations:

- (1) Colouring Matter in Food Regulations (Cap. 132H)
- (2) Sweeteners in Food Regulations (Cap. 132U)
- (3) Food and Drugs (Composition and Labelling) Regulations (Cap. 132W)
- (4) Preservatives in Food Regulation (Cap. 132BD).

According to the Preservatives in Food Regulation, nitrite and nitrate are only permitted to be used as preservatives in certain food categories such as cured meat and cheeses, but not bird's nests. Nevertheless, section 3(10) of the same Regulation provides that it does not apply to an article of food containing any food additive that is naturally present in that food. My reply to the different parts of the question is as follows:

- (a) The findings of some studies (including those conducted by local universities) show that nitrite may exist naturally in bird's nests. There is as yet no testing method to determine whether nitrite existing in bird's nests naturally occurs or is added intentionally.

The Centre for Food Safety (CFS) of the Food and Environmental Hygiene Department conducts a risk-based routine food surveillance programme under which food samples are taken at import, wholesale and retail levels for chemical and microbiological testing to ensure that the food meets the requirements of local legislation and is fit for human consumption. In the past three years, CFS took a total of seven samples of bird's nests for chemical testing (including six for colouring matters and one for plasticisers). The results of all such samples were satisfactory.

- (b) At present, there is no international consensus on the regulatory standard of nitrite level in bird's nests and vegetables. CFS will conduct risk assessment to determine whether the nitrite level in food will pose health risk to the public upon consumption. Since nitrite is water-soluble, the process of washing and soaking will remove a substantial amount (up to more than 90%) of nitrite in bird's nests. However, the water used for soaking bird's nests should be discarded since nitrite and nitrate have been dissolved into it. The consumption of bird's nest stewed after thorough washing and soaking normally will not pose adverse health effect.

Proper handling and cooking can effectively reduce the amount of nitrate and nitrite in vegetables. For instance, vegetables not for immediate cooking should be kept refrigerated. Before cooking, vegetables should be washed and peeled as appropriate. Vegetables chopped or grated should be cooked as soon as possible. Blanching is recommended for vegetables with high nitrate contents, but the water used should be discarded.

Promotion of Cycling Safety

17. **MS MIRIAM LAU** (in Chinese): *President, Hong Kong's cycling athletes achieved excellent results in international sporting events, and cycling has become an increasingly popular sport in the territory, but serious bicycle accidents occur rather frequently. The number of persons so far killed in traffic accidents this year involving bicycles has exceeded the relevant figure for the whole of last year. Early last month, two fatal traffic accidents involving bicycles occurred one after another within four days in Sha Tin District, arousing*

concern about cycling safety. In this connection, will the Government inform this Council:

- (a) *of the respective numbers of traffic accidents involving bicycles which occurred on cycle tracks and at other locations in the past three years, as well as the casualties involved;*
- (b) *of the number of prosecutions instituted by the police against cyclists who breached road traffic laws in the past three years, together with a breakdown of such number by the offence involved and, among such cases, the percentage of those in which the cyclists were convicted, as well as the heaviest and lowest penalties imposed for each type of offences involved;*
- (c) *whether the authorities have assessed which sections of cycle tracks are accident black spots; if they have, of the details; if not, the reasons for that;*
- (d) *given that certain sections of existing cycle tracks located in Sha Tin, Tai Po, the North District and Tseung Kwan O are connected to carriageways and certain sections even terminate abruptly, and cyclists have to use the carriageways together with other vehicles, whether the Government will conduct a comprehensive review of the design of existing cycle tracks and carry out improvement works to enhance the safety level of cycle tracks; if it will, of the details; if not, the reasons for that;*
- (e) *whether the authorities will reconsider requiring cyclists to use safety gear (such as safety helmets, gloves or reflective clothing, and so on), so as to enhance the safety of cyclists; if they will, of the details; if not, the reasons for that; and*
- (f) *of the current progress of the policies and measures implemented by the Government to enhance public awareness of cycling safety?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, Hong Kong is densely populated. To address the problems of traffic congestion and air pollution, the Government has been actively implementing the policy of

using the public transport system as the main transport mode and encouraging the public to make use of the highly efficient mass transit transport systems and other public transport services. Any measure to encourage cycling as a means for commuting must take into account the fact that Hong Kong is a small city with a dense population and concentrated development, and cycling safety should be the most important consideration. While we have well-developed road network and public transport system in Hong Kong, our road traffic is heavy and the roads and footpaths are highly congested, making it difficult to provide spaces to develop tracks designated for cycling. Allowing a large number of bicycles to use busy roads together with other vehicles in urban areas without providing designated cycle tracks will increase the risk of accidents.

In view of the above safety consideration, the Government does not encourage the public to use the bicycle as a transport mode in urban areas. Compared with urban areas, new towns in the New Territories or new development areas, where density is relatively low, have better conditions for using bicycle for short-distance travel. If situation permits, we will provide cycle tracks and ancillary facilities in new towns and new development areas to enable the public to cycle safely for recreational purposes and short distance travel.

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

- (a) The numbers of accidents involving bicycles and the casualties involved as categorized by whether the accidents occurred on cycle tracks over the past three years are at Annex I.
- (b) The numbers of prosecutions against cyclist offenders over the past three years are at Annex II. The police does not have information on the percentage of cyclist offenders who are convicted and the penalties incurred in the related cases.
- (c) The Government has been very concerned about cycling safety and conducts regular inspection on cycle tracks and ancillary facilities to ensure that they are kept in good conditions. To further enhance safety of cycle tracks, the Transport Department (TD) has engaged a consultant to study the records of cycling accidents, analyse major contributory factors regarding accident-prone sections, and recommend specific and feasible improvement options. The

consultant will study in the first stage the records of cycling accidents along cycle tracks in Sha Tin and Tai Po over the past three years. The study is scheduled for completion in mid-2012.

- (d) When developing cycle tracks, the TD will give due consideration to the track design including alignment, curvature, gradient, width and visibility. Sufficient ancillary facilities including lighting, traffic signs, road markings and guard rails will also be provided along the tracks to protect the safety of cyclists and other road users. Furthermore, the Civil Engineering and Development Department is constructing a trunk cycle network and ancillary facilities linking various new towns between Ma On Shan and Tuen Mun in phases.

Since 2009, the TD has been examining with the Highways Department the feasibility of using plastic speed reducing bollards on cycle tracks. Compared with metal speed reducing bollards, plastic speed reducing bollards are made of more flexible and elastic materials, and hence are effective in alleviating the problem of cyclists getting injured by hitting the bollards accidentally. Plastic speed reducing bollards have been put on trial on some cycle tracks in Sha Tin and Ma On Shan and the trial was successful. The TD plans to extend this measure to other cycle tracks in phases.

Separately, the TD has commissioned a consultancy study on further improvements to cycle tracks and interconnection of cycle track networks in new towns. The TD will conduct district consultation on a series of improvement measures proposed by the consultant, and will then select a suitable district to carry out a pilot scheme to test the effectiveness of various proposed measures. Depending on the results of the pilot scheme and taking into account the physical environment of individual areas and the views of local communities, the TD will study and set out the arrangements to further promote the various improvement measures.

- (e) The Administration has always encouraged cyclists to use personal protective gear including safety helmets, protective pads and, for nighttime cycling, reflective clothing. The TD's promotional pamphlets and leaflets on cycling safety also describe the details of such equipment.

According to a research conducted by the TD, mandatory wearing of safety helmets by cyclists is not a commonly adopted international practice. Most overseas places, for example, the United Kingdom, France, Germany, the Netherlands, Switzerland, Denmark, South Korea and Singapore, do not mandate the wearing of safety helmets by cyclists. A few places, such as Australia, New Zealand and (some provinces of) Canada, have laws requiring all cyclists to wear safety helmets. Separately, some overseas studies reveal that such a legislative requirement may discourage cycling activities. The requirement may not be acceptable to the public and may be difficult to enforce. Given the mainstream practice in overseas countries of enhancing cycling safety via education and publicity and considering the impact of enforcement and prosecution actions to the community as well as public acceptability, we are of the view that it is, at the present stage, a more practical approach to promote cycling safety (including the use of personal safety gear) by means of education and publicity, coupled with continual improvement to the infrastructural facilities that could improve cycling safety.

We are also collecting views and related information on cycling from the public through the Travel Characteristics Survey. We will keep a close watch on the approaches adopted by other places, and review this issue when appropriate.

- (f) The Government has all along attached great importance to cycling safety. Given the increasing popularity of cycling as a sport, the TD, police and Road Safety Council (RSC) are enhancing public awareness on cycling safety via such means and measures as publicity, education and enforcement. On publicity and education, the police, TD and RSC will organize activities on cycling education and safety to promote the use of safety gear as well as the rules of cycling and the proper use of bicycles. They will distribute promotional leaflets and display banners and posters to advise cyclists to follow traffic rules on one hand, and advise motorists to pay attention to bicycles on the road on the other. The RSC will broadcast brand new promotional messages on cycling safety on TV and radio in the later half of the year. Also, the TD plans to launch the internet based Cycling Information Center to provide the public with convenient access to cycling-related legislation and

information. The TD is also planning to produce a short 10-minute video to educate the public the proper ways to ride bicycles and relevant traffic rules.

On enforcement, the police launches regular enforcement exercises against cycling offences, and instill awareness of cycling safety in the community at the same time.

The Government will continue to adopt the multi-prong approach of making use of means such as publicity, education and enforcement to strengthen the awareness of cycling safety among the public.

Annex I

The numbers of traffic accidents involving bicycles
on cycle tracks and at other locations and the casualties involved
(January 2008 to September 2011)

| <i>Year</i> | <i>Cycle tracks</i> | | <i>Other locations</i> | |
|------------------------------------|----------------------------|-------------------|----------------------------|-------------------|
| | <i>Number of accidents</i> | <i>Casualties</i> | <i>Number of accidents</i> | <i>Casualties</i> |
| 2008 | 510 | 537 | 1 080 | 1 147 |
| 2009 | 709 | 738 | 1 084 | 1 130 |
| 2010 | 822 | 857 | 1 092 | 1 139 |
| 2011 (Jan to Sept) [#] | 756 | 787 | 911 | 954 |

Note:

Provisional figures

Annex II

The numbers of prosecutions against cyclist offenders
(January 2008 to September 2011)

| <i>Offences</i> | <i>2008</i> | <i>2009</i> | <i>2010</i> | <i>2011 (Jan-Sept)</i> |
|------------------|-------------|-------------|-------------|----------------------------|
| Reckless cycling | 5 | 6 | 5 | 9 |
| Careless cycling | 180 | 213 | 206 | 130 |

| <i>Offences</i> | <i>2008</i> | <i>2009</i> | <i>2010</i> | <i>2011 (Jan-Sept)</i> |
|---|-------------|-------------|-------------|----------------------------|
| Riding abreast | 0 | 0 | 0 | 0 |
| Carrying passengers | 143 | 165 | 154 | 120 |
| Carrying article causing obstruction to riders view | 0 | 1 | 0 | 0 |
| Failing to use cycle track | 0 | 0 | 5 | 6 |
| Riding without lights | 477 | 266 | 785 | 570 |
| Cycling on pavement | 3 990 | 4 874 | 4 498 | 3 329 |
| Other cycling offences | 608 | 1 483 | 3 574 | 1 616 |
| Total | 5 403 | 7 008 | 9 227 | 5 790 |

Conservation of Important Public Records

18. **MS EMILY LAU** (in Chinese): *President, it has been reported that government departments originally located at the Central Government Offices (CGO) had destroyed a vast number of public records before their relocation to the new Central Government Complex (CGC) at Tamar; it has also been reported that the retention rate of archival records of the Hong Kong Government is far lower than countries where archival law has been enacted, such as the United Kingdom, the United States and Australia, and so on. In this connection, will the Government inform this Council:*

- (a) *whether the relevant policy bureaux and government departments (B/Ds) had obtained the agreement of the Government Records Service (GRS) Director for the public records to be destroyed before relocating to the new CGC at Tamar; if they had, of the respective numbers of public records regarding which the GRS Director's agreement for their destruction was given as well as those the GRS Director's agreement was not given in the past six months, with a breakdown by B/Ds; whether it knows the retention rates of archival records of the governments of United Kingdom, United States and Australia, how the retention rate of archival records of the Hong Kong Government compares with that of such countries, and the reasons for the differences in the retention rates when comparing to such countries;*

- (b) *whether GRS knows the current numbers of government records relating to the initiatives below, and whether B/Ds concerned have hitherto destroyed any of these records:*
- (i) *the Government's preparation of the 2011-2012 Budget and the adjustment to the originally proposed measures to give a sum of \$6,000 to each Hong Kong Permanent Identity Card holder aged 18 or above;*
 - (ii) *the introduction of local legislation to implement Article 23 of the Basic Law in 2002-2003, and the subsequent decision to shelve the legislative proposal; and*
 - (iii) *the original and adjusted Package of Proposals introduced by the Government for the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012; and*
- (c) *given that at present there is no archival law to regulate B/Ds in opening and keeping records, how GRS knows whether B/Ds had destroyed confidential or important records without obtaining the agreement of the GRS Director; of the existing mechanism to penalize Heads of B/Ds for unauthorized destruction of public records as well as the penalties involved; whether any official from B/Ds had been accused of, received warnings or penalized for unauthorized destruction of public records since 1997; if so, of the number of cases concerned, years of occurrence, the departments involved and summaries of such cases; whether the authorities will examine the enactment of archival law?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President,

- (a) As one of the mandatory records management requirements promulgated through a General Circular in April 2009, bureaux and departments (B/Ds), including those bureaux/offices (B/Os) relocated/to be relocated to the new CGO at Tamar, are required to obtain prior agreement from the GRS Director before destruction of

records. GRS will process B/Ds' records disposal requests according to the retention and disposal requirements set out in the respective disposal schedules. During the process, time-expired records having archival value will be identified and transferred to GRS for permanent retention. For those records disposal requests which do not meet the retention and disposal requirements, for example, length of time that records should be retained, adoption of the appropriate disposal schedule, and so on, the B/Ds concerned are required to resubmit the requests to GRS when the requirements are met in full. We have not kept information on such cases. Regarding disposal requests processed and approved, a total of 1 181.71 linear metres of time-expired records of the B/Os relocated/to be relocated to the new CGO were approved for destruction in the past six months from April to September 2011. A breakdown by B/Os is tabulated below:

| <i>Bureau/Office</i> | <i>Number of requests processed and approved⁽¹⁾</i> | <i>Quantity of records approved for destruction (in linear metres)</i> |
|---|--|--|
| Central Policy Unit | 7 | 26.85 |
| Chief Executive's Office | 1 | 66.56 |
| Chief Secretary for Administration's Office | 34 | 214.11 |
| Civil Service Bureau | 72 | 343.12 |
| Commerce and Economic Development Bureau | 47 | 173.97 |
| Constitutional and Mainland Affairs Bureau | 5 | 14.54 |
| Development Bureau | 14 | 169.64 |
| Education Bureau | 17 | 36.26 |
| Environment Bureau | 1 | 2.60 |
| Food and Health Bureau | 7 | 38.70 |
| Financial Services and the Treasury Bureau | 37 | 60.02 |
| Home Affairs Bureau | 6 | 7.92 |
| Security Bureau | 15 | 18.07 |

| <i>Bureau/Office</i> | <i>Number of requests processed and approved⁽¹⁾</i> | <i>Quantity of records approved for destruction (in linear metres)</i> |
|--|--|--|
| Transport and Housing Bureau (Transport Branch) ⁽²⁾ | 3 | 9.35 |
| Total | 266 | 1 181.71 |

Notes:

- (1) In the statistics collected, no distinction has been made as regards whether the individual requests for disposal of records were related to the relocation. For disposal requests which do not meet the retention and disposal requirements as specified in the approved disposal schedule, GRS will require the B/D concerned to resubmit the requests when such requirements are met.
- (2) Transport and Housing Bureau (Housing Branch) will not move to the new CGO.

On retention of archival records, only records appraised by GRS as having archival value will be transferred to GRS for permanent retention. In order to assess their archival value, GRS appraises the content and context of the records according to a set of selection criteria which are similar to those adopted by overseas archives. In this regard, we do not establish any target on the rate of government records to be retained as archival records. We have not conducted a comprehensive research on the retention rates of archival records of other governments.

- (b) Under the existing records management system, responsibilities for proper management of government records are shared between B/Ds that create and collect records, and GRS which is tasked to oversee the management of archival records and government records on a government-wide basis. Amongst other measures, GRS has promulgated records management procedures and guidelines to ensure proper management of government records for compliance and reference by B/Ds. In particular, B/Ds should create and collect adequate but not excessive records to meet their operational, policy, legal and financial purposes. GRS does not have readily available information on the quantities of records relating to the subject matters listed in the question kept by the relevant B/O. GRS has not received any disposal request of these records.

- (c) According to the relevant records management procedures and guidelines promulgated by GRS, B/Ds should create and collect adequate but not excessive records to meet their operational, policy, legal and financial purposes. As an on-going effort, the Government reviews and improves on the arrangements for records management from time to time to ensure that no government records will be destroyed until proper appraisal by GRS. We introduced in April 2009 a set of mandatory requirements through the issue of a General Circular. One of the requirements is that B/Ds must obtain the prior agreement from the GRS Director before destruction of records. Further, B/Ds are required to transfer records having archival value to GRS for permanent retention. B/Ds are also required to thoroughly investigate cases of loss or unauthorized destruction of records with the relevant findings provided to GRS. The mandatory records management requirements apply to all government servants and disciplinary proceedings may be taken against a government servant if he disobeys, neglects or fails to observe the requirements. Since the issue of the General Circular, we have received a report by the Fire Services Department in 2010 on a case involving the administering of disciplinary action against a Government servant. The case was related to mistaken destruction of records.

The Government attaches great importance to records management and strives to appraise and preserve government records with archival value. However, enacting an archival law is not the only way to improve the management of government and archival records. The Government has put in place administrative arrangements to facilitate the identification, transfer, and preservation of and public access to archival records. GRS has also promulgated records management procedures and guidelines to ensure proper management of government records. We believe that implementing a set of effective administrative arrangements for records management at present is crucial to the continuing improvement of government records management. GRS will continue to improve its services and we will keep the present administrative system of records management under review and improve on the administrative arrangements as necessary.

Legal Aid Cases

19. **MS STARRY LEE** (in Chinese): *President, regarding the legal aid services provided by the Legal Aid Department (LAD), will the Government inform this Council:*

- (a) *of the respective numbers of applications for legal aid in respect of judicial review (JR) cases received by the LAD each year since 2001; among such applications, of the number of cases approved; the total amount of legal aid involved in such cases; the case which involved the highest amount of legal aid and the amount;*
- (b) *of the respective amounts of legal aid involved in the four JR cases in respect of: the Chong Fung Yuen case, the residential development project in the vicinity of Stage 8 of Mei Foo Sun Chuen, the Environmental Impact Assessment reports for the Hong Kong-Zhuhai-Macao Bridge, and the right of abode of foreign domestic helpers;*
- (c) *among the JR cases where legal aid was granted since 2001, of the respective numbers of cases where the solicitors or counsel were specified by the aided persons and those cases where the LAD assigned the solicitors or counsel; whether the LAD had rejected the solicitor or counsel specified by the aided person and assigned another solicitor or counsel to provide the service; if it had, of the number of such cases and the reasons why the LAD rejected the solicitor or counsel specified by the aided person; and*
- (d) *among the JR cases where legal aid was granted since 2001, whether there were cases where the solicitors or counsel offered free legal services to the aided persons; if there were, of the number of such cases?*

SECRETARY FOR HOME AFFAIRS (in Chinese): *President,*

- (a) *The number of legal aid applications received by the LAD in respect of JR cases and the number of cases with legal aid granted in the past*

10 years are set out in the following table. The LAD has not maintained a separate record on the legal aid costs spent on all JR cases.

| <i>Year</i> | <i>Number of applications in respect of JR</i> | <i>Number of cases with legal aid granted</i> |
|-------------|--|---|
| 2001 | 147 | 20 |
| 2002 | 144 | 17 |
| 2003 | 146 | 20 |
| 2004 | 125 | 18 |
| 2005 | 180 | 24 |
| 2006 | 174 | 42 |
| 2007 | 234 | 99 |
| 2008 | 364 | 190 |
| 2009 | 552 | 200 |
| 2010 | 268 | 93 |

Note:

Apart from legal aid applications for JR, the LAD also receives applications for legal aid in relation to immigration related matters which may involve JR proceedings. However, the LAD does not keep separate record on the number of such cases.

(b) Legal aid costs incurred in the four JR cases are as follows:

| <i>Case</i> | <i>Legal aid costs incurred (\$ million)</i> |
|---|--|
| Chong Fung Yuen | 2.33 |
| Residential development project in the vicinity of Stage 8 of Mei Foo Sun Chuen | 0.26 (up to end September 2011) |
| Environmental Impact Assessment reports for the Hong Kong-Zhuhai-Macao Bridge | 1.49 (up to end September 2011) |
| Right of abode of foreign domestic helpers | Judgment just been given. Cost figures are not yet available |

- (c) Amongst the JR cases mentioned in part (a), the number of cases where the assigned solicitors are assigned by the LAD based on the aided person's nomination or as directly assigned by the LAD are as follows:

| <i>Year</i> | <i>Number of cases</i> | <i>Number of cases where the solicitors are assigned by the LAD based on the aided person's nomination</i> | <i>Number of cases where the solicitors are assigned by the LAD</i> |
|-------------|------------------------|--|---|
| 2001 | 20 | 7 | 13 |
| 2002 | 17 | 11 | 6 |
| 2003 | 20 | 19 | 1 |
| 2004 | 18 | 17 | 1 |
| 2005 | 24 | 20 | 4 |
| 2006 | 42 | 39 | 3 |
| 2007 | 99 | 96 | 3 |
| 2008 | 190 | 184 | 6 |
| 2009 | 200 | 175 | 25 |
| 2010 | 93 | 88 | 5 |

The LAD does not keep separate record on the number of cases where the assigned counsel are solely nominated by the aided persons. It only keeps record on the number of cases where the assigned counsel are nominated by the assigned solicitors or the aided persons. The relevant figures are as follows:

| <i>Year</i> | <i>Number of cases where the assigned counsel are nominated by the assigned solicitors or the aided persons</i> | <i>Number of cases where the assigned counsel are assigned by the LAD</i> |
|-------------|---|---|
| 2001 | 5 | 14 |
| 2002 | 6 | 11 |
| 2003 | 17 | 3 |
| 2004 | 15 | 1 |

| <i>Year</i> | <i>Number of cases where the assigned counsel are nominated by the assigned solicitors or the aided persons</i> | <i>Number of cases where the assigned counsel are assigned by the LAD</i> |
|-------------|---|---|
| 2005 | 21 | 1 |
| 2006 | 39 | 1 |
| 2007 | 35 | 0 |
| 2008 | 43 | 2 |
| 2009 | 140 | 2 |
| 2010 | 55 | 1 |

The LAD does not keep separate record on the number of cases in respect of which the aided persons made nominations but the nominations were declined.

- (d) As far as the LAD is aware, there are no such cases.

Consultation on Introduction of a Mandatory Producer Responsibility Scheme for Waste Electrical and Electronic Equipment

20. **MR FREDERICK FUNG** (in Chinese): *President, the Chief Executive proposed in his 2009-2010 Policy Address that following the launch of the plastic bags levy scheme, the Government would consult the public on the introduction of a producer responsibility scheme (PRS) for electrical and electronic equipment at the end of 2009. Subsequently, the authorities formally conducted a three-month public consultation on the introduction of a mandatory PRS on waste electrical and electronic equipment (WEEE) (the Scheme) in January 2010, which mainly covers the proposal that all regulated WEEE (including television sets, washing machines, refrigerators, air conditioners and some computer products) should be banned from disposal as ordinary trash, and it sets out the responsibilities borne by various stakeholders such as consumers, producers and importers, and so on, for the collection, treatment and disposal of regulated WEEE. In this connection, will the Government inform this Council:*

- (a) *of the reasons why the Government has neither drawn conclusions from the public views collected, nor confirmed the details of and*

timetable for implementing the Scheme as well as the final legislative proposal, although the aforesaid public consultation was completed long ago; of the latest progress in implementing the Scheme; and

- (b) *of the views preliminarily adopted by the authorities on the aspects to be covered by the Scheme, charging methods, cost sharing, ways to treat WEEE, import and export controls, and assistance to be provided to recyclers in recovering and treating the wastes concerned; whether it will consider including more electrical and electronic equipment (for example, mobile phones) in the regulatory ambit; when the authorities expect to submit the legislative proposal to this Council for scrutiny; and of the anticipated timetable for implementing the whole Scheme?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, we have been adopting a multi-pronged approach, with the promotion of waste reduction and recycling and the development of modern and high-standard treatment facilities as a key direction, for taking forward our waste management strategy. To further promote waste reduction, we will expedite legislative proposals for the mandatory producer responsibility schemes (PRS). The Chief Executive has also stated in his 2011-2012 Policy Address that the Government would introduce a PRS for Waste Electrical and Electronic Equipment (WEEE) (hereinafter called the "Scheme") as soon as practicable so as to minimize the impact of WEEE on the environment. My reply to the two parts of the question is as follows:

- (a) We received more than 2 700 submissions during the public consultation on the Scheme. In addition, we have collected the views of the public and stakeholders through different channels, including 38 briefings, seminars, focus group meetings and public forums, and so on. Through these channels we have reached out to more than 60 organizations and stakeholder groups, including manufacturers, importers, brand agents, distributors, retailers, recyclers, environmental groups, district councils, social and welfare organizations, professional and academic institutions and other advisory bodies, and so on. Since the Scheme involves different aspects including coverage, flow management, proper treatment and sharing of costs, it is essential to conduct in-depth analysis and draw

reference from international experiences, as well as making reference to the feedback received during the consultation period in order to formulate proposals for the implementation of various major aspects of the Scheme. We plan to report our findings to the Panel on Environmental Affairs of this Council next month and consult it on the way forward of the Scheme.

- (b) In general, members of the public and the relevant trades are supportive of the mainstream proposals under the Scheme as set out in the Consultation Document. The majority of the members of the public and stakeholders supported adopting the scope of coverage as set out in the Consultation Document, namely television sets, washing machines, refrigerators, air conditioners and computer products including desktop computers, laptops, printers, scanners and monitors. On the other hand, the majority of the views received during the consultation period agreed to introduce measures, including import and export permit controls, to better manage the movement of WEEE, and to ensure that locally generated WEEE is properly treated in the territory. Views received were more diverse on the charging methods, the sharing of costs, and the methods of recovery and treatment of WEEE. Individual trades in particular have expressed concern over the impact of the respective proposals on their operation and costs.

Based on the views received during the consultation period and with reference made to international experience and the local situation, we have drawn up major principles to take forward the Scheme. Proposals on major aspects such as charging methods, the implementation of effective complementary measures and the recovery and treatment of local WEEE have been drawn up. We will discuss and confirm these major principles with this Council before proceeding with the drafting of the legislation. In the meantime, we will further engage with the trades and stakeholders on the implementation details in an in-depth manner, and aim to submit a bill to this Council at the earliest opportunity in the 2012-2013 Session.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Motion on the suspension of Rule 47(1)(c) and (2)(c) and Rule 49(8) of the Rules of Procedure.

I now call upon Ms Miriam LAU to speak and move the motion.

SUSPENSION OF RULE 47(1)(C) AND (2)(C) AND RULE 49(8) OF THE RULES OF PROCEDURE

MS MIRIAM LAU (in Cantonese): President, at the meeting of the House Committee on 14 October 2011, it was agreed that I, in my capacity as the Chairman of the House Committee, would move this motion to suspend Rule 47(1)(c) and (2)(c) as well as Rule 49(8) of the Rules of Procedure (RoP) until the Council resolves to remove the suspension or to amend the Rules.

This motion also proposes that during the suspension of the Rules, the duration of the ringing of the division bell shall be extended from three minutes as currently provided under RoP to five minutes. As the Legislative Council Complex is four times the size of the old Legislative Council Building, in the event of divisions claimed by Members, Members who are not in the Chamber but are within the Complex may be unable to return to the Chamber within three minutes. Extending the duration of the ringing of the division bell will allow them sufficient time to return to the Chamber to vote in time.

Furthermore, in the event of divisions claimed by Members and the division bell does not function, RoP provides that the President shall order the Clerk to make arrangements to notify Members to return to the Chamber to vote. The motion I move now proposes that the period for notifying Members shall be extended from six minutes as currently provided under RoP to 10 minutes. In other words, the division shall be held 10 minutes after the President's order so that the Clerk will have sufficient time to notify Members to return to the Chamber to vote.

This motion also proposes that the House Committee may, as the case requires, recommend to the President that the duration of the division bell specified above or the period for notifying Members to return to the Chamber when the division bell does not function be extended or shortened so as to provide

greater flexibility. The House Committee may recommend that the relevant arrangement shall only apply in respect of a Council meeting or an item of business on the Agenda of a Council meeting.

President, I urge Members to support the motion as set out in the Agenda.

Ms Miriam LAU moved the following motion:

"That Rule 47(1)(c) and (2)(c) and Rule 49(8) of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region be suspended with immediate effect until the Council resolves to remove the suspension or to amend the Rules, and that the following arrangements be adopted during the suspension of the Rules:

- (a) if a Member challenges the statement of the President or Chairman made under Rule 47(1)(b) or (2)(b) of the Rules of Procedure by claiming a division, then the President or Chairman shall order the Council or the committee, as the case may be, to proceed to a division; and, subject to Rule 49(4) to (7) of the Rules of Procedure, the division shall be held forthwith immediately after a division bell has been rung for five minutes;
- (b) if the division bell does not function, the President or Chairman shall order the Clerk to arrange for Members within the precincts of the Chamber to be notified of the division; and the division shall be held 10 minutes after the order has been made; and
- (c) the House Committee may recommend to the President that the period specified in paragraph (a) or (b) above for a Council meeting or in respect of an item of business on the Agenda of a Council meeting may be shorter or longer; and Members shall be notified of the President's decision on the recommendation prior to that Council meeting."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU 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): Two proposed resolutions under the Interpretation and General Clauses Ordinance.

PRESIDENT (in Cantonese): First motion: Extending the period for amending the Residential Care Homes (Persons with Disabilities) Regulation and the Residential Care Homes (Persons with Disabilities) Ordinance (Commencement) Notice 2011.

I now call upon Mr WONG Sing-chi to speak and move the motion.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR WONG SING-CHI (in Cantonese): President, in my capacity as the Chairman of the Subcommittee to study the Residential Care Homes (Persons

with Disabilities) Regulation and Residential Care Homes (Persons with Disabilities) Ordinance (Commencement) Notice 2011 gazetted on 30 June 2011, I move that the motion under my name be passed.

The Subcommittee has held five meetings so far. In order to allow Members more time to deliberate on the above Regulations, particularly in view of the need to clarify certain provisions, Members have agreed that I move a motion to extend the scrutiny period of the two Regulations to the Legislative Council meeting on 9 November 2011.

With these remarks, I urge Members to support this motion. Thank you, President.

Mr WONG Sing-chi moved the following motion:

"RESOLVED that in relation to the —

- (a) Residential Care Homes (Persons with Disabilities) Regulation, published in the Gazette as Legal Notice No. 111 of 2011; and
- (b) Residential Care Homes (Persons with Disabilities) Ordinance (Commencement) Notice 2011, published in the Gazette as Legal Notice No. 112 of 2011,

and laid on the table of the Legislative Council on 6 July 2011, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) and deemed to be extended under section 34(3) of that Ordinance, be extended under section 34(4) of that Ordinance to the meeting of 9 November 2011."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr WONG Sing-chi 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: Extending the period for amending the Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2011.

I now call upon Ms Miriam LAU to speak and move the motion.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MS MIRIAM LAU (in Cantonese): President, at the meeting of the House Committee on 7 October 2011, Members decided to set up a Subcommittee to study the Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2011.

Members also agreed that I move a motion in my capacity as the Chairman of the House Committee to extend the scrutiny period of the Rules to 9 November 2011 so that the Subcommittee can have sufficient time to proceed with its deliberations.

President, I urge Members to support the motion as set out in the Agenda.

Ms Miriam LAU moved the following motion:

"RESOLVED that in relation to the Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) Rules 2011, published in the Gazette as Legal Notice No. 117 of 2011, and laid on the table of the Legislative Council on 13 July 2011, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) and deemed to be extended under section 34(3) of that Ordinance, be extended under section 34(4) of that Ordinance to the meeting of 9 November 2011."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU 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): Motion on the appointment of a select committee.

I now call upon Ms Emily LAU to speak and move the motion.

APPOINTMENT OF A SELECT COMMITTEE

MS EMILY LAU (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed. I hope the Legislative Council will agree to appoint a select committee today to invoke the powers conferred by the Legislative Council (Powers and Privileges) Ordinance to inquire into whether any persons, including managerial staff of Asia Television Limited (ATV) or others have acted unduly in the misreporting of the death of Mr JIANG Zemin in July to interfere with ATV's editorial freedom with an aim to influence ATV's news report. I also hope that this committee will inquire into whether ATV has added advertisement content into news and information programmes to create "paid news" as this not only undermine the credibility of the broadcaster, but also mislead the public and bring shame to Hong Kong's reputation.

President, I trust you will also recall the extremely shocking news aired by ATV, one of Hong Kong's free-to-air broadcaster, at its evening news on 6 July this year. Quoting a reliable source from Beijing, ATV announced the death of former President Mr JIANG Zemin. Throughout the evening, ATV kept airing previews of a special programme entitled "JIANG Zemin" to be broadcast at 9.30 pm. But at 9 pm, it suddenly announced the cancellation of the programme.

President, throughout the evening, ATV switched the colour of its logo on the television screen from bright orange to monotone. It was not until about 11 pm that the logo was reverted to orange colour. This piece of extremely shocking news of ATV was not repeated in any other media because they could not confirm the news; however, both local and overseas media had reported on

ATV's news. President, on the next day, that is, 7 July, Xinhua News Agency denied reports of JIANG Zemin's death. Moreover, the Hong Kong China News Agency quoted an official of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region condemning ATV's reports of JIANG's death as pure rumour without factual basis. It was only until then that ATV retracted its report and apologized. In the afternoon on that day, a major investor of ATV — Mr WANG Zheng, a "red" businessman from the Mainland — returned to ATV for a meeting. Surrounded by reporters outside ATV, WANG remarked that he only knew the report after the newscast. According to some subsequent reports, his remark aroused great dissatisfaction among the staff of ATV's News Division. Other reports quoted a board member of ATV saying that anonymous staff complaints had been received alleging Mr WANG Zheng's interference with the operation of the News Division of ATV.

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

Deputy President, about two months later, on 5 September, Mr LEUNG Ka-wing, Senior Vice President (News & Public Affairs) of ATV, announced his resignation with immediate effect, saying that he assumed full responsibility for the misreporting of JIANG Zemin's death. On that day, LEUNG Ka-wing told the staff of ATV's News Division that he had taken the blame and resigned because notwithstanding his best efforts, he could not stop the news on the death of JIANG Zemin from broadcast, and the news was proved erroneous subsequently. As a matter of fact, had the report been true, it would of course make international headline news, Deputy President. But it has now turned into an international joke. Many people may wonder how come the head of the News Division of a television station could not stop the broadcast of a phoney news report. What was the force behind which compelled the division head to broadcast, though unwillingly, a news report that had misled the people and the international society? LEUNG's words at that time gave the impression that someone had interfered with the operation of the News Division.

Deputy President, according to information we obtained from the authorities — the Secretary will talk about that later — the Broadcasting Authority (BA) has so far received 45 complaints in relation to this incident, such as complaints about ATV's misreporting. Some complainants were dissatisfied

that ATV had aroused panic in the community. Some complainants considered that Mr WANG Zheng, in claiming that he only learnt about the incident after the newscast, had acted irresponsibly and they also doubted that the News Division's editorial freedom had been interfered with.

Deputy President, the Panel on Information Technology and Broadcasting of the Legislative Council held a special meeting on 19 September this year. Mr LEUNG Ka-wing and other ATV staff were invited to attend the meeting. Yet, on that occasion, Mr LEUNG changed his story, claiming that he made a mistake on 6 July. What mistake did he make? He wrongly believed the news of JIANG Zemin's death as imparted to him by a source. He thought the news was correct, but it was proved erroneous subsequently. He said he misplaced his trust on that person. He no longer said that he was stopped by someone, or that he could not stop the news from broadcast. Some Members pointed out at the meeting that the statements given by LEUNG Ka-wing were contradictory and misleading the public. At the same meeting of the Panel on Information Technology and Broadcasting, Mr James SHING, Executive Director of ATV, also said that he himself, Mr WANG Zheng and Mr KWONG Hoi-ying, Senior Vice President of ATV, were not the source of the news as mentioned by Mr LEUNG Ka-wing. Six days later, on 25 September, Mr LEUNG Ka-wing was invited to attend the programme "Beautiful Sunday" on Commercial Radio. What did he say then, Deputy President? He said that insofar as "the source of the news" was concerned, he and Mr James SHING had different understanding. Nonetheless, he said he had no evidence and hence, he would not reveal the identity of the informant.

Deputy President, having heard that much, we are all somewhat puzzled. In fact, many people become increasingly angry, wondering what has actually happened. What is the rationale for ATV airing phoney news report to mislead the public? That would also bring shame to the broadcaster itself. More importantly, Hong Kong's reputation as an international financial centre would be tarnished by such a broadcaster. Hence, there is wide public demand that the Council should look into the incident. Some media reports put the blame on Mr WANG Zheng directly. According to the information submitted by ATV to the BA — which was also mentioned at that Panel meeting — Mr WANG Zheng holds certain convertible bonds issued by ATV. Mr WANG Zheng is an investor of ATV; he is not a shareholder, a director or a principal officer of ATV. ATV also stresses that Mr WANG Zheng does not have any capacity or rights to

exercise control of ATV or participate in its day-to-day management. In August, the BA announced that it would commence an investigation into the role played by Mr WANG Zhen in the management of ATV, as well as his role in ATV's misreporting of the death news of JIANG Zemin.

Deputy President, you may also notice that according to some recent press reports, Mr WANG Zheng has already attended a number of management meetings of ATV. Moreover, at one such meeting in the beginning of the year, he appointed Senior Vice President Mr KWONG Hoi-ying as Acting Chief Executive Officer. These reports further stated that as the Board of ATV has not held any meetings for months, this appointment has not yet been approved by the Board. According to the Broadcasting Ordinance, if there is any change of principal officers (including the appointment of Chief Executive Officer and Acting Chief Executive Officer) of ATV which is a free-to-air broadcaster, such appointments should be reported to the authorities within seven days of the effective date. Certainly, ATV has not complied with this requirement. Many questions have been raised, but they left unanswered. If there is a breach of regulation, sanctions in the form of an advice, a warning, a financial penalty, suspension of licence or even a recommendation to the Chief Executive in Council for a revocation of licence should be imposed on ATV.

At this point, Deputy President, I believe you would also agree that ATV is highly disorganized in its operation. Moreover, staff morale is low. Some people even criticize ATV for breaching the relevant Ordinance and regulations, and consider it inappropriate for ATV to continue operation under its television licence. Therefore, it is incumbent upon the Legislative Council to respond to the demand of the people. We are aware of the ongoing investigation by the BA, but we should also conduct our own investigation. Deputy President, I know that after LEUNG Ka-wing's resignation, a group of staff of ATV's News Division have issued a statement seeking clarification from the management of ATV on certain matters, for example, why LEUNG was unable to stop the broadcast of the erroneous news report, how news programmes and advertisements are to be delineated to ensure a clear distinction between the two, and so on. They also sought an assurance from the management that journalistic freedom and editorial independence will not be subject to interference again.

Talking about "paid news", Deputy President, you may recall that when LEUNG Ka-wing and his deputy, TAM Wai-yi, attended the Panel meeting of the

Legislative Council, they mentioned a programme "Wealth Blog". "Wealth Blog" is a programme produced by the News & Public Affairs Division of ATV, yet it contains segments with advertisement elements. Moreover, Josephine YAN, anchor of the programme, has contacts with clients in her official capacity as the Principal Finance Reporter and Principal Finance Anchor of the News Division. Both LEUNG Ka-wing and TAM Wai-yi said that YAN's conduct was a breach of journalism ethics. What then is ATV's explanation about the matter? According to ATV's Executive Director James SHING, "Wealth Blog" is a financial programme, not a news programme. When Josephine YAN met with clients, she was accompanied by staff of the Sales Division. Her role is to support the Sales Division in introducing the programme to clients. Hence, she has no direct pecuniary involvement in the matter.

Deputy President, we are indeed outrageous for what we have heard so far. How can a genuine journalist have contacts with clients in the company of other people to introduce her programme and then ask the clients to place advertisements? As far as we know, the BA has received five complaints so far. In fact, this is a serious matter. Therefore, having heard the complaints from members of the public, the Legislative Council considers that firstly, ATV had broadcast false information, information that had caused a sensation. Afterwards, the head of ATV's News Division stepped forward and said that there was nothing he could do; he said on radio that somebody called him and they talked for nearly 10 minutes. He was told to broadcast the news expeditiously, and the news must be aired. As such, he could do nothing but broadcast the news.

Moreover, Deputy President, the television station has included advertisements and paid elements into its news programmes. This will impact on the station's reputation. The public would have queries in this regard because the television station broadcasts its programmes through terrestrial airwaves which are precious public resources. ATV has been granted with a licence by the Government. When was the licence last granted by the Government, Deputy President? That was in November 2002. When the Chief Executive in Council approved the renewal of ATV's licence, Deputy President, it was renewed for a period of 12 years up till 30 November 2015. ATV has been granted with a licence. But now many people query whether ATV has complied with the licensing conditions given its many misdemeanors. In fact, some people question why no actions have been taken by the authorities for so long. At

present, the BA claims that an investigation is being conducted. But, Deputy President, the investigation is conducted in camera. Neither you, nor I nor the public have any idea of what is going on.

The Legislative Council is duty-bound to take actions. I hope Members will confer on us the power to conduct open hearings, to be participated all political parties and groupings so that all persons concerned would be summoned to answer questions in open meetings. Many relevant issues do not only concern ATV, but the public broadcasting policy of Hong Kong. While the Government has granted licence to ATV, has it fulfilled its duties? Why is ATV's operation so chaotic that it even failed to report to the Government the appointment of its principal officers? Faced with such a situation, the staff has to issue a statement themselves, calling on the management not to interfere with journalistic freedom and editorial independence of the News Division.

I honestly think that the development of the incident has gone to a stage that is intolerable. However, Deputy President, I understand that some colleagues do not consider it necessary for the Legislative Council to conduct an investigation or look into the matter. In fact, as evident in many previous examples, the Legislative Council can and should conduct its investigation even though other investigations are conducted on the same matter. I know there is little time left in the run-up to the expiry of our term next year, but we think that the community expect Members of the Legislative Council to step forward in such an important matter and set up a committee to inquire into the matter and find out who actually is responsible for bringing Hong Kong's broadcasting industry into disrepute. Their actions do not only undermine the credibility of ATV, but also bring shame to Hong Kong.

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

Ms Emily LAU moved the following motion: (Translation)

"That this Council appoints a select committee to inquire into whether managerial staff and investors of Asia Television Limited ('ATV') or other persons have acted unduly in the misreporting of the death of Mr JIANG Zemin to interfere with ATV's editorial freedom with an aim to influence ATV's news report; to inquire into whether ATV has added advertisement content into news and information programmes being broadcast which

unduly produces 'paid news'; and to inquire into whether the above incidents have violated broadcasting rules or regulations and related laws of Hong Kong, as well as related matters, and based on the results of the above inquiries, to make recommendations on the regulation of domestic free television programme service by the Government and the safeguarding of editorial freedom of the press, and other related matters; and that in the performance of its duties the committee be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of that Ordinance."

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, the community at large has recently expressed concerns about Asia Television Limited (ATV), mainly in the following three aspects: (a) ATV's misreporting of the death of a former national leader; (b) whether ATV has included any advertising contents in its news programme; and (c) the control and management of ATV — that is, the role played by Mr WANG Zheng in the management of ATV.

In relation to the misreporting of the death news, as Ms Emily LAU has just mentioned, as at 18 October this year, the BA has received a total of 45 complaints against the misreporting of the death of the former national leader on ATV Home and ATV World on 6 July. The complainants were dissatisfied that the news was unverified, misleading, confusing and has aroused public panic, which violated the code of practice issued by the BA. The complainants also alleged that the retraction of the report almost 24 hours after the original broadcast of the news was in violation of the relevant provision of the code of practice concerning correction of factual errors in news. Some complainants considered that the response of Mr WANG Zheng on the incident was irresponsible and cast doubt on the editorial independence of ATV's News Division.

On the issue of whether ATV has included any advertising contents in its news programme, as at 18 October this year, the BA has received five complaints. The complainants were dissatisfied with the inclusion of excerpts of the programme "Corporate Excellence", which contained advertising elements, in the programme "Wealth Blog".

Regarding the control and management of ATV, according to the information submitted by ATV to the BA, Mr WANG Zheng is an investor of ATV and holds certain convertible bonds issued by ATV. At present, Mr WANG Zheng is neither a shareholder, director nor principal officer of ATV. Accordingly, Mr WANG Zheng does not have any capacity or rights to exercise control of ATV or participate in its day-to-day management. In response to public concerns and complaints, the BA announced in August this year that it would conduct an investigation into the role played by Mr WANG Zheng in the management of ATV.

The BA is carrying out its investigations on the above issues in accordance with the laws and the established procedures to ascertain whether ATV has breached any provisions under the laws, codes of practice or licence conditions. As the investigation is in progress and for the sake of fairness, it is not appropriate for the BA to comment on the progress or details of the investigation at this stage. Upon completion of its investigation, the BA will make public the findings and report to the Panel on Information Technology and Broadcasting of the Legislative Council.

If the BA's investigation confirms any breach by ATV, a range of sanctions may be imposed on ATV in accordance with law, including an advice, a warning, a request for ATV to issue a corrigendum or an apology, a financial penalty, suspension of licence or even a recommendation to the Chief Executive in Council for a revocation of licence. The BA will meted out sanctions in consideration of the nature and severity of the breach, the impact on society, the broadcaster's records of non-compliance and the relevant precedent cases.

Should the Legislative Council establish a select committee at this stage to investigate into the above matter, it will duplicate the BA's ongoing investigation conducted in accordance with law. On the one hand, it will have an impact on the independence, fairness and impartiality of the BA's investigation, and on the other hand, it is not putting public resources to proper use. Hence, there is no

need for the Legislative Council to set up a select committee to investigate into the ATV incident separately.

Deputy President, I will speak again after listening to the speeches of Ms Emily LAU and other Members. Thank you, Deputy President.

MR WONG TING-KWONG (in Cantonese): Deputy President, the recent years have been years of trouble for Asia Television Limited (ATV), with incessant disputes about shareholding, management and personnel matters. Issues of grave concern in the community have already been discussed by the Legislative Council at the relevant Panel meetings. The Administration is also conducting an investigation. Therefore, in respect of the motion proposed by Ms Emily LAU today for the appointment of a select committee to invoke the powers conferred by the Legislative Council (Powers and Privileges) Ordinance (Powers and Privileges Ordinance) to inquire into whether there is any interference with editorial independence by the managerial staff of ATV and the issue of "paid news", I do not consider it necessary for the time being.

Regarding the incident of ATV's misreporting the death of former President Mr JIANG Zemin and the issue of "paid news", the Panel on Information Technology and Broadcasting of this Council held a special meeting on 19 September to discuss the issues. Mr LEUNG Ka-wing and other persons concerned attended the meeting to give an account of the whole incident. At the meeting, Mr LEUNG Ka-wing clarified that the wordings he used in his earlier statement made upon his resignation were inappropriate. After the meeting, I believe that members of the public have a clear picture about what has happened.

At that meeting, I asked Mr LEUNG Ka-wing who had the final authority to decide whether or not to broadcast a news report. Mr LEUNG replied clearly that the final authority rested with him and he took full responsibility for the misreporting of Mr JIANG Zemin's death. Therefore, I think Mr LEUNG, as head of ATV's News Division, had complete control over editorial autonomy. No matter what that news was and whether it would be "aired" eventually, the decision must be made by Mr LEUNG who would bear all the consequences. However, should the Legislative Council inquire into the matter, I am afraid it would be interfering with editorial autonomy.

Deputy President, to go one step further, safeguarding journalistic freedom is definitely a matter of great concern for the people of Hong Kong. When witnessing the open confrontation between senior managerial staff of ATV and staff of the News Division, the public will doubt whether ATV, which broadcasts its programmes through free terrestrial airwaves, is still capable of managing its staff properly and producing television programmes, including news and information programmes, for the public. In this connection, it is appropriate for the Legislative Council to suitably keep the matter in view. However, in the course of discussion on the ATV incident, when we try to ascertain whether there was any interference by individual managerial staff by requesting the disclosure of all papers and information in relation to internal meetings of the management and the News Division of ATV, due attention must be paid as this might become another form of interference with journalistic freedom. What if, in future, somebody is dissatisfied with certain reports carried by a media organization and put the blame on interference by the management, can the Legislative Council arbitrarily request for the disclosure of all internal documents of that particular organization?

Moreover, given that the related issues have already been discussed by the relevant Panel, and the Broadcasting Authority (BA) has also indicated earlier that as its investigation is in progress, it is not appropriate to disclose details of the investigation, and it would give an account of the matter in due course, it is not appropriate for the Legislative Council to invoke the powers conferred by the Powers and Privileges Ordinance for the time being. Members should consider afresh whether further discussion on the matter is required after studying the BA's report.

With these remarks, Deputy President, I oppose the motion proposed by Ms Emily LAU.

MR CHEUNG MAN-KWONG (in Cantonese): Deputy President, the root of the ATV saga is WANG Zheng.

According to some press reports, WANG Zheng is neither a director nor a managerial staff of Asia Television Limited (ATV). Moreover, he has not declared to be a shareholder of ATV. But because his relative, WONG Ben-koon, has acquired 52.4% voting shares of ATV, WANG Zheng, in his

capacity as "Private Consultant" to the Executive Director of ATV James SHING, becomes the backstage boss of ATV and calls the shots. He attends meetings of senior management of ATV, and wields indirect or direct control over ATV's personnel, administrative and programming matters, even news programmes. He has violated the long-established rules and regulations in Hong Kong on the effective supervision of television broadcasters, ignored the Broadcasting Ordinance, and scorned the monitoring powers of the Government and the Broadcasting Authority (BA). That is in fact an overt act of contempt for the Government. Moreover, as many irregularities now being queried had happened a long time ago, people would doubt whether the rule of law in Hong Kong has been undermined. Does WANG Zheng of ATV enjoy any extralegal privilege so that he can assume full control of everything and come under no monitoring? Nonetheless, all such reports are from the press. All parties including the Legislative Council, the BA and the Government should conduct thorough investigation into the matter so as to give a clear account to the public.

However, what is more alarming in the reports is that in June last year when the BA had yet to approve the shareholding changes of ATV, somebody already requested the ATV's News Division to report that "the BA has approved the shareholding changes". Was that an attempt to mislead the public or even the market so as to pave the way for WANG Zheng to take over the control of ATV? As such, there may be precedents or even worse cases of senior management of ATV interfering with editorial independence of the News Division, an act which may be in violation of the Generic Code of Practice on Television Programme Standards. Regarding the recent case of misreporting the death of JIANG Zemin, as a leader of the Central Authorities was involved or furthermore, the power struggle in Beijing might be implicated, the case has fully exposed the long-term malpractice of WANG Zheng's in operating ATV and has become the focus of attention of the media and the Legislative Council.

Therefore, one can say that "Heaven's vengeance is slow but sure" in the case of ATV's misreporting of the death news of JIANG Zemin. While the incident is a "disaster" for the news media, it is a "blessing" for the community. Of course, the incident is a "disaster" for WANG Zheng and the management of ATV because their alleged interference with the editorial independence of the News Division has been exposed and uncovered due to the misreporting. Even though James SHING said in the Legislative Council that WANG Zheng, KWONG Hoi-ying and he himself were not the informants of the news of JIANG

Zemin's death, has he told the whole truth? Has he been misleading or hiding some facts, or worse still, has he played with words by deliberately confusing the person who provided the information and the person who passed the information? Are WANG Zheng and KWONG Hoi-ying the persons concerned as alleged in the news reports? Is he deliberately trying to conceal the fact that WANG Zheng was the person behind the scene who forcibly ordered the broadcast of the news?

In saying that the incident is a "blessing" for the community, the misreporting saga of ATV has exposed indirectly the role of WANG, and most probably, he has violated the rules and regulations governing the television industry. The incident has exposed that the promotion of KWONG Hoi-ying to the post of Acting Chief Executive Officer has not been reported to the BA; it has also exposed that the most senior management of ATV has probably interfered with journalistic and editorial freedom on at least two occasions; and furthermore, it has exposed the intention and plan of ATV to create "paid news", which is tantamount to accepting commercial sponsorships and blurring the line between advertisements and news.

Deputy President, Hong Kong is the freest international city of China, and journalistic freedom is one of the most important freedoms. As television broadcasters are commercial organizations and terrestrial airwaves are public assets, the Government, the Legislative Council as well as the BA are duty-bound to monitor the commercial television broadcasters from seeking nothing but profits, infringing upon journalistic freedom or editorial independence, as well as affecting the fairness and impartiality of public opinion in society. In this way, we can ensure the editorial independence of news division of television broadcasters, avoid ambiguities between news and advertising sponsorships, avoid the manipulation of news reports to perpetuate political struggles and mislead the public, which in turn undermines Hong Kong's economy. Simply put, news reports must be independent, and should not be manipulated as tools for political, economic or profit-making purposes.

Hong Kong is an international financial centre, as well as the window of China's economic development. Once commercial programmes have been incorporated into news programmes, a case in point is ATV's programme "Corporate Excellence" under fire, people can hardly tell the authenticity of the information as well as good or bad rating of a company. Ultimately, the market

will be disrupted causing losses to investors of Hong Kong and China. That is a self-inflicted sin of "killing the goose that lays golden eggs", and "paid news" of the media is the culprit. This is a matter which the Legislative Council, the BA and the Government must deal with seriously.

By the same token, Hong Kong is a sensitive political nerve to China. Due to the absence of press freedom in the Mainland and in the context of political struggles, certain Mainland news and untrue rumors, as well as some statements made under forced circumstances will be channeled to our news media and television broadcasters; and in turn, such "exported" information will be redirected from Hong Kong to the "domestic market" in Mainland China to influence the political operation. Take the example of the death news of JIANG Zemin, this is of course a piece of headline news for both China and the world; but it can also trigger off political struggles in the Mainland. If ATV's News Division can neither enjoy editorial independence nor verify the authenticity of the news before broadcast; and if senior management of ATV has other ulterior motives, who can guarantee the pure intention of the news itself or the source of the news? Who can gauge the political consequences to be triggered off by such a report?

Therefore, the misreporting of the death of JIANG Zemin sparks off a series of questions in the community about the editorial independence of ATV's News Division, the query relating to "paid news", and even the role and status of WANG Zheng, the long history of ATV's operational irregularities, the lack of monitoring by the BA and the Government, as well as the equitable utilization of terrestrial airwaves. All these are related to social interest which is a matter of grave public concern. How can the Legislative Council not set up a select committee to conduct an independent, comprehensive, open and impartial investigation into the matter by invoking the Legislative Council (Powers and Privileges) Ordinance?

The Legislative Council is vested with the power of investigation. It is a duty of the Council that Members cannot circumvent. It is not a case as depicted by Mr WONG Ting-kwong that investigation by the Legislative Council would have the adverse effect of interfering with editorial independence of ATV's News Division, his saying is simply twisted, ridiculous and beyond all logic. Just as the previous case of inquiry into the circumstances leading to the problems surrounding the commencement of the operation of the new Airport, the

Legislative Council can conduct parallel investigation with the BA, with each conducting its own inquiry according to their respective terms of reference. Such parallel investigation is proper and beneficial.

Deputy President, I support the motion moved by Ms Emily LAU.

MR RONNY TONG (in Cantonese): Deputy President, this is my first time to speak in this new Chamber. Regrettably, our environment may have changed, but the undesirable parliamentary culture has not. On the contrary, Members have become more distant apart and their differences have not been narrowed.

Deputy President, I often wonder why every time when we debate whether a select committee should be appointed, the process is always so difficult. Deputy President, as far as I remember, it is always the pan-democrats who propose the appointment of select committees, and the pro-establishment colleagues will always oppose the proposals with all sorts of reasons. Never have the pro-establishment colleagues proposed the appointment of select committees, and the pan-democrats challenge, or even oppose the justifications raised.

Deputy President, I do not believe that slackness is the reason for their objection. If they are lazy, they should not become Legislative Council Members. I believe they have various political reasons behind which are incomprehensible to us. However, in the debate, I hope we can explain why the Legislative Council has to introduce the Legislative Council (Powers and Privileges) Ordinance, and why should a mechanism to appoint select committee be put in place. What are the reasons? Is it because Members are not overburdened with work so they should take up extra work? Deputy President, this is definitely not the reason.

Why should the Legislative Council (Powers and Privileges) Ordinance confer such privileges on us? The reason is, when a major issue cannot be resolved at Panels or through legislative procedures, the public expect Members to do their part and address this matter of public concern. If we invite individual persons or public officers to this Chamber to answer our queries and they refuse to reply or even to attend the meeting, we will have to exercise the power conferred by the Legislative Council (Powers and Privileges) Ordinance to find

out the truth and get to the bottom of the matter. Hence, this "imperial sword" is in fact an indispensable instrument of the Legislative Council. If we cast this instrument aside under various pretexts Whenever there is a request for the appointment of a select committee, the request will be turned down by citing various reasons. Deputy President, no wonder the popularity of the Legislative Council is so low.

Deputy President, recently, our colleagues have made an exceptional move in endorsing the appointment of select committees to inquire into certain issues. What are the differences between these issues and the issue under debate today? Take the Lehman Brothers incident as an example. Admittedly, the incident involves the investment losses suffered by many individuals, but if our press freedom and editorial independence are stifled and jeopardized by the system, will the harm be less significant than the investment losses suffered by victims of the Lehman Brothers incident, and should importance also be attached to this issue? Are press freedom and editorial independence the two core values that underpin the successful implementation of "one country, two systems" in Hong Kong? If Members think that a select committee should be appointed to inquire into the Lehman Brothers incident, why do Members think otherwise when it comes to the equally important issue of press freedom?

Deputy President, more important still, in the subcommittee set up to study the issues related to the Lehman Brothers incident, we would also consider, among other things, how the system can be improved. This is one of the important duties of the subcommittee. Whenever we hold meetings to review a certain issue, be it related to LEUNG Chin-man, Lehman Brothers, the short-piling case or the Airport, the prime purpose is not to find the culprits and bring them to justice or pass judgment on them; rather, we hope that after the inquiry, we can reach a consensus in this Council concerning the loopholes of the system and the possible ways of improvement, such that the system can be perfected. If so, why can we not apply the mechanism in this case?

I understand that many colleagues even Mr CHEUNG Man-kwong seemed to have imputed the issue to Mr WANG Zheng. Deputy President, I am more lenient. I do not know if Mr WANG Zheng has done something right or wrong. I will not comment whether the message we got from Mr LEUNG Ka-wing when he came here to testify was correct or true. However, regarding

freedom of the press I am really doubtful whether the existing system and framework laid down by the Broadcasting Ordinance can remain effective in a real life situation, in particular, in today's situation.

I really hope that through the inquiry of a select committee, we can identify areas of improvement in this regard. I do not think that the inquiry is a witch hunt, as described by some colleagues. If the inquiry is depicted as a witch hunt, I think the witch is not only a person, but also the system. Our determination to find out the truth should not be undermined simply because we already have formed a certain view about the evidence given by Mr LEUNG Ka-wing at the Legislative Council. If we do not believe his evidence and are of the view that someone may indeed have interfered, we should all the more conduct an inquiry. If we believe his evidence, should we then give up the opportunity to find out the truth just because of the words of one person? Why should the Legislative Council, in drawing a conclusion on this important issue, rule out the importance of the issue simply by drawing reference to the statement made by one person on one particular occasion? Deputy President, I think this is totally unacceptable.

Deputy President, we can see that there are many loopholes in the system. Or, I should say there are matters of grave concern, rather than loopholes, in our present legislation and framework. Obviously, "whether someone has interfered with press freedom" is certainly an important issue, but "who and how that person has interfered" are equally important. We should not restrict our perspective to "whether someone has interfered". The fact is, a piece of erroneous news has been broadcast to the public, which was not officially proven wrong until last week.

Deputy President, the question of "who has interfered" which I just mentioned is of great significance because under the present Broadcasting Ordinance, the definition and responsibilities of a licensee are ambiguous. In a meeting with us, the SAR Government official insisted that the licensee is the media organization. However, according to the Broadcasting Ordinance, a licensee often refers to the owner or the controlling person of the media organization. Thus, the qualifying criteria of a licensee often concern "an individual" rather than "an organization". If a licensee refers to "an individual", who can this "individual" be? If Mr WANG Zheng only claims himself to be a senior volunteer, not a director, nor a shareholder, should we regard him as the licensee then? If he did interfere in the matter, should his interference be

regarded as a violation of the guideline laid down in the Broadcasting Ordinance? After the inquiry, we might find out that he did interfere; although he is not the licensee and he does not take up any official or statutory position in the organization, he still exerts influence. Hence, he can interfere in whatever way and whenever he likes.

Deputy President, does our system work like this? Deputy President, at an earlier time, it was reported in detail on the front page of a newspaper how Mr WANG Zheng exerted significant influence at the decision-making level of the Asia Television Limited and in numerous important meetings, including Board meetings of Directors. Then, is he the licensee? Must someone be a director or a major shareholder to be the licensee? Deputy President, we truly have to sort out the facts before we can have an answer to these questions; or we must conduct a comprehensive study before we can tender our recommendations to the authorities. Our Broadcasting Ordinance, formulated several decades ago, is now outdated. In modern business operation and practices, it is out of place to directly regard a statutory shareholder to be the licensee.

There are many legal measures or manoeuvres which can circumvent existing statutory requirements. Why do we not take this opportunity to conduct a comprehensive review? Another issue is how the interference took place. Deputy President, what actions should be regarded as interference? When Mr LEUNG Ka-wing said someone called him, saying that the news was very important and should be broadcast immediately, was that interference? Or if he felt that he was somehow pressurized or ordered to broadcast the news or else he would get fired, and that he had to keep his mouth shut at the Legislative Council about who gave the order to broadcast the news, was that interference? Or was the decision to broadcast the news solely made by the news division, and had he made an unprofessional decision regarding the false information? We have to ascertain all these facts. Hence, if our justification for not pursuing on the investigation is that we have held a few meetings and have listened to the presentation of some people, the people of Hong Kong can hardly be convinced.

Deputy President, the debate today reminds me of the GODFREY incident. Both incidents are the same. We have been debating these issues again and again. I do not understand why we, as Members, do not have a common point on which we can fully utilize the instruments that we have to answer important questions for the people.

Deputy President, I am sure what the voting result will be today. Sorry, Ms Emily LAU, I am very pessimistic. I am afraid the chance for passing this motion today is zero. Just like Mr Albert HO standing for the next Chief Executive Election, he has zero chance of winning. However, I still have to thank Ms Emily LAU for giving me this opportunity to get these words out of my chest. If Legislative Council Members time and again disregard people's aspirations, ignore their own vested power and responsibilities and veto motions to inquire into subjects which should be inquired, they will only further put the Legislative Council to shame.

Thank you, Deputy President.

MR TOMMY CHEUNG (in Cantonese): Deputy President, the spirited appearance at the ceremony marking the centenary of the Xinhai Revolution in Beijing by JIANG Zemin, the former President of the People's Republic of China, had squashed rumours of his death. Once again, the misreporting of the death of JIANG Zemin by Asia Television Limited (ATV) three months ago had become a heated topic in the community. While people are concerned about the state of health of the former national leader, they also show great concern about the secrets behind the misreporting incident, such as whether the management of ATV has interfered with editorial freedom of its News Division.

The Liberal Party believes that journalistic freedom is a basic right in the community and the foundation of Hong Kong's prosperity. As such, it must be safeguarded at all costs. Therefore, the Liberal Party agrees that there is a need to find out the truth about the matter.

At a special meeting of the Panel on Information Technology and Broadcasting of the Legislative Council held last month to discuss the matter, the relevant parties pertaining to ATV's misreporting of the death news (including James SHING, Executive Director of ATV; LEUNG Ka-wing, former Senior Vice President (News & Public Relations); TAM Wai-yi, LEUNG's deputy, and so on) were invited to attend and account for the whole incident. At that meeting, Members already had the opportunity to ask questions and seek clarifications to answer their queries; and the relevant persons had also accounted for the details of the incident. In that case, what is the purpose of wielding our

"imperial sword", that is, the Legislative Council (Powers and Privileges) Ordinance (Powers and Privileges Ordinance) now?

Moreover, LEUNG Ka-wing had said at the special meeting that he would not reveal the source of the news even if he was held at gunpoint. Having been a reporter herself, Ms Emily LAU should know very well that for journalists, nothing is important than protecting the source of news. Incidentally, that is a fundamental principle in safeguarding journalistic freedom. If the Powers and Privileges Ordinance is invoked to compel LEUNG to disclose the source of the news, it will be no different from undermining journalistic freedom or blatantly insulting the media. I think it is something nobody wants to see.

Moreover, it has been reported that the Broadcasting Authority (BA) had already summoned both former and incumbent senior management staff of ATV for questions, hence, the investigation work was already in progress. The investigation of the BA is protected under the Broadcasting Ordinance and the authority is empowered to obtain information from ATV and the relevant persons. In case any relevant person is not co-operative, the authority can apply for a search warrant from the Court to ensure the smooth conduct of its investigation without any intervention.

The BA has always been tasked with the monitoring of the broadcasting industry and hence, any complaints or irregularities would be investigated and handled by the BA. The BA has indicated clearly from the beginning that it would investigate into the incident thoroughly. Nonetheless, given the disclosure of a number of suspected irregularities of ATV in recent press reports — for example, no report has been submitted to the Government in relation to a change of ATV's managerial staff in the promotion of KWONG Hoi-ying from Vice President to Acting Chief Executive Officer — doubt has been cast as to whether the BA has dutifully performed its monitoring role. The Liberal Party considers that the BA must proceed with its investigation cautiously so as to avoid giving the public an impression of sloppiness.

Nonetheless, as evident from past experience, the monitoring by the BA can be quite effective at times because sanctions can be imposed on licensees for their irregularities. For example, from April to May last year, Ms Emily LAU has breached the relevant requirement by placing advertisements of a political nature with the Commercial Radio, and the Democratic Alliance for the

Betterment and Progress of Hong Kong has provided programme sponsorship for the Commercial Radio in the sum of \$600,000 for advertising publicity. Acting on such complaints, the BA has

(Ms Emily LAU raised her hand in indication)

DEPUTY PRESIDENT (in Cantonese): Mr CHEUNG, please sit down first. Ms LAU, what is your point?

MS EMILY LAU (in Cantonese): He referred to a breach of the relevant requirement for placing advertisements. Is he aware of the content, as well as the target of the regulation?

DEPUTY PRESIDENT (in Cantonese): Do you want to seek Mr Tommy's elucidation?

MS EMILY LAU (in Cantonese): I want him to elucidate his reasons for saying that I have breached the relevant requirement. What requirement have I breached? Deputy President, I would like to ask him whether he is aware of the content of the requirement?

DEPUTY PRESIDENT (in Cantonese): Mr Tommy CHEUNG, you may either make an elucidation or continue to speak.

MR TOMMY CHEUNG (in Cantonese): Deputy President, I will not make any elucidation.

DEPUTY PRESIDENT (in Cantonese): Please continue.

MR TOMMY CHEUNG (in Cantonese): Acting on such complaints, the BA has conducted its investigations in accordance with the established procedures. Finally, sanctions in the form of a warning and a financial penalty have been imposed on Commercial Radio. In those cases, we can see that the BA's serious monitoring can be quite powerful and effective at times.

Deputy President, given that the BA's investigation is in progress, we should let the BA do its job first. There is no need for the Legislative Council to take BA's place and conduct its investigation. Moreover, it would be a waste of public resources and manpower if two organizations conduct parallel investigations on the same incident. Therefore, the Liberal Party considers that the Legislative Council should wait until the BA has completed its investigation and only resort to further actions if BA's investigation is deemed inadequate to reveal the truth of the incident to the public. Nonetheless, we hope that the BA will complete its investigation and publish its findings as soon as possible so as to provide a clear account to the public.

Therefore, the Liberal Party considers it inappropriate to invoke the Powers and Privileges Ordinance to appoint a select committee at this stage.

Deputy President, I so submit.

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

MR CHIM PUI-CHUNG (in Cantonese): Deputy President, I speak to oppose the motion in consideration of the three issues related to the incident. I remember the day when the related Panel held the meeting to discuss the incident, I did not attend because I was not a panel member, but I attentively observed the televised proceedings of the whole meeting. As Ms Emily LAU, the mover of this motion, has just pointed out, the first issue mainly involves the source of information and the Government's view. In other words, it concerns the informant. The second issue involves the inclusion of advertising materials in the news and the third issue concerns a certain investor, shareholder or member of the senior management.

Regarding the first issue, Mr LEUNG Ka-wing has, at the meeting, clarified in detail his position. He was the highest responsible person of the News Division or he could even be regarded as the head of the division. No matter what has happened, for instance, assuming that he was forced or was under heavy pressure as he claimed, the Legislative Council may adopt different handling approaches. However, he had all along insisted that he was the highest responsible person. Whether he was wrong in trusting the informant or he was pressurized by the informant, though the case may be handled differently if the latter situation prevails, he made it clear that he was the highest responsible person for everything. This is what he had categorically said in the Legislative Council when he explained the reasons for his resignation.

Regarding the different versions of the incident given by Mr LEUNG on that day and earlier, members of the media have certainly hurled criticisms and denunciations at him. I believe Mr LEUNG may have different views in the light of his own recognition and understanding, as well as in consideration of the situation and the circumstance at that time. After all, he is just a human being. No matter what, the answer he gave at the Legislative Council meeting was indeed the final explication.

Regarding the other four so-called senior staff members, presumably they lacked representativeness owing to their positions, remunerations and responsibilities, and it is not surprising that they suspected that there was someone behind the scene controlling everything. Nevertheless, the Legislative Council does not have any specific evidence, everything is sheer inference. Some Members are thus of the view that they should get to the bottom of the incident since they have come to different views from the inference.

This is precisely where the problem lies. Since Members have different views, understanding and opinions, we should all the more be united. We should not stand on moral high ground for political reasons and be prejudiced by the notion that "you are wrong and I have not erred". Of course, in the political arena, everything is a matter of votes. This is very normal. However, apart from minding our own interests, we also need to support and understand others' positions. We have an overwhelming view about the Lehman Brothers incident because it did involve the interests of the general public, and how can we not do something about the incident then? Is freedom of the press equally important? Certainly, but we also need to be aware that some people may manipulate press

freedom to subsidize other people or political parties. How can we know where the money for journalism comes from? Deputy President, I know that my words are unpleasant to your ears, and many other Members may feel the same, but people simply have the right to be suspicious and make such inference.

Similarly, the appointment of a Director of Broadcasting to the publicly-funded Radio Television Hong Kong has also triggered strong actions among staff. To me, it is more necessary for us to inquire into this incident on behalf of the public. Hence, we must understand that if a select committee is appointed, the first thing we have to consider is whether Mr LEUNG Ka-wing and representatives of Asia Television Limited (ATV) will provide satisfactory answers to our questions. Even if we exercise our privileges, I do not believe that the Legislative Council can get satisfactory answers from them; instead the inquiry will only let the public see that we are trying to do something impossible.

Deputy President, the second issue involves news and advertisement. Many media organizations, particularly newspaper publishers, are now suffering a deficit. Hence, they may need to find a way out from broadcasting programmes. I am not speaking for them. This is not my duty or responsibility, and I will not get any benefits from saying so. However, we must understand their situation and put ourselves in their shoes. We certainly will not allow any violation of the Broadcasting Ordinance. If they have done so, I believe the Legislative Council will review the situation and take due actions.

I believe ATV has all along been operating at a deficit, although it claimed that it had made profits for a certain period of time. Only history can tell. According to a reliable source, at one time ATV lost \$1 million a day. In other words, it lost \$365 million a year. What can it do to improve the situation? I think the only way is to cut expenses as far as possible, that is, to cut the number of staff to minimize loss. However, as one of the two free television broadcasters, its continual deficit will only reflect that the media and broadcasting organizations in Hong Kong have immense difficulties in their development. The Government should indeed examine this subject. Given that Hong Kong is a place that enjoys press freedom and a city claimed to be well developed in all aspects, we should not allow such situation to persist. As compared with the Government of Taiwan, our Government has not done enough.

I also hope that the Broadcasting Authority (BA) can really find out who the major shareholder of ATV is and who provides financial support to ATV. Mr KWONG Hoi-ying, who can be regarded as a veteran in ATV, was the Deputy General Secretary of Hong Kong Football Association before joining the television broadcaster. He has braved countless changes in the management level and in major shareholding, and yet he still remains in office. We can say that he is a miracle of a kind in Hong Kong. The BA definitely needs to report to the public on the inadequacies of its work over the years and it should not brush aside this issue lightly. We have pursued this issue at different meetings because the Government has indeed not done enough.

We hope that the Government will not hide or cover up its inadequacies because, as I have said before, a well-supported and trust-worthy government may not necessary be sacred, inviolable and faultless. Even if it has erred or blundered, it can still win the support and understanding of the public as long as it can bravely undertake responsibilities, rectify the blunders and does not make the same mistakes again. I hope that Secretary Gregory SO will not hide or cover anything up in this regard; he should discharge his duty to the best of his ability and win the trust of the people, so as to enhance the Government's credibility.

In my opinion, despite having an "imperial sword" in hand, the Legislative Council should not use it indiscriminating if the target and results are not clear. If the sword is used too frequently, it will rust even if it is an "imperial sword". Of course, shelving the sword altogether will only leave it to rust. At any rate, I hope that we will only use the sword when there is a genuine need to do so. As evident in the Lehman Brothers incident, though we have tried our best to do what we should, we can hardly achieve the best effect and result given that the representatives of the banks all sang the same tune in giving evidences. Hence, since the BA has already taken up the work, even though a concurrent study can be conducted, it is better for the Legislative Council to concentrate on monitoring the Government in handling this issue. By then, the Government cannot say that we have not given it a chance. If it is proven that the Government has not discharged its duty properly, we will definitely take necessary actions when the need arises.

I also hope that the term "freedom of the press" will not be abused. I truly feel that news reporting in Hong Kong is too free and unrestrained. I have repeatedly pointed out that killing with a knife can only hurt a few victims, but

posting a piece of news in newspapers can bring harm to countless people and the damage will last a long time. Hence, it is of vital importance that in defending press freedom, the BA will stem out all chances of using public instrument for private ends. In my view, the news organizations in Hong Kong have acted arbitrarily in that they utilize public instrument for private ends. As a result, people resort to all possible means to achieve their own aims and schemes. Apart from defending press freedom, the people of Hong Kong also need to preserve and maintain social harmony, so that they can be united in fighting for a better tomorrow and that everyone can remain hopeful for the future.

However, some media organizations, including ATV, have acted irresponsibly and released misrepresented news. These media organizations certainly have their informants, but they can never guarantee that the informants are reliable. Hence, the most important thing is that they do not make malicious defamation. I have time and again proposed to the SAR Government that the criticisms made by newspapers are the major reasons leading to social instability and unrest. Hence, the Government must accept others' views. It should expeditiously review the irregularities exposed by the media, be brave enough to admit its blunders, it should also thank the public and the media for pointing out its irregularities, so as to build a better society.

If the media have misrepresented the truth, which leads to social instability, the authorities should expeditiously make clarification, so as to regain public support and recognition. If any member of the media uses his privileges or abuse press freedom for malicious defamation, rather than using it to remind the public with a well intent, the SAR Government and the related persons should be brave enough to take legal actions. In other words, they should file legal actions against the irresponsible media, so that we can respect each other while preserving the right to fight for their own interests, with a view to protecting press freedom in society. Freely exercising one's freedom at the expense of others' freedom is not press freedom. Press freedom should encourage mutual support among Members and protect free speech and free thinking. The BA should properly exercise its power to deal with Members who build up their influence by deliberately subjecting other Members to unfair treatment in the upcoming election.

MR LEUNG KWOK-HUNG (in Cantonese): Deputy President, I have strong feelings about this motion. I have repeatedly requested the Legislative Council to exercise its privileges to appoint select committees to conduct inquiries. Obviously, in the end, every time only one vote supported my proposal. Let me cite an example. The listing of the Link Real Estate Investment Trust (The Link REIT) has aroused many suspicions, such as who got the benefits and who did not, and so on. I strongly objected the listing and requested an inquiry into the matter.

I remember on that day Members of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and some other parties said that I messed up Hong Kong, even saying that they wanted to chop my evil hands and cut my hair so that I would become "No Hair". I might have used a public instrument for private ends, but I was very angry at that time, thus I said that an inquiry should be conducted.

I remember on 1 January 2005, I was at the carpark of the old Legislative Council building. According to the protesters, there were 10 000 of them, but in fact, I only saw a few thousand protesters. They charged towards me and wanted to hit me. I thus talked to them, telling them that some people were messing up Hong Kong and they should gather signatures to support me in inquiring into this matter by invoking the power of the Legislative Council (Powers and Privileges) Ordinance (Powers and Privileges Ordinance). The protestors looked rather civilized, but they charged towards me. They blatantly used violence on me, but to no avail. In the end, the police arrested me, telling me that if I stayed there any longer, I might disrupt public order. They released me later. I certainly know that the police were of good intention because I might have become a "mince pie" if the few thousand people charged towards me and hit me.

You may say that I requested the inquiry of The Link REIT incident out of personal reasons, but the incident was related to the public. If Members opposed the inquiry, let it be. However, I wish to ask you to consider the few inquiries and see how Members apply their logical thinking. Take the KAM Nai-wai incident as an example. We do not need to invoke the power conferred by the Powers and Privileges Ordinance to inquire into this incident. We just have to apply the rules of this Council and conduct an inquiry into a Member's integrity. Although the witness already refused to come here to give evidence,

we still insisted that we need to inquire into the incident, saying that we could not afford not to do so because "the rice was already half cooked". But the inquiry has turned into a mess. Members said so in all sincerity and seriousness, saying that they must conduct an inquiry. According to this logic, Mr KAM Nai-wai's personal integrity is certainly an important concern because he is a public figure and the incident happened in his office. Thus, Members decided to conduct an inquiry.

The Asia Television Limited (ATV) has come a long way in getting its present television programme service license. The incident now has *prima facie* evidence, such as the ambiguity in Mr LEUNG Ka-wing's evidence, the way he equivocated when he spoke and the fact that this ATV employee had asked the management to clarify a certain matter but the management was unwilling to do so. Mr WANG Zheng has even taken the matter to the extreme. He lied publicly. Despite there is so much *prima facie* evidence, the request of conducting an inquiry was turned down. Actually, the reason can be boiled down to the fact that an inquiry is now being conducted by the Broadcasting Authority (BA). This is true, but what is the difference between an inquiry conducted by the BA and by the Legislative Council? An inquiry conducted by this Council is monitored under all our eyes. An inquiry conducted by the BA, though I cannot say that it is a black-box operation, it is conducted behind closed door. Given that the Legislative Council is a The Chief Executive often says that freedom of the press is very important and now everyone in Hong Kong is doubtful about this. Why is an inquiry not initiated? This is a very important question.

Take the LEUNG Chin-man incident as another example. Initially, the DAB insisted on conducting an inquiry because an election was in progress, but their stance swayed, sometimes supporting the proposal and sometimes not. In the end, anyhow, an inquiry has been initiated. Then, there was the Lehman Brothers incident, which happened during the term in 2008. The DAB did not support an inquiry all the same, saying that it would be very troublesome and that we had better let the Government conduct an inquiry. In the end, the DAB agreed with the proposal because I asked the victims to go and kneel before the DAB office to beg for their support.

I cite the above examples to point out that we are not talking about reasoning, but about calculation, calculating how the political party we belong to

is related to the persons involved in an incident and the Government. If the Government does not support conducting an inquiry, we do not support it as well. Even "Bowtie" supports cronyism. Nowadays, there is no place for reasoning or logic in this Chamber because "the butt is directing the brain".

Let us turn to another incident. It was about security matters of this Council. The incident was indeed a disgrace. The performance of security officers was unsatisfactory. Apart from pushing Members out of the Chamber as if they were criminals, security officers have also blocked reporters and members of the public, but such incidents were brushed aside lightly with a brief comment. I am agitated. These incidents should not have happened.

The security officer responsible for this incident is a foreigner who claimed himself a former police officer. May I ask Members, is he required to submit a report to us or to the Secretary General? Yet, an inquiry into the incident is also turned down and the incident has been brushed aside with a simple "sorry".

Fellow Members, the Legislative Council is a place where we relay public concerns and speak for them, including hurling eggs which I did. Today, I will not hurl eggs. I wish to reason with Members. I really wish to ask for Members' views. Because of the funding they receive, media organizations have to follow certain rules of politics and keep smearing certain people. This is not the first time something like this happened. I can now publicly tell you the names of the media organizations involved. The *Wen Wei Po*, *Ta Kung Pao* and *Hong Kong Commercial Daily* all receive direct funding from the Communist Party in China. The views of these newspapers are dictated by people deployed from the Communist Party. This is not said by me, but by KAM Yiu-yu, the former editor in chief of *Wen Wei Po*. The situation now is worse than before. I read the WiseNews every day. There are always 10 pieces of news criticizing me, as if the newspapers have to do their "homework". I don't even bother to find out whether such news has smeared me or not. In fact, everyone knows about this. Right? They have a file ready Every day, the *Wen Wei Po*, *Ta Kung Pao* and *Hong Kong Commercial Daily* No one will read these newspapers now, but these newspapers still keep on doing this. How are we going to inquire into this matter? Should we find out whether that person is a member of the Communist Party? Is any branch of the Communist Party involved in the issue?

In fact, I am also a victim. A young friend of mine who used to make movies is now working at ATV. He told me that there was a time when he was specifically instructed not to broadcast any news related to LEUNG Kwok-hung, no matter what I had done. Instead of mentioning my name in the news, they can say, as far as possible, "a certain Legislative Council Member", the purpose is to avoid mentioning "LEUNG Kwok-hung" or "Long Hair". The same applies to meetings of this Council. They would try not to broadcast close-up shots of me. This is what my young friend told me. It is not a bad idea if I can invoke the power of the Powers and Privileges Ordinance to summon him here. This is the way ATV controls its news broadcasting. Any negative news about me will be broadcasted, with my name clearly mentioned.

Fellow Members, we will only initiate an inquiry into a certain matter when we are left with no choice because the tumor has become purulent. I cannot substantiate what I have said today and the Government dares not initiate an inquiry. An inquiry needs to be initiated not because I want to try every possible means to do so, but because the incident has turned into a purulent tumor. In the circumstance, I really think that we are letting the people of Hong Kong down if we still refuse to initiate an inquiry.

There is one more thing I wish to ask for Members' view. Regarding the KAM Nai-wai incident, Members wish to follow the matter through. But are we not disgraceful enough? Should the DAB apologize for this? This incident has now become a matter of public concern, but they denied the need to conduct an inquiry. What is wrong with them? They always say that we, the so-called opposition parties, play with politics. Do they not play with politics? Do they not cover up their errors? Fellow Members, the many examples which I have cited have fully explained that the practices and principles of certain political parties are inconsistent.

Fellow Members, we have encountered many obstacles in the LEUNG Chin-man incident and the Lehman Brothers incident, preventing us from inquiring into the incidents. I hope the people of Hong Kong and local media organizations can help the people suppressed by the majority power in the Legislative Council, just like the way I asked the Lehman Brothers victims to kneel before the office entrance of the DAB. I hope they can put pressure on those Members. Fellow Members, if we again refuse to inquire into this matter today, may I ask what we should do if similar incidents happen in ATV again but

we have not conducted an inquiry now? What if news about the death of HU Jintao is broadcasted and a CHAN Ka-wing comes out and says that he cannot stop the news from being broadcasted?

I also wish to talk about press freedom here. I heard someone ask just now that if we ask Mr LEUNG Ka-wing to disclose the name of the informant, are we not tampering with press freedom? That is not press freedom because his capacity at the time was an executive officer. He did not cover the news himself and he was one of the people involved in the incident. He is the one who disclosed the incident. Come on, be serious and prove yourself, will you?

Another point I wish to clarify is, today we seek not to find fault with the ATV news reporters for misreporting the death news. Finding fault with misreporting can be very dangerous. That is why the Legislative Council opposed the imposition of severe punishment on the publication of false news. News reporters will do their best to verify a piece of news. Once they are certain, they will broadcast the news. It is against freedom of the press if anyone misreporting a piece of news is punished immediately because there are other ways of punishment, such as holding the reporters guilty of libel. What we have to look into today is not whether the news broadcasted by ATV is false; but rather, why their decision has swayed back and forth, sometimes saying that they had to broadcast the false news and sometimes they said otherwise, and why someone who does not have the capacity to run ATV can actually do so and why this person can directly tamper with press freedom by illegally managing ATV's business. This is the crux of the matter. If all these issues are unimportant and need not to be looked into, what is the point of having him sitting there? What is the point of putting the Powers and Privileges Ordinance in place? Do we have to leave it to Secretary Gregory SO? Secretary SO has already been heavily bombarded by the pro-establishment camp for the competition law. The competition law may even fall through. Should we hand over this issue to him also? Is it necessary? Why not let me help him?

Deputy President, it is very undesirable to change one's stance all the time. It is even more undesirable if one changes his stance (*The buzzer sounded*)

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

MR LEUNG KWOK-HUNG (in Cantonese): all the time for his own political benefits.

MS CYD HO (in Cantonese): Deputy President, in 1998 sorry, in 1991 when Ms Emily Lau participated for the first time in the Legislative Council direct election, her campaign slogan was "safeguarding freedom of the press and freedom of expression". I automatically offered to canvass for her when I learnt about her political platform. Today, I have to thank Ms Emily LAU again, for the sake of safeguarding freedom of the press and of expression, she moves a motion to propose the appointment of a select committee to inquire into how the local media has been pressurized to misreport the news.

Deputy President, in any place with a democratic political system, there should be an independent and impartial media to monitor the Government. Even if there is an impartial election for the change of Government, many internal operations of the Government should be monitored by the media and the civil society. Since we do not yet have a democratic political system in Hong Kong, we need an independent and impartial media as the fourth power to monitor the Government. Asia Television Limited (ATV) is one of the two television stations providing free television programmes and theoretically, the number of audiences it can reach is unlimited. So long as it produces attractive programmes, it can attract a larger number of audience coming from a wider strata than pay television stations. So, whether the news division of the television station can provide the public with accurate news and information is very important. However, some recent cases have indicated that the news division can be influenced by the mastermind of the organization, who can take charge of the news division and instigate it to disseminate erroneous information under the premise of bringing more benefits to the organization. These are definitely matters concerning public interest, and the Legislative Council is empowered and obliged to take follow-up actions.

I am going to discuss three issues one after another. First, the inclusion of excerpts of the programme "Corporate Excellence", which contained advertising elements, in the information programme "Wealth Blog". Mr LEUNG Ka-wing told us at a Panel meeting of the Legislative Council on 19 September that the job title of the lady anchor of the programme was "senior reporter", yet, she was actually rather inexperienced. Moreover, accompanied by staff/colleagues of

customer service division, she met with clients. This practice has actually violated the Code of Practice of journalists. If the reporter has to meet with the clients together with customer service personnel, how can the public believe that she can adhere to the principle of independence of the press?

As stated in the Generic Code of Practice on Television Programme Standards, "no *bona fide* news programmes comprising local or international news no advertising matter should be offered as news or included in the contents of a news programme or newsreel". Therefore, we are very much concerned about whether the programme "Wealth Blog" is an advertising programme or a news programme. Yet, a very interesting point is that, as Mr LEUNG Ka-wing told us, though it is a programme under the News Division, he was not empowered to handle the transfer or promotion of the lady anchor, and he was also not empowered to examine the contents of the programme. Therefore, it is evident that Mr LEUNG Ka-wing had been made a mere figurehead, and he could not exercise the final editorial right to edit the news programmes concerned. We are extremely worried about the emergence of "paid news". Once these news programmes are sponsored and influenced by clients, the contents would become biased. With the existence of "paid news", there would be incentives for fabricating news as those who fabricate news can continuously ask for rewards. Hence, we must observe very stringently how the media handle these advertisements — whether the so-called penetrating advertisements into programmes have contravened the Code of Programme Standards issued by the Broadcasting Authority (BA) to broadcasters.

Deputy President, the second issue is certainly the misreporting of the death of Mr JIANG Zemin. At the meeting of the Panel on Information Technology and Broadcasting on 19 September, Mr LEUNG Ka-wing told the meeting that, halfway through the news broadcast, someone called to provide information and demanded the immediate broadcast of the relevant information. Unfortunately, Mr LEUNG could not withstand the pressure. He ought to bear responsibilities and accept the public's criticisms. The information was aired during the news broadcast and the television station even turned its logo into black during the airing time.

An Honourable colleague has just said that we could not ask him to disclose the source of the news. While I accept this argument, we have to note that we are now trying to find out the source of pressure rather than the source of

news. We want to know if the informant is the same person who had exerted pressure.

Deputy President, after this news was broadcast, the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region swiftly made a clarification, stating that Mr JIANG Zemin was still alive. Not long ago, just a week or so ago, we saw Mr JIANG attend a meeting in Beijing, his presence had served to break the rumour. It is to our regret that such a veteran media worker would succumb to pressure and did not take time to verify the information or could not stop the broadcast of the news report. We have to ask if he was ignorant or if he was under pressure. Clearly, Mr LEUNG pointed out that he also knew that he had to verify the information before the broadcast; yet, he could not stop the broadcast. Some may say that he voluntarily broadcast the news, and he was the one who made the decision at the last minute. Nonetheless, why would he make such a decision? Was he under great pressure? What was the source of this pressure that caused the head of the News Division to yield and report unverified information? In the end, all of us are aware that the information is false. Deputy President, this incident is worth following up, we do not merely investigate a single incident, but the whole process of exerting pressure. Is this the norm or the exception? This question is even more worthy of our attention.

Third, a report in *Ming Pao* yesterday had exposed an even more outrageous incident. In June 2010, some people from ATV requested to acquire 52.42% of the company's shares but they have not yet obtained the approval of the BA. After the acquisition of these shares, a single party will have more than 50% stake in ATV and the party will then have the absolute say in the future, which is a crucial point. Although the transfer of shares has not yet been approved by the BA, on 31 July last year, a senior ATV officer — the name is not mentioned here — issued a press release addressed to the News Division through the Public Relations Division, claiming that ATV was informed by a written notice from the BA that the transfer of shares had been approved, and ATV welcomed the approval.

We note that Mr LEUNG Ka-wing was clever enough not to report the press release, issued by a senior officer to the News Division through the Public Relations Division. What were the reasons? Because the press release was issued on a Saturday and Mr LEUNG thought that there was no reason why the

BA would not issue a statement about such an important decision. Thus, he insisted not to report on this news. Eventually, the BA issued a written notice, denying that approval had been granted. This incident is even more terrible than the misreporting of the death of Mr JIANG Zemin. Because even though specific approval had not been given by the BA concerning the transfer of shares, the senior officers concerned could provide false information and create false news for the News Division through the Public Relations Division. Why are these incidents not worthy of our investigation?

Deputy President, some Honourable colleagues have also remarked that since the BA has already conducted an investigation, the Legislative Council does not need to handle the case and make duplicate efforts. I do not want to talk about the KAM Nai-wai case; the incident has been investigated for so long but results are still pending, which has aroused a lot of comments in the community. I have to explain the difference between the BA's investigation and ours. First, the investigation conducted by the Legislative Council involves public hearings, and there is live broadcast of the hearings so that all Hong Kong people and even people outside the territory can learn about the incident through live televised broadcast. In public hearings, the members concerned will follow the code of practice and ask questions, they will also cross-examine the witnesses, and the witnesses will have to answer the questions under oath. Hence, given the protection under the Legislative Council (Powers and Privileges) Ordinance (Powers and Privileges Ordinance), the disadvantaged are exempted from criminal liability for defamation, and they can feel relieved and answer questions boldly.

In fact, Mr LEUNG Ka-wing had also said that he could be summoned under the Powers and Privileges Ordinance. However, we only quote his saying that "I won't say anything even if someone points a gun to my head", but we have never mentioned that Mr LEUNG Ka-wing had also said that he could be summoned under the Powers and Privileges Ordinance; in that case, he needs not worry and can answer the questions in detail.

Certainly, the select committee appointed will not just investigate the case concerning LEUNG Ka-wing. We believe that many other people from ATV want to observe the code of practice for journalists and speak out. Nonetheless, without being protected under the Powers and Privileges Ordinance, they can only discuss in private with political parties and Members in the capacity of

informants. Hence, we hope that at the public hearings of the select committee, the journalists would be bold enough to step forward and tell the public the pressure exerted on them in work. The Ordinance also stipulates that a person making statements under oath shall not lie, which is also a very important point.

(THE PRESIDENT resumed the Chair)

The BA has specific powers and the issues under its investigation are also very specific. I have the terms of reference of the BA in hand and I will quickly read it out for your information. The BA is responsible for handling applications for and renewal of television programme service licences, monitoring whether the media have observed the Code of Practice, handling complaints, and issuing directions to licensees, monitoring the performance of licensees, conducting inquiries and imposing sanctions. The BA can investigate cases involving "paid news" as well as the misreporting of the death of someone. Yet, the BA may not be able to investigate how the pressure is imposed on employees.

In the case of bribery and corruption, the two parties involved will not sign contracts as contracts may become specific evidence for law enforcement agencies. Generally speaking, the illegal actions will take place with one party making a hint and the other party taking the hint. As Jeremy GODFREY said earlier, he felt the pressure during the decision-making process in connection with the Internet Learning Support Programme for grass-roots families. When we asked the Financial Secretary, he told us that he had not exerted any pressure, but he had asked from time to time if iProA was selected. It would be difficult for the BA to include these things in its report. However, we can find out the facts and the course of events at the public hearings of the select committee of the Legislative Council. Regarding the investigation on the LEUNG Chin-man incident, even though there was no conclusive evidence after the investigation, the public would learn about how the incident occurred through the questioning process.

In fact, pressure is like a large python hiding in the ceiling. If you want to threaten someone, you need not tell the person when the python will attack him, all you have to do is to let the person know the presence of a large python, and

that it will dash down and attack you at any time. In this way, the person dares not take reckless actions or speak out. The BA may not include in its report the process of exerting pressure. Yet, the process will be fully exposed at the public hearings.

Hence, President, I support Ms Emily LAU's motion and I support the establishment of a select committee to investigate the case.

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

MR LEE WING-TAT (in Cantonese): President, I speak in support of the establishment of a select committee.

I have just listened carefully to the remarks made by Honourable colleagues and I am surprised and shocked by some of their remarks. First, I heard a few Honourable colleagues say that since the Panel concerned has discussed the incident of the misreporting of the death of Mr JIANG Zemin by Asia Television Limited (ATV), we need not conduct an investigation. This is a very weak argument. As we all know, the Panel had simply held a two-hour meeting, at which each Member could only ask one question. After a Member had asked a question, we could hardly control whether the person in reply had answered the question. Although I had attended the meeting, I did not have a chance to ask the many queries that I had in mind.

Second, concerning the reply given by Mr LEUNG Ka-wing at the Panel meeting, today Honourable colleagues have quoted the relevant part of his speech to expound their views. When Mr LEUNG attended a Commercial Radio programme that Sunday, he presented a new argument and interpretation about what he had previously said, especially about whether the senior management of ATV had imposed pressure on him. At the Legislative Council, he said that no one had imposed pressure on him, and Mr James SHING also said that he himself, KWONG Hoi-ying and WANG Zheng had not imposed pressure. Nevertheless, at the Commercial Radio programme that Sunday, Mr LEUNG Ka-wing said that he did not share the same understanding as Mr SHING.

In fact, the message behind his words is that very often, the pressure does not come from the person who imposes the pressure. Assuming there were two persons A and B, B wanted him to do something but did not give direct commands; instead B made him sense the message through A. Mr LEUNG was drawing an analogy, that is, if WANG Zheng wanted to impose pressure on him, he would not give a direct command; instead he would convey the message to him through another person. I am not sure if his analogy should be interpreted this way. Regardless of how his analogy should be interpreted, he has continuously presented different versions.

The importance of investigating into this incident is that freedom of the press is involved. That is why I find Mr CHIM Pui-chung's remarks just now unpleasant to the ears. Mr CHIM Pui-chung said a while ago that the press in Hong Kong has too much freedom and is unrestrained. I certainly do not hope that Mr CHIM Pui-chung would think he may feel more at ease if he lives in our socialist Motherland because the press there is restrained in every sense and there is no freedom. Furthermore, standard news is released on the Mainland and there is no freedom of the press.

Sometimes, in enjoying freedom, one may find that things may go unrestrained, it seems that this situation is inevitable, just like the information on the Internet, we can hardly control them. For this reason, I hope Mr CHIM would consider this: if he has to choose a place to live in, will he choose a place that has freedom of the press but sometimes there are unrestrained reporting, and sometimes the information reported may be unverified and may be unfair to him? Or, will he choose to live in a place without freedom of the press? I do not know which place Mr CHIM will choose to live in but I believe he has already made the choice. He likes to live in Hong Kong and he has a very happy life here. Even though occasionally there are some reports that are unfair to him, but the media has also reported his scornful words.

President, as regards the ATV incident, I am most worried about two points, not just whether the senior management of ATV has imposed pressure on the News Division to release the news. I asked at the Panel meeting if there was someone called WANG Zheng who, being neither a shareholder, director nor senior managerial staff of ATV, is actually the helmsman of ATV. He openly ignores the regulation of the existing Broadcasting Ordinance and takes control in

ATV, making staff appointments and appearing at various ATV public events, as if he were the person-in-charge of ATV.

To my surprise, the Secretary and the Broadcasting Authority (BA) have turned a blind eye to this situation for more than two years. So, if you ask me whether I have confidence in Mr Gregory SO or the BA, I will say that I have no confidence. I have no confidence in the BA because its performance in these two years revealed that it neglected its duties. How can a person who is not a shareholder, director or member of the senior management of ATV acts like the person-in-charge of ATV? Indeed, he has violated the law and he has bypassed the Broadcasting Ordinance in a certain way and he has become the one who actually exercises control. Yet, the former Secretary, the predecessor of Mr Gregory SO — I will not put all the blame on Gregory SO because he has only been in office for several months — and the BA have completely ignored that. The situation is astounding; although WANG Zheng has openly violated the law, the Government and the BA have done nothing after they have learnt about the situation, it was not until the JIANG Zemin incident occurred that actions are taken. Have incidents similar to the one involving WANG Zheng ever happened before?

Another issue that is worrying me is that, as I had pointed out at the Panel meeting, there is no freedom of the press on the Mainland. We have heard about "paid news" on the Mainland, and it is very natural for reporters on the Mainland to receive red packets in private, though not openly. The listed companies, large corporations and business establishments on the Mainland will pay news organizations, radio and television stations for positive reporting. I trust it is not surprising at all for such practices on the Mainland.

Another terrible practice of WANG Zheng is that he intends to introduce this Mainland culture into Hong Kong. He thinks that he is a major investor, and major investors on the Mainland can have unbridled control of the news media, radio and television stations. I am sorry that he does not understand freedom of the press at all. Even though he has the audacity to say that he would turn ATV into CNN in Asia, he was challenged by me right away. Is he really going to turn ATV into CNN in Asia? Is he bold enough to allow ATV to report on news that criticized the Communist Party? If he cannot do so, how can he turn ATV into CNN in Asia? WANG Zheng later said that his remark about CNN was superfluous and he did not know what he was talking about.

He thinks that he can control television and radio stations, as well as news organization because he is rich, filthy rich, just like what is happening on the Mainland. That is really his wishful thinking. In Hong Kong, there are still a group of people — I am not referring to the media bosses — there are still a group of journalists and members of the public who uphold freedom of the press. Therefore, I hope that he would withdraw these overreaching nonsense words of "becoming CNN in Asia". This is nonsense; he should not talk about tasks that cannot be accomplished. He has even failed to protect freedom of the press, how can he talk about CNN in Asia?

President, setting up a select committee is not an easy task. I have been a Member of the Legislative Council and the former Legislative Council for a long period of time, but I have only taken part in the work of two select committees, one for the investigation into the airport incident, the other for the investigation into the LEUNG Chin-man incident.

What are the differences between the investigation to be conducted by the select committee to be appointed and the investigation by the BA? First, all investigations of the select committee of the Legislative Council will be conducted in open under the supervision of the general public and the news media. There are comments that this is duplication of efforts; such comments are just nonsense and superfluous. Was the select committee making duplicate efforts in investigating into the airport incident? The Legislative Council and the Government had conducted separate investigations. So long as freedom of the press is involved, I do not think it is a waste of public money or time even if two investigations are conducted simultaneously.

Second, according to some Honourable colleagues, Mr LEUNG has said that he would not say anything even if somebody pointed a gun at him. These Honourable colleagues may not have taken part in the work of a select committee. In fact, the select committee can obtain information through questioning other people, not only Mr LEUNG Ka-wing. The crux is that all persons invited to attend or who mandatorily attend the meetings of the select committee give evidence under oath, and telling lies will constitute a criminal offence. Many witnesses can give evidence, including WANG Zheng, KWONG Hoi-ying, James SHING and Tammy TAM, as well as the staff members of ATV's News Division.

Hence, we should not conclude on the basis of Mr LEUNG Ka-wing's remark that the select committee will not have any findings in its investigation work.

President, the misreporting of the death news by ATV this time is actually connected with the fact that ATV has constantly been weak. It has been weak not just because of monetary reasons. Some organizations have very little funding, for example, we, the Democratic Party, spend only \$10 million a year. We have very little funding as compared with the DAB which spends \$40 million to \$50 million a year. Many non-governmental organizations have very limited funding but they have made a lot of contributions to our society. For this reason, ATV's lack of funding is not an excuse for operating a television station so badly. My biggest question is whether ATV investors have the conviction and commitment.

Sometimes, I believe that ATV has a mission that the public and we have suspected throughout these years, that is, our country wants to have a television station in Hong Kong for reporting its information and views. This may explain why red capitalists or people who have close ties with the Mainland have continuously invested in ATV all these years, even though the station has always been weak.

Has there been any improvement throughout these years? This depends on whether the major investors and the management have the commitment. If they are always entrusted with the task to speak for our country and they cannot criticize the Communist Party, they will reveal their true colour very soon. Now that they have revealed their true self, how can ATV not be weak? That may also be the reason why so many Honourable colleagues from the pro-establishment camp have desperately looked for excuses for not supporting the establishment of a select committee. The investigation will not only touch upon the WANG Zheng incident or the weak ATV, it may also touch upon the issue why so many red capitalists and people who have close ties with the Mainland have continuously invested in the television station throughout the years. Sometimes, I do not quite understand why some investors have continuously made investments even though they have suffered losses.

If the Legislative Council sets up a select committee, I believe more issues will be exposed than that of the investigation by the BA, and we can openly witness a television station using limited territorial airwaves for carrying out tasks

that are probably political in nature. What I mean is that the television station is speaking out in Hong Kong on behalf of our country.

President, I support this motion.

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

MR PAUL TSE (in Cantonese): President, I am going to discuss this issue from four angles.

First, I would like to discuss what the real nature of this issue is. Just now, many Honourable colleagues have continuously emphasized on interference with freedom of the press. I would like to understand other aspects of this issue; apart from freedom of the press, this issue also involves whether there is any violation of the Broadcasting Authority Ordinance and whether there are administrative blunders. As regards the fourth point, some colleagues have suggested that the scope of investigation should be extended to include reviewing the existing inadequacies in the whole broadcasting monitoring system. This is a big subject.

President, I would like to talk about interference with freedom of the press. Of course, the problem is whether the misreporting is manipulated by someone behind the scene. President, I would like to make one point clear, in Hong Kong, interference with freedom of the press happens every day, depending on the stance of the newspapers concerned. To reporters or Members, so long as they have some common sense, they would know that different news organizations, chief editors and bosses have constantly interfered with freedom of the press. In the case of a newspaper that we are all familiar with, very often the big boss personally gets involved and has a say on the theme of the front page as well as many details of the newspaper. Needless for me to say, we all know that the boss of this newspaper has recently aroused a serious problem of whether or not there is intervention into our political ecology and political parties. I will leave this point for detailed discussion in the future when opportunity arises. It is true that interference with freedom of the press happens every day but the question is: how is press freedom interfered, what are the rationale for interference and who are involved.

President, if there is any evidence indicating that government officials or departments have a part to play in interfering with freedom of the press, this is a very important issue and I fully support the conduct of an investigation. However, President, in this case, a managerial staff of a private organization, be he the head of the news division or other managerial staff, may have taken actions to interfere with freedom of the press; what are the reasons for his action? Are there political reasons? If there are political reasons, I tend to agree that an investigation should be conducted.

Nevertheless, there are many other reasons besides political motives, such as commercial consideration. For instance, the person involved may wish to "steal the spotlight", making his newspaper or television station the first in the world to report this news, so as to gain fame and enhance the number of readers or viewers. Will this reason be closer to the truth? In that case, President, do we need to use the resources of the Legislative Council to conduct an investigation?

President, I have just said that incidents of interference with freedom of the press happen every day. Some people may refute by saying that news organizations are private institutions that apply for licences, they do not need to use the terrestrial airwaves. I admit that there are differences but I will discuss this subject in depth later.

Generally speaking, the first issue is that we should not unduly overplay the importance of interference with freedom of the press, and claim that this is a vital matter for investigation.

President, the second issue is about the appropriateness of invoking the Legislative Council (Powers and Privileges) Ordinance. President, if the Government has made blunders in this case, such as government officials interfering directly or indirectly with the news report of the organization concerned, it is appropriate to invoke the Ordinance. In fact, the interference is ironic, because the television station in question has often been criticized or speculated to be supported by Chinese capital. However, I believe that all Chinese authorities were extremely embarrassed by this blunder, and for sure they would not orchestrate this incident. As a matter of fact, the Chinese authorities have immediately made a clarification; thus, it can be affirmed that the misreporting is not orchestrated by the Chinese authorities.

President, let us return to the issue in question. If the Government does not have a role to play in the blunder, and the blunder is due to certain misunderstandings arising from the operation of a common private organization, that is, a management blunder, should the Legislative Council get involved? President, we must draw a line. If the organization involved is a quasi-government organization or a licensed institution such as a television station, which is a member of the mass media or owns a channel patent, I agree that we must handle the matter carefully. News organizations are definitely different, newspapers can be published if the organization has applied for business registration. I agree that there is basically little supervision. Yet, if we immediately "push the yes button" and conduct an investigation whenever a private organization has internal management errors, or whenever a company has taken some inappropriate actions for commercial reasons, we really have to conduct a lot of investigations.

President, every commercial organization may have misdeeds every now and then. Let me talk about newspapers again. The same newspaper — the *Apple Daily* — was charged earlier with 33 charges, including plagiarizing the news report of the *Oriental Daily* and infringing copyright. It admitted eight of the charges and was fined \$50,000. The incident was regarded as a serious management blunder. Is this a news-related incident, and do we have to investigate the organization concerned? I certainly do not support doing so and I want to use this example to illustrate that we should not casually open this floodgate and intervene in the operation or management blunders of non-governmental organizations.

Certainly, I need not mention another problem with this newspaper, it has misreported some obscene news that has caused much controversy. What I want to say is that these blunders do occur, but the resources of the Legislative Council should not be used to conduct the relevant investigations.

Concerning the issue I have just mentioned, since ATV is a licensed institution that has the privilege to use terrestrial airwaves, I agree that we have to handle the issue carefully. President, for the same reason, we notice that there is recently a case which involved an even bigger media organization. The Judge considered that it was just like a private club and its management was in a real mess. The media organization has now been acquired but we still do not know who the genuine major shareholders are and where the money came from.

President, based on the same reason, do we have to investigate this organization and find out who the shareholders behind the stage are; how come someone who was involved in a serious case of suspected corruption was reappointed during the investigation period, an act which had caused great embarrassment to the Independent Commission Against Corruption, and might even indirectly affect the investigation procedures and practices, causing difficulties in providing the evidence. President, do we have to conduct an investigation?

Regarding major incidents of public concern, frankly speaking, this erroneous report has certainly caused great embarrassment, and it has become a laughing stock for the former President JIANG Zemin, his family members and friends, as well as the whole nation and in the international arena. This incident should not have happened at all. Nonetheless, the real impact on Hong Kong people is not so serious except that it has become a hot topic for social gossip.

On the contrary, owing to the rating and importance of TVB, it has greater impacts on Hong Kong people. Another example is that, another newspaper, *Sharp Daily*, has recently published controversial contents, which have more serious impacts on Hong Kong people. As compared with the error made by ATV, are the above mentioned issues more worthy of our investigation?

President, regarding this incident, apart from the question of interference with freedom of the press, there are also three other issues that I have just mentioned, such as whether there is a violation of the Broadcasting Authority Ordinance, whether there are operational problems, and whether "paid news" is produced. Theoretically speaking, these issues are related to the functions and scope of reference of the Broadcasting Authority (BA). There was a report in *Ming Pao* yesterday that in the course of investigation by the BA, a recording of the relevant dialogues was found, and the BA came to know the identity of the parties to the dialogues, the contents of the dialogue as well as the reasons for the decision. President, we can leave the BA to conduct the investigation.

Some Honourable colleagues may say that the Legislative Council has the practice of conducting two-track investigations before. President, I would like to make a point here. It is appropriate to conduct two-track investigations in certain cases. What are these cases? According to my understanding, the cases

generally involve government departments which have made serious errors. In that case, if we only rely on the department concerned to conduct an investigation, there may be conflicts of interest, and the scope of investigations may not be comprehensive. Moreover, some other factors may also arise. Thus, the Legislative Council must conduct an investigation at the same time.

For example, the Lehman Brothers incident might involve the monitoring problems of the securities and banking industries. The mishandling in the airport incident might be related to problems with the Airport Authority. The Food and Health Bureau might have a role to play in the SARS incident. Since the officials who formulated the policies might be questionable in these incidents, we could not simply rely on the established framework to carry out the investigation work, and we ought to conduct two-track investigations at the same time. Besides hoping to get to the root of the incidents, this can also avoid conflicts of interest.

President, how about this incident? If there is evidence indicating that the BA has made mistakes and has been biased, we certainly think that the Legislative Council may have to get involved and intervene. Nevertheless, we do not have such problems, and the established institution, that is, the BA, is now conducting an investigation. The BA itself does not have any problem, and we can say that it is the only organization responsible for investigating the case. We should let it carry out its work first, and we should participate only when there is anything that needs further follow-up or when it has been proven that the BA has really made errors. President, that is what we should do but the Legislative Council cannot conduct investigations whenever blunders are made, regardless of the seriousness of the cases and regardless of whether the issues are of private nature, and whether there are political issues. If the Legislative Council really conducts an investigation, this will completely run contrary to our established procedures and the resources of the Legislative Council will be unduly used.

The fourth point is about cost-benefit analysis. We understand the time and money spent on the Powers & Privilege process and the public's expectation of us. We handled many cases in the past; some were successful while some were unsuccessful. I have always objected to the establishment of an investigation committee to inquire into Mr KAM Nai-wai's case. There are certainly some reasons for that but I will not go into the details now. I just think

that an investigation committee may not necessarily be established on every occasion. On the contrary, we should often consider carefully whether resources and powers should be used that way and the relative effectiveness.

In this incident, as some Honourable colleagues have just said, if we make reference to Powers & Privileges Ordinance, we may know the truth more clearly and the scope of investigation will become broader. This is exactly why I think that we must handle this incident carefully. Firstly, there are not many documentary evidence for investigation, and we basically only have the evidence given by witnesses, and there may be a cassette tape — the cassette tape that I have just mentioned — which may be helpful. Nevertheless, since the principal party's attitude, position and behaviour has been contradictory, we really doubt his credibility and trustworthiness.

President, under such circumstances, we can certainly force him to attend a hearing of this Council and give evidence after oath. However, there are similar cases in Hong Kong or other countries such as the United States concerning members of the media with commitment: for the sake of protecting the sources, some journalists would rather violate the ordinances forcing them to give evidence and go to jail than disclose the information on the relevant persons. This is one of the ways to protect freedom of the press.

What is this discussion about? While some Honourable colleagues say that we seek to protect freedom of the press, some Honourable colleagues may consider this an intervention by the management. This depends on which position is taken. If we really intend to protect the source of information, the Legislative Council should not casually force reporters, journalists or news organizations to disclose the source. In this case, we are not certain whether there is any political intervention or the senior management has imposed pressure on the division concerned. In fact, it may be related to the problem of the source of information, or the appropriateness of the choice and decision to steal the spotlight at that particular moment. This is a major commercial decision and it is not the so-called inference with freedom of the press.

President, I have just drawn some analogies, when some Honourable colleagues Ms Emily LAU challenged Mr Tommy CHEUNG's saying, asking if he knew what error she had made. My impression is — please correct me if I am wrong — it was a case about the organization, Commercial Radio,

which could not broadcast political advertisement. However, the persons concerned (including Ms Emily LAU and the DAB) paid money to sponsor commercial advertising involving political contents. Did this constitute political advertising in essence? This is worth our debate but I understand that the BA actually took action at that time to admonish and even punish the organization concerned.

Thus, a demarcation line is drawn: under certain circumstances, if any news organizations have made errors, it is appropriate for the BA to handle the cases and the Legislative Council do not need to take part and investigate the problems on every occasion. Some say that an investigation conducted by the Legislative Council may be protected from defamation and those giving evidence will tell the truth. We all know that, if the truth is told, whether inside or outside this Council, and whether there is privilege protection or not, there is basically defence protection. Hence, there is no difference.

President, to sum up, I think the privileges of the Legislative Council cannot be casually invoked and we must be very careful. This incident involves the management of a private organization and is totally unrelated to political intervention by government departments. In this case, if we casually open the floodgate and conduct an investigation, we will become extremely busy. Thus, I do not support invoking the privileges of the Legislative Council to investigate the case.

Mr Ronny TONG commented that "we do not invoke our privileges and conduct investigations". We are precisely discussing today whether the Legislative Council should conduct an investigation (*The buzzer sounded*) but I think that we should not investigate the case.

Thank you, President.

MS AUDREY EU (in Cantonese): President, I speak on behalf of the Civic Party in support of Ms Emily LAU's motion.

President I remember that in the 15-minute speech of Mr Paul TSE a while ago, he has frequently mentioned that Asia Television Limited (ATV) is a private organization. If the Legislative Council has to investigate into the various

management problems of private organizations, it will become extremely busy. President, I totally disagree with this point.

Many people grow up together with Television Broadcasts Limited (TVB) and ATV, the two licensed institutions to use terrestrial airwave for free in Hong Kong. As we all know, there are laws and codes of practice in Hong Kong regulating the operation of the electronic media. However, why do we not conduct an investigation into TVB which was criticized by a judge as a "private club"? Mr Paul TSE also touched upon this point in his speech. We cannot use the pretext that we did not request for an investigation into some incidents that had occurred to conclude that no investigation should be conducted when it is considered necessary. This is not a good excuse. Let me return to the subject under discussion.

As ATV is a one of the few licensees that are free to use the terrestrial airwave in Hong Kong, we definitely cannot describe the situation lightly as "a private organization that has governance problems"; nor can we consider the misreporting of the death of Mr JIANG Zemin merely a topic of gossip at our leisure or an embarrassing incident which is so trivial that warranted no attention.

Ms Emily LAU's motion is mainly about three points. Apart from the misreporting of the death of Mr JIANG Zemin, her motion has also touched upon "paid news", which is the most important and direct factor leading to the resignation of LEUNG Ka-wing. However, Mr Paul TSE has not made this point when he just spoke. Ms LAU's motion is also about whether the above incidents have violated broadcasting rules or regulations and the relevant laws of Hong Kong. These three points are really important.

In my opinion, my deepest impression on ATV is that I do not know what it is doing. As a television broadcaster, ATV has always given people an impression that it totally disregards the code of practice. As reported in many newspapers, WANG Zheng called himself a "super volunteer" and he did not have any formal status apart from being the "personal adviser to the executive director". Yet, people have the impression that he is the big boss and he is interfering with and manipulating the operation of ATV, which obviously is in violation of the relevant codes and rules. Yet, have we learnt that he has been investigated or sanctioned? No, we have not.

President, this is an issue that Hong Kong people are most concerned about. Is the rule of law upheld in Hong Kong? Are there rules in Hong Kong to regulate the relevant organizations? Although incidents concerning the violation of rules and regulations have been reported, why is it that no investigations have been conducted on the persons concerned, and why should they not be held accountable? So, if you ask the public, should ATV be investigated, I believe they will say "yes", and furthermore, they will say that the investigation has come too late, and it should have been conducted long ago.

President, many Honourable colleagues have, in their speech, only mentioned the misreporting of the death of Mr JIANG Zemin, and concluded that since the Legislative Council Panel on Information Technology and Broadcasting had convened meetings to discuss the case, no further actions were required. The Panel meetings were short and not attended by many people. Furthermore, the main factor leading to the resignation of Mr LEUNG and his assistant, that is, the issue of "paid news" has not been widely reported and looked into. To me, this factor is even more important and serious than the misreporting of the death of Mr JIANG Zemin.

The Generic Code of Practice on Television Programme Standards has clearly stated that "no *bona fide* news programmes comprising local or international news item may be sponsored. No advertising matter should be offered as news or included in the contents of a news programme or newsreel." Nevertheless, why had the financial news programme "Wealth Blog" of ATV included some advertising elements? Why was it that the anchor of the financial news programme attended a client meeting together with staff members from the sales division?

The mishandling may cause serious harm to the public because people will mistakenly believe that advertising is part of the news programme. As it turns out, the footage contained sponsorship or advertising contents. This is a very serious matter. Any Hong Kong people who are concerned about the contents of news programmes or freedom of the press would consider it absolutely necessary to conduct an investigation. I believe this reason alone is justified for an inquiry and we need not consider other reasons.

Nonetheless, there are also other reasons worthy of our attention. Although LEUNG Ka-wing attended the meetings of the Panel and made certain remarks, he gave us an impression that he was making contradictory remarks or he was unwilling to speak out the truth concerning certain incidents, this might be due to the involvement of some other people. Yet, if the Legislative Council will conduct a public investigation, the public can, through television broadcast or personal attendance at the Chamber, learn about the responses of the persons concerned.

Mr Paul TSE has raised one point in his earlier speech which is worth pondering over. He said that interference with freedom of the press happens every day, thus we need not conduct an investigation. This is a very pessimistic comment, and may cause misunderstanding of what freedom of the press means. Newspapers and media organizations may have different stances, and people who buy newspapers or get free newspapers may know the stances of the newspapers. Nonetheless, this does not mean that the news organizations will certainly interfere with freedom of the press.

ATV has not only misreported the death of Mr JIANG Zemin, its earlier dissemination of information concerning the transfer of shares may also raise doubts if the boss behind the scenes is interfering with editorial independence of the News Division. As many people may understand, there is a dividing line. Take Radio Television Hong Kong as an example, it is a publicly-funded body but that does not mean that the Government can influence its news or editorial position. This is freedom of the press as understood by Hong Kong people; freedom of the press does not mean that the bosses of news organizations or editors have their own positions. For this reason, I hope that Mr Paul TSE will not give specious reasons in saying that as interference with freedom of the press happens at all times, or interference with freedom of the press is frequent because the bosses of various newspapers have their own positions; thus it can be inferred that we need not be concerned about interference with freedom of the press.

President, I hope that Hong Kong people, in reviewing this case, will not wrongly think that the three incidents mentioned in Ms Emily LAU's motion are the main reasons why we want to establish an independent investigation committee or a select committee. In fact, we are greatly worried about many related matters, especially those related to the operation of ATV, and it is our

great concern whether the operation of this licensee, which is free to use the terrestrial airwave, has complied with the requirements and rules.

President, I would like to respond to another point just raised by Mr Paul TSE. The investigation of this incident by the Broadcasting Authority (BA) is different from the two-track investigations we had conducted in the past. As Mr Paul TSE has said, in conducting two-track investigations in the past, such as the investigation of the Lehman Brothers incident, the Legislative Council had to conduct an investigation because the Securities and Futures Commission or the Hong Kong Monetary Authority might have problems of their own. Similarly, the Legislative Council investigated into the chaotic situation at the Hong Kong International Airport because the Airport Authority itself might not be doing well.

Yet, the BA has been in place for some time and the various problems concerning ATV did not occur on 6 July when the death of Mr JIANG Zemin was misreported. Is WANG Zheng the licensee or a member of the senior management of ATV who has been manipulating the operation of ATV? Or is he someone with no special status? All Hong Kong people who have read the newspapers will know the answer. Why has the problem not been investigated? Why nobody tells us if the practice is in compliance with the regulations? When the practice is obviously not in compliance with the regulations, why should the persons concerned not be held responsible? President, there is also a big question mark on this point.

The three incidents mentioned in the original motion of Ms Emily LAU only provide a blasting fuse. We request for the establishment of a select committee on the basis of the three recent incidents. Nevertheless, an investigation should be conducted long ago with regard to the overall operation of ATV. Many Honourable colleagues have said that the biggest difference between an investigation by the Legislative Council and other investigations is that the former is a public investigation. Everybody can, by watching television or attending the hearing in person, learn about the course of the investigation, so as to draw his own conclusion.

President, I would like to add one point. Apart from being a public investigation, the investigation conducted by the Legislative Council will adopt a different angle as that of the BA. The BA's focal attention is the regulations and it will simply examine if the relevant practice complies with the regulations or if

the rules have been violated. In the case of the Court, it can only handle the case according to legal provisions, it can enforce the law and in the light of the evidence, propose remedial measures and make orders.

On the contrary, in examining the relevant problems, the Legislative Council may adopt a wider perspective. Unlike the Court, the BA or any other organization which rely on evidence, we will examine and consider the problems from the policy level and with the issue of public interests in mind. For instance, on the policy level, is the scope of the relevant regulations too narrow. Are those enforcing the regulation too conservative or bureaucratic? Can any improvements be made in relation to public broadcasting or freedom of the press?

After reading Ms Emily LAU's motion, especially the last line "to make recommendations on other related matters", we will find that this is a commendable tradition of the Legislative Council. When we conduct an enquiry into certain incidents, we do not just want to find out the facts, and then prepare an objective and detailed report, we also make policy recommendations. Various parties and groupings frequently express their views during the investigation process, and they will propose improvements when they have reached a consensus after consultation. I believe that this is the most significant contribution of a select committee.

To our regret, even if various parties and groupings have come up with recommendations or reached a consensus, the Government frequently does not care, and the LEUNG Chin-man incident is a good example. In respect of this incident, various parties and groupings have investigated, listened to views and evidence at the meetings of the Select Committee before finally making recommendations. Yet, the recommendations have been shelved by the Government.

Nonetheless, this does not mean that we as Members of the Legislative Council can stop doing what we should. Even if the Government does not care after we have fulfilled our responsibilities and carried out constructive work, and it has shelved the relevant recommendations, we still have the responsibilities to do our work well.

As regards workload, I understand that many Honourable colleagues may think that setting up too many select committees will enhance their workload.

Nevertheless, I hope that the Legislative Council would always adhere to its commendable tradition and try its best to allow other people who are concerned about the relevant issues and are interested or willing to work to participate in the related work, instead of preventing the Legislative Council to set up the required select committees or conduct necessary investigations.

President, in conclusion, I support Ms Emily LAU's motion on behalf of the Civic Party.

Thank you, President.

MR WONG YUK-MAN (in Cantonese): President, the Panel on Information Technology and Broadcasting held a special meeting in September to discuss matters related to Asia Television Limited (ATV). Members can vividly recall that at that meeting, Mr LEUNG Ka-wing denied categorically that there was any interference from the management, yet he also made some remarks subtly. Hence, regarding the outcome of that meeting, we were As many Members still have unanswered questions, there is a need to raise this motion today.

I have been working as a journalist for over 30 years since my first job in 1974 or 1975. Thereafter, I had taught journalism at tertiary institutions for more than a decade. I recall that back then, I had taught a subject on "Control theory: ideals and reality of press freedom". As a matter of fact, press freedom is relative, like all other basic rights; it is not absolute. That is the objective reality.

Under the control theory, press freedom can never be an absolute freedom due to the presence of many control factors. However, in some countries, a direct approach is adopted to safeguard press freedom so that it is wider than relative freedom. A case in point is the United States of America. The spirit of "no law" is enshrined in the First Amendment to the United States Constitution, which specifies that the legislature shall make no law to infringe on press freedom and religious beliefs. We call this type of constitutional safeguard for press freedom "direct protection". But in most other countries, their constitution only offers indirect protection for the basic rights of the people. Like all other basic rights, press freedom is subject to many "provisos". In other words, while people can enjoy press freedom, the freedom of communication, and so on, they

must also meet certain conditions or "provisos". There are various forms of "proviso". In some societies, the exercise of such rights shall not infringe on the good social customs. Sometimes when a country is at war or in a state of emergency, press freedom would be restricted. It is the same in the United States, right?

As press freedom is given direct protection in the United States, there are often precedent cases in which journalists would rather die than disclose their source of information. At the Panel meeting on that day, Mr LEUNG Ka-wing said that he would not disclose any inside information even if he was held at gunpoint. Did he make the statement out of this spirit? Only he has the answer, right? I cannot speak on his behalf. Nonetheless, in the United States, many journalists have been imprisoned for safeguarding press freedom, is that not so? In most cases — I am not going to give a lot of examples here because I had already talked about them during my lectures — a journalist may be summoned to provide the source of his information in court. Yet he may refuse to appear in court. As a result, he will be sentenced to imprisonment for contempt of court. The journalist concerned will most likely file an appeal citing the First Amendment to the Constitution as defence. In those cases, the Court will most likely rule in favour of the journalists. In the United States, this kind of protection is called direct protection.

However, press freedom is subject to many objective factors. It is the same even in the United States because regardless of whether direct or indirect protection is offered, a number of critical control factors exist. The first one is political control. Even in a country as democratic as the United States, press freedom is still subject to political control. White House correspondents have to be screened and those not in good terms with the Government (that is, the White House) and the President would often be excluded from the list. We also have many similar examples. Political control is likewise imposed in democratic countries, albeit in a more detour, indirect or tactful manner. In Hong Kong, the Government will also "feed" news to individual selected medium through the so-called "briefings", is that right? Moreover, the Government would ask those media to go "off record", that is, not to disclose the source of the news. Therefore, there are some common expressions in newspapers such as "according to sources of information from the Government" or "according to sources close to senior Government officials". All such acts are means to conceal the source of information. That is in fact a kind of political control, right? It goes without

saying that much more stringent political control is exerted on the Mainland, right? All media are basically the party's mouthpieces, right?

Political control is a commonplace phenomenon even in democratic countries. Very often, journalists have to wrestle their way through. Hence, it is inappropriate for journalists to befriend political figures. Yet in Hong Kong, Members of the Legislative Council like to befriend journalists, right? To put it bluntly, they are just using each other and depending on each other. However, journalists and political figures should oppose each other and at the same time, depend on each other; they should not merely depend on each other.

Secondly, there is the legal control. Currently, the laws of Hong Kong impose little control over the print media, save for the Control of Obscene and Indecent Articles Ordinance. Now that nude photographs are shown ostensibly in public newspapers, and *Sharp Daily* is freely distributed to students, isn't it a blessing that this Ordinance exists to maintain control, right? But apart from the Control of Obscene and Indecent Articles Ordinance, there is no other control. President, I used to have a hard time when I was a journalist because the Control of Publications Consolidation Ordinance made it an offence to publish in any newspaper false news that was likely to cause public disorder. Subsequently, the said offence in the Control of Publications Consolidation Ordinance was put under section 27 of the Public Order Ordinance, and then repealed. That is something which we still remember vividly.

At present, a registration system is in place for newspapers and publications. That is why I could publish *Mad Dog Daily* back then, and I can still publish another newspaper now, say *Pear Daily*, right? You can call it whatever you like; it is just a name for registration. Hence, there is basically minimal control over the print media. The threat on press freedom comes mainly from self-censorship in terms of the print media. The greatest harm is caused by self-censorship, right?

However, greater control is imposed on the electronic media because they make use of terrestrial airwaves to provide service. Hence, a licensing system is in place with a myriad of licensing conditions to regulate the licensees. Insofar as the present ATV incident is concerned, has the licensee violated any provisions under the Broadcasting Ordinance, or has it violated any oral or verbal undertakings made in granting or extending the licence, or has it violated other

relevant legislation? That is the point I stressed when I chaired the said Panel meeting on that day. Of course, the concerns of some Members in the Chamber were rather political, but as chairman, I would preside over the meeting in a just manner. That is something we all understand. As the saying goes, "the butt is directing the brain", right? President, if you are not sitting over there, you will not treat me like this, right? The electronic media must abide by this set of rules; it does not matter whether such rules are right or wrong. As such, journalistic freedom would be affected in one way or another. Should he be summoned to answer our questions, he could cite the protection of journalistic freedom to defy Members of the Legislative Council. Nonetheless, can he refuse to come? That is in fact a kind of control over him, right? If the Legislative Council is going to conduct an investigation on him, would this constitute some kind of control over him from the perspective of journalistic freedom? The answer is determined by the perspective one takes. What I said just now is about legal control. Then, there is economic control or advertising control which is the most obvious form of control. If you criticize LI Kar-shing, he would withdraw the advertisements placed with your organization, and you are doomed. If you criticize some powerful tycoons or publish any news against them, you are asking for trouble because advertisements are the lifeline of newspapers, particularly commercial newspapers. That also imposes control over journalistic freedom and editorial independence. That is something we all know very well.

In addition to political control, legal control and economic control, I am also going to talk about internal control. As I have more than 10 minutes of speaking time today, it will do no harm if I engage in some lecturing. Internal control means the intervention from the management or the boss on editors and reporters. That is the reality, yet it should not be an inevitability. Nowadays in Hong Kong, which newspaper is not run according to the orders of the boss? Which medium is not controlled by the boss? That is the reality, yet it should not be an inevitability. That is why I just said "ideals and reality of press freedom". All organizations are the same in kind; the difference is one of degree only.

However, there is still some kind of tacit understanding, the news division is relative independent and you had better not interfere. When Raymond WONG was in charge of TVB's News Division, not even the General Manager or his boss dared walk into the newsroom. He exuded that kind of authority. Yet,

how come the boss of ATV's News Division can bring visitors from the Mainland to tour around the News Division? I recall the remark made by Mr James SHING, who is WANG Zheng's man, at our meeting that day. He said that it was alright for Josephine YAN to attend a client meeting. I would like to ask him, did he really want her to engage in soliciting clients? She was really engaged in soliciting clients, that is, having to attend a client meeting. I have been a news reporter for several decades, and I have never heard of journalists going out to meet clients, solicit their support or receive them, right? That reflects the problem of unclear delineation between commercial advertisements and news. LEUNG Ka-wing is most disgusted with this arrangement, do you understand? He is most disgusted that Josephine YAN was promoted to Senior Anchor for no apparent reasons, and he as head of the News Division, knew nothing about it, and so forth.

For us, the entire incident is already quite clear. In fact, this kind of internal control is most detrimental to journalist freedom. As journalistic freedom is already relative in nature, it is now still subject to the heavy suppression of internal control. Nowadays, many news reporters would tell me, "There is nothing we can do, 'Yuk-man', for we are just salary earners." When we were students in journalism, our teachers would remind us of Mencius' teaching that "our soul shall not be corrupted by wealth and power, our principles not swayed by poverty, and our will not bent by threats". That is indeed a goal hardly achievable. Mencius was talking about the characteristics of a great man. Moreover, being a journalist is a life-long vocation, not an occupation. It is a vocation, a calling. When we were students, we listened to our teacher with childish enthusiasm, but if I say such words to my students now, they will regard me as a complete idiot. Can those people who work in the news industry nowadays have "a soul not corrupted by wealth and power, principles not swayed by poverty, and a will not bent by threats"? No, they cannot. That is the harsh reality and ideals are too far-fetched. They are just paid to do the job. If you work for "Fatty LAI", are you bold enough not to obey his orders? To put it bluntly, you get paid such a large sum by "Fatty LAI", would you dare say something not pleasing to his ears? That brings the downfall of the news industry. I have worked in the news industry for several decades, and I have never done anything like this, President. If you find that I have done any such things, you tell me. We suffered huge losses because we never do anything like this, OK? Both my newspaper and magazine folded because I never do anything like this.

While internal control has imposed serious impacts, there is another element called self-control. President, I still have some time left. There are two types of self-control. The first one is called self-discipline. Self-discipline is very important because when laws fail to regulate, people will lose control. Therefore, we can only rely on self-discipline in the absence of compulsion. As a result, some matters should not be published, some subjects are strictly off-limits, some news must not be exaggerated, and the person dubbed the "First Wit" should not pen erotic stories. Hence, there is the need for self-discipline, right? Under these circumstances, compulsion is unnecessary, right? Self-control can be positive. But a kind of negative self-control exists in the form of self-censorship and second-guessing. When a person tries to figure out what the "elders" at the top like, he will resort to deliberate digression when penning an article. That is self-control.

There is another kind of control. President, do you want to know what it is? That is social control. In other words, the power of society will monitor the media. It is often said that the media serve to monitor the Government, who monitors the media then? If the society is monitored by the media, who monitors the media? Who monitors the evil acts of the media? In overseas countries, some powerful social organizations, women groups, educational groups or media consumption groups say that the right of using media belongs to the public. That is why they say they have the right to monitor the media; they can burn a copy of the *Apple Daily* in Tseung Kwan O, or stage a protest outside ATV. Social groups and organizations in overseas countries are very powerful, yet it is not the same in Hong Kong. While such control is in order, it invariably poses threat on journalistic freedom and absolute freedom.

I said all these because I want to make use of this opportunity, this 10 minutes or so of my speaking time, to elucidate the matter from a theoretical point of view. We deeply loathe any impediment on journalistic freedom, yet there is more than one reason. Today, regarding the ATV incident, there are already plenty of reasons or details to make us believe that Mr WANG Zheng He is neither a member of the Board of ATV nor a managerial staff, he does not have any right to control ATV. Now that the Broadcasting Authority (BA) is investigating into the incident, do we need to go along for the ride? That is the crux of the question which Members must ponder on. I raise this issue for discussion today so that Members can express their different views and engage in some brainstorming, right? But is that the only reason? Will the matter be

resolved when Members take the place of the BA by setting up a select committee with much clamour, or taking further actions when they are not satisfied with the BA's handling of the matter? Why no answer is forthcoming after the ATV incident has been investigated into for so long? I think the latter course of action is by far more reasonable. Nonetheless, as friends of the pro-democracy camp insist on establishing a select committee (*The buzzer sounded*) I think

PRESIDENT (in Cantonese): Mr WONG, your speaking time is up.

MR WONG YUK-MAN (in Cantonese): I implore Members to consider the stance adopted by me and "Big Guy" in this matter and they will certainly not support the establishment of a select committee.

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

(No Member indicated a wish to speak)

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, thanks to Members for their views on the motion. As I pointed out at the onset of this debate, the Government does not see the need for the Legislative Council to set up a select committee to conduct separate investigation on the incident related to the Asia Television Limited (ATV).

Should the Legislative Council set up a select committee to conduct investigation at this stage, it will duplicate the ongoing investigation conducted by the Broadcasting Authority (BA) in accordance with law. On the one hand, it will impact on the independence, fairness and impartiality of the BA's investigation; and it is not putting public resources to proper use on the other.

The BA is an independent statutory body charged with specific functions and duties in the monitoring of local broadcasters, including the handling of complaints against domestic free television programme service licensees in accordance with law and the established procedures. Should the Legislative

Council set up a select committee to conduct its investigation, it will undoubtedly impact on the BA's performance of its statutory duties, and even cast doubt in the public mind as to whether the BA's investigation can be conducted in an independent, fair and impartial manner.

I just heard many different views from Members on the motion. I would like to respond to those matters now.

First of all, I would like to talk about freedom of the press, freedom of expression and editorial independence. Of course, press freedom and the freedom of expression have always been the core values steadfastly upheld by the Government. In accordance with this principle, the Government has always adopted a liberal, light-handed and pro-competition regulatory approach to promote the development of the local broadcasting industry and facilitate the provision of more programme choices to the public.

As the regulator of the broadcasting industry, the BA is committed to upholding and respecting the independent operation and editorial independence of licensees. The BA would, therefore, not interfere with the day-to-day operation of licensees, as well as their appointment of news editors and reporters. It is also clearly stated in the Generic Code of Practice on Television Programme Standards (TV Programme Code) that the BA does not preview or pre-censor any programmes. The editorial responsibility lies with the licensees, who have the responsibility to ensure that the programmes delivered on their services comply with the codes of practice.

The Government and the BA are highly concerned about the recent problems surrounding ATV's News Division. The BA has already written to the broadcaster requesting it to exercise due care in the handling of the incidents and ensure that there will be no disruption to its news and current affairs programmes, so as to prevent possible non-compliance with the applicable requirements under the law as well as its licensing conditions by ATV. The BA has also conveyed to ATV the concerns of the media and the public about editorial independence and personnel changes in its News Division.

We totally agree that the broadcasters should enjoy editorial independence. In respect of practical measures to achieve editorial independence (including those concerning the relationship between the management and news division of

broadcasters), relevant information we collect from around the world shows that no single set of guidelines applies internationally. Various broadcasters may have different views on the matter.

Insofar as the situation of Hong Kong is concerned, the Government adopts a light-handed regulatory approach towards the broadcasting industry. We consider that the operation of broadcasters should not be subject to micro-regulation. Therefore, broadcasters can decide for themselves how to achieve editorial independence through consultation between their management and editors. No intervention from the Government is called for.

In addition, as far as we know, there is no requirement on the appointment of news and editors, or the contents of news programmes in the broadcasting legislation of advanced countries such as the United Kingdom, Australia, the United States and Canada. Likewise, we do not have any information indicating that any country has imposed regulation on the working relationship between the management and news division of a broadcaster. In this regard, the regulation on Hong Kong's broadcasting industry is in line with international practices.

The Government is also aware of the reservation expressed by some local academics and media professionals on the intervention of the Government or the BA in such incidents. They hope that intervention from the Government or executive bodies on the operation of the media can be kept to a minimum.

In respect of the accuracy of news, according to the provisions in the TV Programme Code regarding accuracy, impartiality and fairness, the licensees are required to make reasonable efforts to ensure that the factual contents of news are accurate. When reporting news, the licensees should avoid morbid, sensational, or alarming details not essential to factual reporting. Licensees are required to present news in such a manner as to avoid unnecessary alarm, and make correction of factual errors as soon as practicable after the original error.

There are other relevant regulatory provisions concerning news programmes of domestic free television programme service licensees. The TV Programme Code of the BA stipulates that no *bona fide* news programmes comprising local or international news item may be sponsored, and that no advertising matter should be offered as news or included in the contents of a news programme or newsreel. The Generic Code of Practice on Television

Advertising Standards (TV Advertising Code) of the BA stipulates that news programmes must not be sponsored.

The Code further stipulates that advertisements should be recognizably separate from the programmes. Advertising material should be clearly identified as such. As a general rule, the placement of advertising material should be confined to paid-for advertising time. If a television programme refers to or uses extracts from advertisements, the choice and range of advertisements should be subject to the editorial requirements of the programme, and the licensee should in no circumstances let the programme contents be influenced by advertising considerations. In addition, no undue prominence may be given in any programme to a product, service, trademark, brand name or logo of a commercial nature or a person identified with the above so that such reference amounts to indirect advertisement and has the effect of advertising. Such references must be limited to what can clearly be justified by the editorial requirements of the programme itself, or of an incidental nature.

The TV Advertising Code stipulates that all sponsored programmes must be clearly identified by means of sponsor identification, such as front or end sponsor credits, title sponsorship, display of sponsor references, and so on. Sponsor identification within a programme should not be overly distracting and obtrude on viewing pleasure or entertainment.

A number of Members mentioned the programme "Wealth Blog" just now. "Wealth Blog" is a live programme broadcast on ATV Home and ATV Asia containing financial news, live investment markets analysis by representatives of banks and investment companies, as well as interviews relating to the price trend of stocks and warrants.

As I mentioned just now, the TV Programme Code of the BA stipulates that no *bona fide* news programmes comprising local or international news item may be sponsored. The BA will consider whether "Wealth Blog" is a no *bona fide* news programme in light of its contents and way of presentation, so as to decide whether it falls into the category of programmes which no sponsorship is allowed.

What type of programme does "Wealth Blog" belong to, and whether the provision on "no sponsorship" applies are questions that the BA must decide in light of the contents and way of presentation of the programme. As the BA with its complaints committee has yet to complete its deliberation on the relevant complaints, it is not suitable for us to come to any conclusion here.

A number of Members have also expressed concerns about the control and management of ATV. In view of the extensive reach and substantial influence of free television programme services, and in order to safeguard the public's interest and ensure that such services will cater for the local interests and tastes, the Broadcasting Ordinance (the Ordinance) provides for a clear regulatory framework governing the ownership and corporate control of domestic free television programme service licensees. These include the fit and proper person requirement, the residence requirement, and restrictions on disqualified persons. Holders of a domestic free television programme service licence and persons who exercise control over such licence holders are required to comply with the relevant requirements. The Ordinance requires domestic free television programme service licensees to submit to the BA a return showing particulars of any change of directors or principal officers in a licensee within seven days beginning on the date the change takes place.

According to the information submitted by ATV to the BA, Mr WANG Zheng is an investor of ATV and holds certain convertible bonds issued by ATV. At present, Mr WANG Zheng is neither a shareholder, director nor principal officer of ATV. Accordingly, Mr WANG does not have any capacity or rights to exercise control of ATV or participate in its day-to-day management.

Regarding the role played by Mr WANG Zheng in the management of ATV, the BA announced in August 2011 that it would conduct an investigation into the matter, including his role in ATV's misreporting of death news.

Regarding the post title of Mr KWONG Hoi-ying, the BA has already made an enquiry with ATV earlier. According to ATV's reply, Mr KWONG Hoi-ying has not been officially appointed as Acting Deputy Chief Executive Officer or Acting Chief Executive Officer. The BA has already reminded ATV the requirement on reporting changes thereto of its directors or principal officers. The BA will continue to monitor the development of the incident. Upon detection of any irregularities, the BA will handle the matter in accordance with

the established procedures. The capacity of Mr KWONG as ATV's principal officer has remained unchanged.

As mentioned by some Members just now, the BA has also noted the irregularity in relation to the disclosure of information by ATV pertaining to changes in its shareholding structure in July last year. In this connection, the BA has written to ATV immediately afterwards reminding the broadcaster, as a domestic free television programme service licensee, to exercise due care in handling disclosure of information.

Just now, a number of Members also asked whether the BA, as an investigation authority, has been vested with effective or real powers of inquiry? Here, I would like to state clearly that the BA can exercise the powers conferred by the Ordinance to collect all necessary information pertaining to its investigation, such as requesting relevant persons (for example, the staff of ATV) to provide information. While I will not go into the details here, the Ordinance contains a number of provisions conferring powers of investigation to the BA for its effective conduct of investigation.

Moreover, under the conditions of its licence, ATV must ensure that its officers, employees and associates shall not act in contravention of the Ordinance, its licensing conditions or the codes of practice. Should ATV ask its staff not to co-operate with the BA's investigation by refusing to provide information in accordance with the Ordinance, ATV may be liable of breaching its licensing conditions.

Given the above provisions, we are of the view that the BA is already vested with adequate powers to investigate into the ATV incident.

President, I want to reiterate that under the existing legislation, the BA is an independent statutory body charged with the duty of monitoring the operation of broadcasters. From the statements I made above, it is clear that a well-established regime is already in place to regulate domestic free television programme service licensees effectively. The Government's stance is that this regulatory regime should be allowed to operate in its normal course so that the BA can investigate into the matter according to legal procedures, provide an account to the public and report its findings to the Panel of the Legislative Council, instead of having the Legislative Council take over the role of the

regulator and conduct its investigation separately. That is tantamount to putting the cart before the horse as it will impact on the independence, fairness and impartiality of the BA's investigation on one hand, and on the other, it is not putting public resources to proper use. When the above matter was discussed by the House Committee of the Legislative Council, most of the Members opposed to the setting up of a select committee to investigate into the matter separately.

Regarding recommendations in relation to the Government's regulation on domestic free television programme service, safeguarding editorial independence of news divisions of the licensees, as well as other relevant matters, the subject matter has been discussed by the Panel on Information Technology and Broadcasting of the Legislative Council at its meeting on 19 September. The Panel can continue to follow up the matter and there is no need to set up a select committee separately for the purpose.

President, I so submit and implore Members to oppose the motion. Thank you, President.

PRESIDENT (in Cantonese): Ms Emily LAU, you may speak in reply.

MS EMILY LAU (in Cantonese): President, I thank Members for their speeches and participation in this debate. As Mr Ronny TONG has said, this motion will definitely be vetoed. I think this motion will be vetoed because the matter is probably related to Beijing. Mr TONG is actually quite correct in saying that whenever we discuss at the Legislative Council whether an investigation into an incident should be conducted, members from the pro-establishment camp are bound to raise opposition; if they do not raise opposition, how would they be regarded as "pro-establishment"? They have to safeguard the establishment. President, the present case is even more special because it involves Beijing. I have also discussed this matter with persons conversant with Mainland affairs. In their view, the incident must be related to power struggles in the Communist Party, or other affairs involving JIANG Zemin. Nonetheless, not much information has been revealed. Is that not typical of Mainland politics? It is like a black box where most of the struggles are kept hidden; and we only know what the Mainland authorities are willing to let us know.

How come WANG Zheng or other people stir up these troubles? How come a licensed broadcaster airs false news? The head of the News Division had been subject to pressure, he had been pressed for over 10 minutes to broadcast the news. Finally, the news was broadcast. President, why is that so? In his opening remarks, the Secretary already said that the Legislative Council should not investigate into the matter. I wonder why no Member asked him for the reasons, probably that was because not too many people were listening to him. Just now when he spoke again, he mentioned the consequence should we investigate into the matter. He said that our investigation would impact on the fairness and impartiality of the investigation of the Broadcasting Authority (BA). Why is that so? According to the Secretary, people may cast doubt as whether the BA's investigation can be conducted in a fair and impartial manner. That is right. Why? Because when the two reports are put together, the public can see for themselves that our investigation is genuinely open, fair and impartial. That is because the investigation conducted by the Legislative Council would be attended by all political parties and groupings at open hearings with records. However, the BA's investigation is conducted in camera. I do not know whom the BA has questioned or how it conducts the investigation. The BA will of course be affected if the two investigation reports are laid before the public simultaneously.

President, the point in question, therefore, is that even though the investigation is conducted by the authorities, it must be open, fair and impartial. If sensitive commercial information or other matters are involved in the course of investigation, that particular part can be conducted in camera. Sometimes, the Legislative Council would handle the same way. Nonetheless, investigation should generally be conducted in a fair, impartial and open manner. How come the BA's investigation is conducted in camera? That is a very crucial point. I, for one, really want to know how the BA put its questions to WANG Zheng — not just me, President, I reckon you would also like to know, right? The 7 million people of Hong Kong also want to know; billions of people in the Mainland also want to know. The question is there is no way for us to know about it. I do not even know whether the BA has interviewed WANG Zheng. Many details and developments of the incident are withheld from us. The Secretary told us that a report would be submitted to the Panel upon completion of the investigation. He had better make good on his words. But the question is, our term will expire in July next year. We hope we can get down to the bottom of the matter by making the best use of our time.

We have mentioned previously at the Panel meeting that as all staff members of the BA are all appointed by the Government, they might not be able to act independently. The Chairman of the BA is a barrister, but what about the Vice-Chairman? The post is held by the Permanent Secretary. How independent can that be? Therefore, the Secretary first told us something which I did not quite understand. Then he went on to explain that if the Legislative Council conducts an investigation, the public might consider that the BA's investigation was neither fair nor impartial. That is certainly true. That is exactly why he is against our investigation. It is such a lame excuse that I am absolutely infuriated. Yet some Members support the Government.

President, according to Mr WONG Ting-kwong of your party, our investigation would impact on ATV's journalist freedom. But, unlike somebody, we are not trying to put pressure on the head of the News Division and ask him to broadcast certain news. That is not what we are trying to do. Instead, we are trying to find out who have interfered with him such that he, being the head of the News Division, could not decide whether a piece of possibly false news should be broadcast. Hence, I hope the Democratic Alliance for the Betterment and Progress of Hong Kong President, you might as well organize some lessons for them so that they would understand what is meant by journalistic freedom and editorial independence. How come our investigation will interfere with them?

Nonetheless, as the Secretary has said, we might need to study the matter further. He said that he had looked into the practices of other jurisdictions. Seemingly, there was no experience about interfering with the personnel matters of a broadcaster between its management and news division, and so on. That is something we also understand. However, the countries which the Secretary has looked into are mostly democratic countries where people enjoy freedom. As a system is in place in those countries, some matters can be dealt with by the news organizations internally. But that is not the case in Hong Kong. Hong Kong is a place with "a high degree of autonomy", yet the "high degree" has become increasingly low. Furthermore, there is intervention from Beijing. If the Government wants to make reference to overseas experience, it should first draw on their experience of universal suffrage. If the whole Government of Hong Kong is formed by universal suffrage, then we can adopt overseas practice. Hence, we must focus on the unique situation of Hong Kong.

In fact, the news industry is suffering from untold misery and many media practitioners have been put under pressures. Therefore, what Mr Paul TSE has said is correct. But even though he is right, he should render help, instead of saying that, "There is nothing we can do, so just let it be." We should not adopt such an attitude. Press freedom does not exist for many people. Some reporters told me that freedom of the press was freedom of the boss, and they must follow any instruction from the boss. Do you know what I told them in response? As I had also worked in the news industry, I asked them, "Would you become a beggar if you quit your job?" Sometimes, a person needs to fend for himself. They should resign immediately and stand up against their boss. They should also make it known publicly.

Therefore, whenever I go to Radio Television Hong Kong, ATV or any other news organizations, I often appeal to media practitioners that if someone has inappropriately interfered with their normal operation conducted according to general news standards, they should make know the interference. Of course, they would worry if they can still stay in the industry if the matter is publicized. But I think the situation of Hong Kong is not that bad. If somebody is brave enough to do so, many people, including members of the public, will respect him. Moreover, persons who interfere with the reporting would not dare to say openly that, "I indeed interfered with your operation. I did kill your story. I did order you to delete the report." Would someone dare say so? Nobody would, President. These are all acts perpetuated in darkness. When these acts are exposed under the sun, he would shut up.

Hence, President, the Secretary said that we should not interfere and we should let them handle the matter internally. I have no idea how the BA would conduct its investigation. Just now, I have also read out a statement made by some ATV staff demanding the ATV management to clarify certain matters. To date, I have yet to hear any clarification from the management. The demands of those staff to the management are that news and advertisements should not be mixed up, the management should not interfere with journalistic freedom, and the management should explain why LEUNG Ka-wing as the department head could not stop the broadcast of some phoney news. I think the ATV staff has made reasonable demands in asking clarification by the management.

Under this circumstance, I do not know how the BA would conduct its investigation. Or perhaps the outcome would be similar to the line taken by the

Secretary just now, that is, "Having investigated into the matter, we can do nothing about it. Just let it do whatever it likes and we will not interfere. That is international best practice." What is the situation of Hong Kong? How can the rules of other jurisdictions which enjoy freedom, democracy and rule of law be applied onto Hong Kong? Beijing has been monitoring the situation of Hong Kong closely and frequently causing much fear and worry. In that case, should we not take more actions so that ATV's management will not step across the line again?

President, I believe you also notice recently that according to a public opinion survey conducted by the University of Hong Kong, the confidence of the people of Hong Kong over press freedom has been decreasing rapidly. President, the Government itself has a role to play. Recently, there was an incident involving the police taking away a person wearing something with the words "June 4". Then there was the "black shadow remark" about a police officer using his hand to block the video camera of a journalist in order to prevent filming. Regarding interview arrangements, the press area designated by the Government was so far away that reporters could neither see nor hear anything. Separately, reporters were locked up in a hotel room so that they could only watch live broadcast of a dinner reception attended by LI Keqiang, and they could not cover the event live. The Government then gave the reporters a video tape for them to broadcast later. If a broadcaster has dignity, it can choose whether to air the "official" video tape from the Government or report the story prepared by the Government. President, that is the doing of our no, not our, but your SAR Government. That is what the people are so afraid of.

First, the reporters came out to expose the actions taken by the Government. Then, there was the ATV incident. What has happened to ATV? What has happened to the head of its News Division? He resigned. What about his deputy? She resigned as well. President, I heard that somebody cry at that time. It was so miserable and terrible. I believe many of them are really devoted to work in the news industry. Moreover, honestly, do you think reporters of ATV's News Division are highly paid? In fact, people who work in many media organizations are poorly paid. I once received a complaint from some reporters, claiming that the television station which they worked for had not increased their salary for years. That is outrageous. I then wrote to the television broadcaster concerned, stating the case. President, I did not receive any reply. I am afraid that is what "international practice" is about.

I think the people of Hong Kong are highly concerned about freedom of the press, freedom of speech, as well as freedom of expression; and media practitioners have a vital role to play. Today, some media practitioners have told us in public how difficult their work is, while some choose to air their grievances in private. If we look at the statement issued by the staff of ATV, they also said that they would work dutifully. As the legislature, we must give a helping hand in this matter by investigating into the reasons for the messy operation of this "lousy" broadcaster — a broadcaster licensed to provide service through terrestrial airwaves. Why does it have to buy news with money or place advertisements into news programmes? That is not something which any dignified staff member of the news division would want to do or would like to see in the television station he works with.

However, this situation has arisen. Nobody wants to watch any phoney news, yet it has been broadcast. Just now, some Members also mentioned another previous case where the staff was compelled to broadcast another piece of phoney news. Therefore, how come some Members are still so indifferent about these matters? How come they are not even concerned about whether these incidents are real, or why do they happen?

President, some Members just mentioned that this particular broadcaster is operating at a loss. I used to think that *Wen Wei Po* and *Ta Kung Po* are the only two news organizations operating at a loss because they are funded by the Central Government. However, as far as we can see, some loss-making newspapers continue their operation, and so does a loss-making television station. Why is that so? Because this will bring some other advantages. Some people may think, they are powerful media tycoons and they can have other advantages. Therefore, it is alright even though the business registers a loss of millions or even billions of dollars. President, if a person enjoys operating a loss-making business, that is his own business. But we must safeguard the core values of the people of Hong Kong, that is, freedom of the press and the freedom of expression. News must be accurate and true; news must not be "paid". Similar incidents have happened in some countries or places. These incidents are humiliating and disgraceful, which bring shame to the people.

When similar incidents happen in Hong Kong, it seems to have no impact at all, just conduct some general investigation casually. Just now, some Members said that the incident has dragged on for quite some time. Up till now, we do not see that the BA has taken actions to let us have confidence in its work;

in such case, the Legislative Council has to conduct its own investigation. However, many people — please take a shot of their faces — do not want us to conduct any investigation. They do not want to get down to the bottom of the ATV incident. They do not want to find out who had interfered with the reporting so as to humiliate him in public.

President, this motion I move today will probably be vetoed, but let me tell you, the pro-democracy camp is the winner outside this Chamber. Very often, this is the case. While we receive a lot of votes outside, we are the minority in this Chamber. However, I know that we are the majority in society outside this Chamber.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Emily LAU 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)

Ms Emily LAU rose to claim a division.

PRESIDENT (in Cantonese): Ms Emily LAU 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:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted against the motion.

Dr LEUNG Ka-lau abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, four were in favour of the motion, 18 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 15 were in favour of the motion and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): Two motions 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 each may speak for up to 10 minutes; and the mover of amendment to an 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.

PRESIDENT (in Cantonese): First motion: Calling upon persons intending to run in the Chief Executive Election to respond to people's aspirations.

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

I now call upon Mr Alan LEONG to speak and move the motion.

CALLING UPON PERSONS INTENDING TO RUN IN THE CHIEF EXECUTIVE ELECTION TO RESPOND TO PEOPLE'S ASPIRATIONS

MR ALAN LEONG (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, recently, the Occupy Wall Street campaign has spread rapidly across the world. Demonstrators chanting vehemently the slogan "We are the 99%". This slogan is a neat irony of the Chief Executive Election in Hong Kong, for the fate of the 7 million people in Hong Kong is in the hands of 1 200 members of the Election Committee of the Chief Executive. I would like to take this opportunity to call upon persons intending to run in the Chief Executive Election to respond positively to people's aspirations, for "We are the 99%".

President, Hong Kong is now in the predicament of regression in human rights and encroachment of the rule of law. We note that the Government continues to press on with the replacement mechanism to deprive Hong Kong people of the right to nominate, stand for election and vote in the by-elections of the Legislative Council. The appointment of an Administrative Officer as the editor-in-chief of the Radio Television Hong Kong, the failure of the head of

ATV's News Division to stop the broadcast of news, the Internet Article 23, the legislation on charities, the brain-washing national education, as well as the continual expansion of the power of the police, all such measures seek to confine the room for expression in a civil society. However, the probable runners in the Chief Executive Election, either known by the surname TONG, LEUNG or FAN, shuns the issue on human rights protection. The visit of Mr LI Keqiang, Vice-Premier of the State Council is a case in point.

Regarding the police's act of obstructing ordinary members of the public and students from staging protests, thereby preventing them from enjoying freedom of the press, of assembly and of demonstration enshrined in Article 27 of the Basic Law, LEUNG Chun-ying stated tactfully that he trusted the judgment of the police. As for Rita FAN, she considered that "the police only want to give LI Keqiang a good impression", and that the people of Hong Kong should "give due regard to the overall situation" and "refrain from exercising their freedom to the extreme". Henry TANG rebuked the comments criticizing the security arrangement an infringement of freedom of expression and of the press as "completely rubbish". It is evident that in front of the prominent figures of the Central Authorities, it is not worth mentioning that Hong Kong people have freedom of speech and of expression. To their surprise, the public reacted strongly against the handling of Vice-Premier LI Keqiang's visit to Hong Kong. This rightly reflects the perseverance and resolution of the people of Hong Kong in safeguarding some core values, such as freedom of speech and of expression.

In the original motion, I highlight that persons intending to run in the Chief Executive Election must uphold the rule of law and defend judicial independence to ensure the full implementation of Article 35 of the Basic Law. This point is highlighted in view of the two recent judicial review cases which reveal that the rights enjoyed by the public over the years is being deprived of and eroded gradually.

President, Article 35 of the Basic Law states that: Hong Kong residents shall have the right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies; and Hong Kong residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel.

President, this is so provided in Article 35 of the Basic Law. Naturally, the precondition for the realization of these entitled fundamental rights is that barristers, in handling cases fall within their professional capacity, will not be affected by the reaction of the community, as well as the reputation and status of the complainant. Only in this way can the principle of "equality before the law" be upheld.

President, unfortunately, the right of abode case of foreign domestic helpers (FDHs) reveals otherwise. When the case was still pending court hearing, the Liberal Party distributed leaflets extensively and placed advertisements to voice their opposition. Gladys LI Chi-hei, the Senior Counsel representing FDHs, was singled out and subject to criticism, mud-slinging and false accusation. The FDH applying for judicial review and the lawyer representing her came under an avalanche of criticisms from all sides. I cannot but ask, since when do barristers representing the public in a court case have to face groundless accusation, as in the case of human rights lawyers on the Mainland?

President, following the logic of the Liberal Party, does it imply that the billionaire fung shui master whom the public dislike should not be represented by a lawyer? Does it imply that the senior manager of a television station suspected of secret dealing should not be represented by a lawyer? Does it imply that villainous bandits or unpopular persons should not be represented by a lawyer? President, the Chairman of the Liberal Party is a lawyer too. I hope she will tell the public: When someone from the disadvantaged group seeks her assistance, is it wrong for her to help the complainant within her professional capacity? Is this an act of betraying the people of Hong Kong?

President, if today the FDH is not represented by Senior Counsel Gladys LI but by barristers from the Liberal Party, the New People's Party or the Democratic Alliance for the Betterment and Progress of Hong Kong, and if, in helping the FDH in their legal capacity, the barristers are being smeared and wrongly accused, the Civic Party will definitely come forward to defend them. Unlike them, we will not smear or indiscriminately accuse those who safeguard the rule of law, for only by doing so can we sustain the rights of the public enshrined in Article 35 of the Basic Law.

Surely, President, the case on the right of abode of FDHs is not the only example exposing the challenge to the rule of law. In an earlier judicial review case on the environmental assessment of the Hong Kong-Zhuhai-Macao Bridge, the complainant Madam CHU was put under tremendous pressure. Political parties and some Members of the Legislative Council kept denouncing the Civic Party as the "backstage manipulator" to incite and abet the applicant to file the lawsuit. This morning, some political parties still asked the Government the definition of champerty and whether it had conducted any investigation. President, I have to clarify once again that those accusations are unfounded. We have never incited or manipulated Madam CHU or anyone to initiate legal action. As early as April this year, Albert LAI, the Vice Chairman of the Civic Party, wrote in an article published in a newspaper, and I quote to the effect that, "The Civic Party has candidly admitted that its members at district level and in the lawyer profession are honoured to have the opportunity to assist Madam CHU Yee-wah who is in ill health." (End of quote) This is not a remedial remark made at hindsight.

President, the Court of Final Appeal already ruled that in litigations involving the legitimate public or social interests, champerty was not involved. The Civic Party has been a staunch advocate of a green economy and sustainable development. We have never been afraid to stand in the forefront in advocating conservation and environmental protection. We are definitely not the "backstage manipulator" as claimed by some political parties. All along, we have been standing in the forefront on issues relating to the green policies, green economy, environmental protection and environment conservation.

President, this morning, the Secretary for Home Affairs has stated clearly that the police had not received any report relating to the judicial review case on the Hong Kong-Zhuhai-Macao Bridge, and the police had not commenced any investigation on whether the case involved champerty. The accusations have no factual basis. Members on the pro-establishment camp attempt to distort the right of the public to apply for judicial review, twisting it into an act of wasting public money. Secretary TSANG Tak-sing has stressed that the Director of Legal Aid has exercised his power in accordance with the law and in consideration of the merits of the case in deciding whether or not assistance should be granted. Certainly, President, people engaging in mud-slinging may also have legal knowledge or they may have sought legal advice. Of course,

they fully understand that the case involves no champerty at all. While they intend to smear and make false accusation, they also try to play it safe.

President, do we want to see that one day no one in Hong Kong dares to challenge the acts of the Government for public interest and justice, and that lawyers representing the minorities and the disadvantaged are put under surveillance or house arrest as in the case of human rights lawyers on the Mainland, do we really want to see that happen in Hong Kong?

President, since there are quite a number of probable runners in the Chief Executive Election, I would like to take this opportunity to give them the following advice. At this crucial moment when Hong Kong is undergoing rapid "Mainlandization", the Chief Executive is in the driving seat of the SAR Government. Hence, the probable Chief Executive hopefuls should address the housing needs of Hong Kong people, narrow the disparity between the rich and the poor, and deal with the problems of ageing population and youth unemployment. Furthermore, these probable runners must respond to the aspirations of the people of Hong Kong, make their best effort to reinforce the core values of Hong Kong people and commit themselves to safeguarding human rights, the rule of law, freedom and democracy, so that the people of Hong Kong can learn of these promises in their election platform.

President, I so submit.

Mr Alan LEONG moved the following motion: (Translation)

"That, given that the Chief Executive Election is approaching, but only the 1 200 members of the Election Committee have the right to vote, this Council calls upon those persons who intend to run in the next Chief Executive Election to put forward specific propositions on safeguarding Hong Kong people's core values, and actively respond to the aspirations of the seven million people; the relevant propositions must include:

- (a) respecting human rights, improving people's livelihood, defending people's long-term interests and making actual efforts to resolve the deep-rooted conflicts in society;

- (b) persevering in the realization of a democratic political system and abolishing the functional constituency seats as well as the separate voting arrangement in the Legislative Council in 2016;
- (c) protecting freedom of the press and of speech, and undertaking not to enact legislation to implement Article 23 of the Basic Law before the full implementation of genuine universal suffrage; and
- (d) upholding the spirit of the rule of law and defending judicial independence, so as to fully implement Article 35 of the Basic Law."

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

PRESIDENT (in Cantonese): Mr Frederick FUNG and Mr TAM Yiu-chung will move amendments to this motion; while Mr IP Wai-ming will move an amendment to Mr TAM Yiu-chung's amendment. This Council will now proceed to a joint debate on the motion and the amendments.

I will call upon the above Members to speak in the above order; but they may not move the amendments at this stage.

MR FREDERICK FUNG (in Cantonese): President, the governments of today are facing increasing challenges and queries. In the past, the unbalanced access to information and resources between the government and the community had contributed to the monopolization of governance by elites. Such situation no longer exists now. Back then, the ruling authority had the final say, and people could only resign themselves to adversity. The governing echelon might, by means of the established system, easily dominate and even manipulate the mainstream thinking of the people. The practice was pleasantly presented, giving the people an impression that they were given an absolute right to choose. But in actuality, people were only given options stringently screened by the established echelon, restricting only to option A, B or C; alternative options would be rejected and nipped in the bud.

However, with the reform in information technology and the popularization of the Internet, the governing elites can no longer monopolize access to information. Social activities on the Internet enable people to remove the "social class stereotypes", where interactions and exchanges of knowledge are made on equal footing, inducing enlightenment and reflection, which result in rapid action in response. This has eventually brought about drastic changes in the political ecology. The Jasmine Revolution in the Middle East and the latest Occupy Wall Street campaign are just some examples. The controlling power under the traditional established system became ineffective all of a sudden, and partisan politics has gradually gone downhill. As regards the representative system, under which representatives are returned by election, the complicated procedures and restrictions are in stark contrast to the quest for efficiency and swift response in the Internet world. Governments of various countries are now facing difficulties in governance, making changes to traditional and mainstream political ecology inevitable. When democratic systems cannot be spared from the challenges arisen from the reform in information technology, how can the outdated and restrictive political system in Hong Kong be spared?

Regrettably, the few probable runners in the Chief Executive Election seem to be living in another world. They indulge themselves in open rivalry and veiled strife, just like the imperial power struggle in the past. They have a keenness for manoeuvres and strategies, and they set their hearts on the blessing of their masters. They put their personal ambitions above the well-being of the people. Seeing that our current Government has encountered great difficulties in governance and our political system is lagging far behind, they simply distance themselves from the political scene and turn a blind eye to these problems. Without any deep reflection on the established governance philosophy, they hardly have any vision for the future development of society.

President, perhaps they are devoted to putting on shows at district visits, like a king inspecting his empire in plain clothes, so as to project a people-oriented image and attract media coverage. They hope that they will play the role so successfully that they can deceive themselves in thinking that they live with the grassroots. However, they are living in two completely different worlds, so different that it is like heaven and earth or black and white. The so-called district visits to understand public sentiments are but gestures to show off their generosity and aspiration to rescue the grassroots whom they try to please. They wishfully think that such gestures will shed their noble image of

living in an ivory tower, but in fact, it backfires as their disparity has been brought to the fore.

Perhaps someone will defend them by saying that the probable Chief Executive hopefuls have already put forth some political platforms, pointing out the ways to solve the housing problems faced by the grassroots and the poverty problems. However, the lofty proposals mentioned in the political platforms are merely hackneyed ideas, such as increasing substantially the number of public rental housing (PRH) flats. When the probable runners were inside the establishment, one being the Secretary of Department and the other being the Convener of the Executive Council, had they not heard of the frequent demands made by both the pro-establishment camp and the democratic camp for increasing the number of PRH flats and resuming the construction of Home Ownership Scheme (HOS) flats? Did they not hear such proposals in the past? How come they could not hear such proposals? Why did they not take any actions in the past? They took no actions when they were in power, and now they make the proposals when they are not in power; does it mean that they do not believe in the proposals in the past? Does it mean that they have not paid heed to what we had said in the past? Or, does it mean that they "now realize that they were wrong in the past"? After all, the so-called political platforms are merely minor patch-ups, which fail to tackle the root of the problem.

President, recently, the small fire of the Occupy Wall Street campaign in New York has set aflame in 82 countries and over 950 cities around the world in just a month. The campaign is getting vehement, and its future development hinges on the swiftness and intensity of responses made by the authorities. Instead of saying that the demonstrators are protesting against the greed of financial institutions, the looting of capitalists, the hegemony of the capitalist powers and the injustice in society, we may as well say that the demonstrators are undergoing a deep reflection on capitalism, protesting against the ineffectiveness of the traditional establishment and the long delayed acts of the Government and political parties. They also denounce the established authorities for continuously consolidating and rationalizing the exploitation resulted from capitalism and free economy.

"The 1% have taken away all the 99% have", this is a smart remark made in the Occupy Wall Street movement. Another remark "the greed of the 1% has caused suffering to the 99%" precisely points out the adverse impact of

capitalism. According to Joseph STIGLITZ, the laureate of the Nobel Prize in Economic Sciences, the economy is now distorted, and there is no way to establish a just society. In Hong Kong, a place with excessive adoration for free market, the problem is even more serious. We top the list in respect of disparity between the rich and the poor. The conflicts and difference among various social classes have intensified, which is evident in the growing antagonism against the rich and the business sector in recent years. The intensified class conflicts should be attributable to the increasing wealth disparity and the unjust social system. May I ask the probable runners in the Chief Executive Election, have you noticed this situation? Have you heard about that? Have you ever reflected on that?

President, is there anything wrong with the mode of development adopted in Hong Kong so far? Is there anything wrong with the established governance philosophy adopted by the Government? The tilted governance philosophy, coupled with a closed and lagging political system have formed a hybrid of political and economic system, which is neither fish nor fowl and fraught with problems. In the present age of information revolution, it is all the more obvious that Hong Kong is at a lost. It is palpable that the established system is incapable to renew and advance. This structural conflict is precisely the problem the candidates of the next Chief Executive should understand clearly and identify a solution.

Hence, I put forth my amendment to highlight the fundamental solution to the problem: reform the long-standing governance philosophy that tilts in favour of tycoons as well as people who are powerful and wealthy, and replace it with the principle of development for all people that gives consideration to all social strata as the basis of governance. One should no longer make patch-up amendments; the probable runners in the Chief Executive Election should not just adopt the practices of their predecessors or adopt appeasing measures.

President, the next Chief Executive must understand that the grievances and conflicts accumulated in society today is closely related to the long-standing governance philosophy of holding fast to the principle of "small market, big government" and the *laissez-faire* policy in a free market. The economic and social policies derived from this philosophy have resulted in serious imbalance. Many major livelihood issues which should be addressed through government-initiated measures are now left to be tackled in the free market, such

as transport, housing and employment of the grassroots. Although these issues involve various strata and different aspects, everything is in the hands of the free market. According to the rules of the game in the market, the weak will be eliminated and the strong will stay. The grassroots will be wiped out completely, for there is not a tiny hint of love and care. President, the sense of coldness and indifference do not only affect the market but have also penetrated the heart of those in power.

Moreover, given the prevalence of the free market and mercantilism, coupled with the *laissez-faire* policy adopted by the Government, the business sectors have been given free rein and they are spoiled. They still uphold the old business operation mindset of maximizing profit and reaping the greatest gains. Enterprises only care about extorting every penny of the public by all possible means. Financial institutions offer an array of products on various pretexts merely to lure the public to give their lifelong savings. Large consortia do all kinds of trickery and looting, enjoying monopoly across sectors and dictatorship in the market. Their greedy nature and short-sightedness are fully manifested.

Hence, the next Chief Executive must cast off the burden of the predecessor. He or she should tackle the root of the problem by reforming the established governance philosophy and mindset, establishing an open and democratic system, reviewing the principle of "adopting *laissez-faire* policy in a free market" and that of "big market, small government" upheld in the past, so that reasonable regulation and supervision can be imposed to rectify the greedy and reckless practices in the market. He or she should, through government-initiated actions, address the unfairness and inadequacies brought about by the free market, establish a principle of development for all people that gives consideration to all social strata, reinforce and expand the functions of the Government, enhance the economic structure and develop new economic growth points, so that the Government can play a good role in resource redistribution.

I so submit.

MR TAM YIU-CHUNG (in Cantonese): President, as I listened to the opening speech of Mr Alan LEONG in moving his motion earlier, I thought he might have been speaking on the wrong motion, probably the question to be discussed under the next motion, for he has said a lot about the right of abode and the Hong

Kong-Zhuhai-Macao Bridge. Upon hearing the entire speech, I learnt that he had not mixed up the question. However, I think there is a great discrepancy between the title of the original motion and the content of his earlier speech. The title of the original motion proposed by him today is: "Calling upon persons intending to run in the Chief Executive Election to respond to people's aspirations". Yet, at the beginning of his speech, he repeatedly proclaimed that the barristers of the Civic Party have been wronged and unjustly treated, and he also mentioned that Hong Kong was undergoing rapid "Mainlandization" and barristers were put under surveillance and house arrest.

I think he does not understand the existing worries and grievances of the public. He calls upon persons intending to run in the Chief Executive Election to respond to people's aspirations, but he does not quite understand the aspirations of the public — we will come to the aspirations of the public later. Luckily, he has no plan to run in the Chief Executive Election this time; otherwise, his speech may be irrelevant to the subject under discussion. As such, we propose the amendments with a view to setting out clearly the concerns and major aspirations of the public.

My words may not be as convincing as the results of the several opinion polls conducted recently, so I will quote those results. We all attach great importance to the Public Opinion Programme of the University of Hong Kong. According to the opinion poll conducted between late September and early October, respondents considered that the seventh Policy Address (that is, the Policy Address published recently) should first focus on solving the housing problems and then the medical issues. The results of similar surveys conducted by the Hong Kong Institute of Asia-Pacific Studies of The Chinese University of Hong Kong are very similar. According to the survey conducted between 20 to 22 September, most respondents considered that housing and planning, people's livelihood and welfare issues should be accorded priority in the Policy Address. In an opinion poll on "the most pressing concern the next Chief Executive should address" conducted by the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) in May, the public were gravely concerned about the three areas on housing, good economic development and a healthy social security system.

President, by comparing the consolidated findings of the abovementioned opinion polls with the wordings of the original motion, we notice that despite the

call for Chief Executive candidates to put forth proposition to respond to the aspirations of the public, the livelihood issues of public concern is only addressed perfunctorily in the original motion, which obviously falls short of the general aspirations of the public to a great extent.

Actually, the DAB supports and agrees in principle that the next Chief Executive should "respect human rights", "persevere in the realization of a democratic political system", "protect freedom of the press and of speech" and "uphold the spirit of the rule of law". However, we believe that the aspirations of the 7 million people towards the next Chief Executive definitely are not confined to these political aspirations. The public expect the next Chief Executive or the various candidates to respond focally to the various aspirations for livelihood issues. As such, the DAB adds a number of proposals on people's livelihood to the original motion while retaining the basic principle of the original motion, so as to call upon the Chief Executive candidates to put forth their proposition on people's livelihood to respond truly to the aspirations of the public.

To reflect the aspirations of the public and put forth proposals to the next Chief Executive, the DAB has conducted a series of opinion polls and organized six workshops in succession in the past few months to collect the extensive views from the public, experts and academics. We conclude that there are three main challenges in addressing people's livelihood problems, namely the disparity between the rich and the poor, ageing population, as well as land, housing and town planning, we thus put forth various proposals and policies on people's livelihood in the amendment today in response. I will briefly describe the relevant proposals, other Members from the DAB will give details of the proposals later.

To narrow the disparity between the rich and the poor and assist the elderly and the disadvantaged, the DAB proposes that the "Work Incentive Transport Subsidy Scheme", commonly known as "New Transport Subsidy", be directly replaced by a maintenance grant scheme for low-income families, so as to enable families not eligible to apply for Comprehensive Social Security Assistance (CSSA) but whose incomes are still on the low side to receive a monthly grant of \$1,000. Second, we propose establishing a quota system for employing people with disabilities, requiring enterprises of a certain scale to employ a required number of persons with disabilities according to a specified ratio, so as to increase the opportunities for the disadvantaged to stand on their own feet. We also propose the Government to formulate a five-year plan regarding residential

care services for the elderly and community care for the elderly, so as to draw up lead time targets and set down corresponding resource allocation and manpower support, having regard to the waiting queues for residential care homes for the elderly, residential care homes for persons with disabilities and community care. Apart from providing assistance to the public in need, the DAB also proposes that the next Chief Executive should buy back the Western Harbour Crossing, increase the subsidies for outlying island ferry routes and use the dividends received by the Government from the MTR Corporation Limited to stabilize MTR fares, so as to reduce the burden on daily expenses borne by the public.

In addressing the problem of ageing population, the DAB proposes to reform the Old Age Allowance (commonly known as "fruit grant") into a three-tier "retirement protection pension", so as to provide elderly people aged 65 or above with a monthly pension of \$1,035, and elderly people possessing asset not exceeding \$88,500 and \$177,000 will receive a monthly pension of \$3,105 and \$2,070 respectively. At the same time, the DAB proposes the introduction of "voluntary long-term care insurance", with the Government partially subsidizing the contributions, and an increase in manpower and resources in public healthcare, so as to get prepared for the health and medical needs arising from the ageing population.

Finally, we come to housing and town planning. The DAB is glad that a number of our proposals have been accepted and included in the latest Policy Address, which include the resumption of the construction of Home Ownership Scheme flats, the enhancement of My Home Purchase Plan, the provision of rental flats for young people, the waive of two months' rent for public housing tenants and the opening up of new land resource. However, the DAB believes that in preventing fluctuations in the property market, the unbalance between the supply of flats in the private and public sector and the break in the home acquisition ladder, the next Chief Executive should formulate a long-term land and housing policy to satisfy the basic housing needs of the public, and at the same time provide a home acquisition ladder to promote upward social mobility.

President, while the DAB concurs with the major principles and directions on "respecting human rights" and "the realization of a democratic political system" as stated in the original motion, we find it difficult to render our support as these grand and lofty principles are bundled with some requests that are unreasonable or may even contravene the Basic Law.

Firstly, the original motion requests the Chief Executive candidates to undertake to abolish the functional constituency seats as well as the separate voting arrangement in the Legislative Council in 2016. As there are still divergent views in the community regarding the abolition and retention of functional constituencies, and there is a gap between the time the next Chief Executive assumes office and 2016, the incumbent Chief Executive should proactively listen to the views of society and forge a consensus. Hence, to make this request in the original motion has seemingly ignored the actual situation in society.

Besides, it is stipulated in the Decision of the Standing Committee of the National People's Congress (the Decision) passed in 2007 that: "the election of the fifth Chief Executive of the Hong Kong Special Administrative Region in the year 2017 may be implemented by the method of universal suffrage; that after the Chief Executive is selected by universal suffrage, the election of the Legislative Council of the Hong Kong Special Administrative Region may be implemented by the method of electing all the members by universal suffrage." Although the Decision has not stated any requirement on the composition of the Legislative Council in 2016, we opine that making the decision to abolish functional constituencies at present as suggested in the original motion may in some measure contravene the 2007 Decision of the National People's Congress.

Furthermore, the enactment of legislation to implement Article 23 of the Basic Law is a constitutional obligation of the SAR Government. The DAB considers that there is no urgency to legislate on Article 23 at present, but we think the motion should not set any restriction requiring when the Government should or should not deal with the issue. I consider this restriction inappropriate.

Finally, the spirit of the rule of law and judicial independence is protected by a number of provisions in the Basic Law.

MR IP WAI-MING (in Cantonese): Regarding the motion today "Calling upon persons intending to run in the Chief Executive Election to respond to people's aspirations", the Hong Kong Federation of Trade Unions (FTU) has put forth an amendment to Mr TAM Yiu-chung's amendment to include the FTU's aspirations towards the Chief Executive on labour issues. However, as the Secretariat advised that it could only be made within the scope of the amendment to the

motion we have added our proposal to the amendment on the introduction of paternity leave and the combination of labour holidays with public holidays, by requiring the Government to implement the two proposals progressively by way of legislation. As regards the aspirations of the labour sector we intend to raise to those persons intending to run in the Chief Executive Election, my colleagues and I will give details later when we speak.

President, the term of this Government will expire by the middle of next year. In this year's Policy Address, the Chief Executive has accepted the views of the FTU in introducing paternity leave, which we surely welcome. However, he said that paternity leave would only be introduced in the Civil Service without stating whether the Government would introduce legislation to enable all wage earners in the territory to have paternity leave. We think this is less than perfect. My colleagues will later expound on this subject, so I will not go into detail now.

Another issue which we hope the Government will address is to legislate to combine labour holidays with public holidays as statutory holidays. As we all know, at present, there are only 12 days of labour holidays, which is five days fewer in comparison with the number of public holidays. Since we are all wage earners, why should some people enjoy more holidays than others? We consider that the best approach is to standardize the two types of holidays, for it is fairer to all wage earners in the territory and is in line with the "family-friendly" policy promoted by the Government. My colleagues will discuss this proposal in detail later.

President, regarding this year's Policy Address, we are rather disappointed in some aspects. We hope that, even if the current Government fails to achieve the following targets, the future SAR Government will respond to our aspirations on retirement protection and the review of the Employment Ordinance. The incumbent Chief Executive said that there were no solutions to the problems of wealth gap and ageing population, for Hong Kong was after all a capitalistic society. However, the problems have been discussed for years and we hope that the Government We are not asking for a complete eradication of the problems of wealth gap and ageing population, however, if he can solve these problems which have probably become global phenomenon, he would have been awarded the Nobel Prize in Economic Sciences. Yet, should the SAR Government, as a governing body, take no actions to address these problems? This is our impression of the Government.

We hope that the future Government will not adopt such a passive attitude in addressing the problems of wealth disparity and ageing population. We all know that by 2030, one fourth of the population in Hong Kong will reach 65 or above. All along, we have been arguing with the Government on how to provide retirement protection and retirement welfare for the elderly, yet the Government keeps dodging the issue and keeps saying that we can rely on the three pillars.

We hope the Government would understand, many grass-roots workers are just earning enough each month to feed their family, they barely have any spare money to save up. Hence, sometimes, it is impossible for them to solve the retirement protection problem by their own effort. Despite the implementation of minimum wage in Hong Kong, many grass-roots workers are living from hand to mouth in meeting their daily expenses. In view of this, the FTU always considers it necessary for the Government to examine the issue of retirement protection in depth and in detail, but so far, we only see procrastination by the Central Policy Unit. As it takes time to accumulate funds for the implementation of a retirement protection scheme, the next five years may be the last five golden years to solve the retirement protection problem in Hong Kong. I hope the next Chief Executive will brook no delay in addressing this problem, otherwise, the retirement protection problem in society will eventually (*The buzzer sounded*) Don't I have 10 minutes to speak Otherwise, the golden period for solving the problem will lapse.

We hope that the Government and the next Chief Executive will sincerely lead the whole society to discuss the ways to establish and implement a universal retirement protection scheme suitable for Hong Kong. We know that the Government plans to improve the Mandatory Provident Fund (MPF) Scheme, but by now, the Government still fails to tell us the detailed proposal.

All along, we have been urging the Government to abolish the offsetting arrangement of MPF contributions with severance payment and long service payment, but we think (*The buzzer sounded*) the Government has not yet

PRESIDENT (in Cantonese): Mr IP, your speaking time is up.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the content of Mr Alan LEONG's motion and the amendments proposed by Mr Frederick FUNG, Mr TAM Yiu-chung and Mr IP Wai-ming focus mainly on the policy agenda of the next Chief Executive. As an official of the incumbent Government, it is inappropriate for me to give too many comments on these views and proposals at the present stage. I believe persons intended to run in the election of the next Chief Executive will listen carefully to the views of various sectors, including the aspirations expressed by Members today.

Surely, anyone being elected as the next Chief Executive must govern according to the law. In a broader sense, the Basic Law has already laid down the requirements on governance in principle for the Chief Executive. Actually, the Chief Executive plays an important role. He is the head of the SAR and that of the SAR Government. He shall be accountable to the Central People's Government and the SAR Government in accordance with the provisions of the Basic Law. The Chief Executive must be a person of integrity, dedicated to his or her duties. The Chief Executive must be responsible for the implementation of the Basic Law, leading the SAR Government and exercising the functions conferred by the Basic Law.

The Basic Law has laid down provisions on various aspects, including the relationship between the Central Authorities and the SAR Government, the fundamental rights and duties of Hong Kong residents, the political system, the democratic development, the independence of the judiciary and the rule of law, as well as the economy, the finance sector, social service and religions, and so on. Anyone assuming the office of the Chief Executive must deliver governance according to the major principles laid down in the Basic Law.

Certainly, in actual governance, the Chief Executive must tap the public pulse, listen to the views of the public and grasp the public sentiments. The Chief Executive should at all times be vigilant for any changes in the external economy and the global situation, so as to make timely and appropriate policies in line with the traditional core values of Hong Kong and the long-term interest of society as a whole to ensure economic development, improvement in people's livelihood, promotion of democracy and harmony in society.

President, under the leadership of the Chief Executive, the incumbent Government has all along endeavoured to safeguard and implement the various rights enshrined in the Basic Law, work hard for the well-being of the general public in Hong Kong and listen to criticisms with an open mind, so as to ensure that its governance can cater to the needs of the people and enable them to lead a better life. No matter which candidate is elected the next Chief Executive, the incumbent Government will definitely do its level best to co-operate in the handover, so to ensure a smooth transition of various policies, the economic development and the protection of people's livelihood.

President, a number of Members have raised questions relating to the governance of the incumbent Government earlier in their speeches, and I believe when the Legislative Council holds the debate on the Policy Address next week, Members and government officials will have more opportunities to discuss those questions in depth. I do not intend to take up too much time of the meeting now. I will give a suitable response later if necessary. Thank you, President. I so submit.

MR WONG KWOK-HING (in Cantonese): President, I will speak mainly on the paternity leave for men, which is the proposal put forth by Mr TAM Yiu-chung and Mr IP Wai-ming in their amendments.

The Hong Kong Federation of Trade Unions has been striving for the introduction of paid paternity for men by the Government since 2006, and we have been urging the Government to introduce the arrangement first in the Civil Service before the enactment of legislation. Last year, at the Panel on Public Service, the Government turned down this request of mine. However, in the Policy Address this year, the Chief Executive has eventually agreed to introduce this arrangement in the Civil Service first. We welcome this proposal.

The introduction of this labour holiday is a display of sympathy and humanity. Yet, the Government said that this proposal would first be introduced in the Civil Service and be followed by consultation to collect views. We have to wait for several more months till the second half of next year before the proposal is implemented. I find this really regrettable.

President, next year is the Year of Dragon for the Chinese. I believe many people will rush to have baby boys or girls in the Year of Dragon. According to relevant figures, between last July and June this year, 58 400 infants were born to parents who were permanent residents of Hong Kong. Since next year is the Year of Dragon, I project that the number of births will surely exceed that number. Under this circumstance, will the incumbent Government take a good and expeditious move by providing all civil servants with paternity leave in the Year of Dragon or starting from 1 January next year?

Secretary Raymond TAM, you had been the Director of the Office of the Chief Executive and had assisted the Chief Executive in the co-ordination work, I hope you would, upon hearing my views, discuss the issue with the Chief Executive when you return to your office. No more bureaucratic procrastination.

President, in introducing paternity leave for men, we consider that the Government has not taken efficient, comprehensive and timely measures; it has also left certain policies to be handled by the next Government, which I think is unnecessary. For instance, paternity leave for civil servants will be introduced in the later half of next year at the earliest, as for subvented organizations, the Government shirks the responsibility by stating that it will be left to the organizations to decide. As regards legislating for the provision of this benefit to all wage earners, the Government said that studies had to be conducted and the issue would be referred to the Labour Advisory Board for discussion, so there was no timetable when the legislation would be submitted to the Legislative Council. I think the pace is really too slow. Since the incumbent Government has come up with this policy, why not implement it immediately, why leave it to persons intending to run in the Chief Executive Election. If the issue is to be handled by the next Chief Executive when he assumes office, he must start anew. In that case, I believe it will be highly unlikely that the relevant legislation will be successfully enacted next year.

Hence, I once again urge the Government to legislate on paternity leave expeditiously, for paternity leave will not impose significant pressure on costs for the business sector, so employers need not worry about it. In the past few years, the Government had implemented the family-friendly policy. We notice that many employers consider the introduction of paternity leave conducive to the enhancement of solidarity and morale of employees, as well as their sense of

belonging; furthermore, the image of their companies will also be enhanced. At present, 21% of employers are providing paternity leave to their employees and they think it is a good measure. Hence, the authorities should not drag its feet in introducing the policy just because certain employers fail to understand the issue or fail to consider the issue from a broad perspective.

President, since there is not much time left, I will put forth a number of specific proposals, and one of which is related to you. The first proposal is that I urge the Government to take the lead to implement paid paternity leave in the Civil Service with effect from 1 January next year. I hope that Secretary Raymond TAM will later discuss this issue seriously with the Chief Executive. Second, President, while the Government has indicated that subvented organizations will make their own decisions on the provision of paternity leave, I hope the Government will not evade its responsibility in promoting this policy. Since employees of subvented organizations are paid by public funds approved by the Legislative Council, their benefits should commensurate with those of civil servants, and paternity leave should be introduced simultaneously.

President, why do I say that this issue is related to you? There are hundreds of staff working in the Legislative Council now and they are employees of subvented organizations. President, after today's meeting, you may perhaps take the lead to discuss with the Secretary General or the committee concerned to examine whether employees of the Legislative Council will be the first to enjoy paid paternity leave on 1 January next year. President, if the Legislative Council sets a good example, I believe this will definitely promote other subvented organizations to introduce paid paternity leave.

Third, I hope public organizations will adopt a proactive attitude in implementing the measure instead of taking actions only when public pressure has mounted.

Finally, the fourth proposal, I hope the Government will speed up the legislative timetable for paternity leave. It should brook no delay. I hope the incumbent Government will provide a clear timetable to Members before the expiry of its term. If the incumbent Government can put forth a clear timetable on legislating for paid paternity leave, it will narrow the gap arisen from the handover and the transition between the incumbent and the next Government, hence, delays by the next Government due to lapses can be avoided.

President, lastly, I would like to ask again, will you take the lead, so that all employees (*The buzzer sounded*) of the Legislative Council Secretariat are entitled to paternity leave. Thank you, President.

PRESIDENT (in Cantonese): Mr WONG, you seem to forget that this motion is directed to those persons intending to run in the Chief Executive Election.

MR WONG KWOK-HING (in Cantonese): President, it may be the case, but one of the points in my speech is to urge subvented organizations

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

DR PAN PEY-CHYOU (in Cantonese): President, as a saying goes, each family has its own problems, the same applies to Hong Kong. Though Hong Kong as a whole is rather affluent, we still have to face an avalanche of problems. Therefore, at this time, four colleagues have put forth a motion and amendments to call upon persons intending to be elected as the next Chief Executive to respond to people's aspirations in various aspects, I consider it is very meaningful to do so.

As a Member representing the labour sector, I am certainly most concerned about labour issues. Among the amendments proposed, I notice that not many words have been devoted to labour issues. In fact, I understand that for such an encompassing issue, we can only briefly mention the issues involved.

But still, as a representative of the labour sector, I am disappointed. The labour sector is now facing a lot of problems and many problems are still unsolved, such as working poverty, the lack of a comprehensive retirement protection scheme, excessive long working hours, insufficient rest time and holidays, the absence of collective bargaining power, inequality of power between employers and employees, inadequate protection on occupational health, and the need to improve employees' compensation, and so on. We are gravely concerned about these problems, but I am afraid we can only discuss them in future.

Today, I will only talk about the provision of five days of public holidays to wage earners, which is mentioned in Mr TAM Yiu-chung's amendment and Mr IP Wai-ming's amendment to Mr TAM Yiu-chung's amendment. In this connection, some colleagues may not know exactly what the Hong Kong Federation of Trade Unions (FTU) is fighting for. According to the existing Employment Ordinance (EO), all wage earners in Hong Kong are entitled to 12 statutory holidays. On the other hand, the General Holidays Ordinance stipulates that employees in certain sectors, such as civil servants, bank employees, teaching staff and so on, are entitled to 17 days of general holidays. With the development over years, a majority of employees in clerical and management posts are entitled to 17 days of public holidays, but blue-collar employees are still provided with 12 days. We consider this arrangement extremely unreasonable. Are blue-collar workers not employees as well? Are they not labourers? Are they not working strenuously? Do they not need more time to rest, spend with their families and further their studies? This is a very unreasonable system. I have asked my colleagues to help in collecting the relevant information to find out whether this dual holiday system is adopted in any other places around the world. After a long search, my colleagues cannot find any similar cases. It turns out that Hong Kong is the only place in the world which adopts this dual holiday system.

Many employers may say that the labour sector is asking for all kinds of benefits, but the fact is that Hong Kong workers are only entitled to a few days of holidays at present. First, in many advanced countries and regions, they have adopted the five-day week, but Hong Kong still adopts the six-day week. Second, an average worker is only entitled to 19 days of holidays a year in total, that is adding the statutory holidays and the annual leave, which is seven days as stipulated in the EO. If compared with overseas places with statutory protection on holidays, it is found that Hong Kong ranks 105, the fourth from the last, among 109 countries and regions. Honestly, this is a disgrace to Hong Kong. Hence, I do not only call upon the Government, but also persons intending to run in the Chief Executive Election and other colleagues in this Council, to support the inclusion of all the 17 public holidays as statutory holidays.

There is an interesting point in the motion debate today. In the original motion of Mr Alan LEONG, he lays great emphasis on issues relating to the system of a civil society, including democracy, human rights, rule of law, freedom of the press, and so on, but he only uses four Chinese words to depict

issues concerning people's livelihood. As for Mr TAM Yiu-chung, he adopts a very different approach in his amendment. He first lists point by point various livelihood and economic issues. As regards issues relating to the so-called system of a civil society, Mr TAM Yiu-chung has also mentioned them in detail, though in less words than the original motion of Mr Alan LEONG, and he places this part after livelihood issues.

Which of the two approaches can reflect the public sentiments more aptly? Mr TAM Yiu-chung has mentioned this earlier, and I have conducted some surveys in this respect. The Public Opinion Programme of the University of Hong Kong interviewed 1 011 persons between 27 June and 5 July this year to find out the priority areas of concern, such as people's livelihood, economy and politics, and so on. The results clearly indicate that 70% of the respondents were most concerned about livelihood issues, 20% were concerned about economic issues and only 7% expressed concern about political issues. A survey conducted by the Hong Kong Institute of Asia-Pacific Studies of The Chinese University of Hong Kong during April and May 2009 had very similar results. Hence, in my view, issues relating to politics and constitutional systems, though not insignificant, are not as important as livelihood issues to the public. As such, I consider Mr TAM Yiu-chung's approach of putting livelihood issues first more appropriate, as this can better meet the aspirations of the people of Hong Kong.

I so submit.

MR CHAN KIN-POR (in Cantonese): President, all civil servants should adopt the philosophy of people-based in their work, and work hard to respond to the aspirations of the public. The Chief Executive, who is responsible for policy formulation and the future development of Hong Kong, should thus regard the aspirations of the public as the basis for policy formulation.

In 2012, the Chief Executive will be elected by the 1 200-member Election Committee. In my view, all candidates are in fact serving the some seven million people in Hong Kong, not just the electors with voting rights under the election system.

As a responsible Chief Executive candidate, one should make the best effort to listen to the views of various sectors and strata in society in drawing up his or her election platform. The candidate should then clearly inform the public his or her position in governance. Upon the announcement of the election platform, the candidates should then allow sufficient time for the public to understand their ideas, they should be ready to receive criticisms and make corresponding amendments to the platform.

Today, the original motion moved by Mr Alan LEONG and the amendments from Mr Frederick FUNG and Mr TAM Yiu-chung are put forth to express the views of their respective political parties and groupings via the platform of the Legislative Council. There should be an array of proposals rightly reflecting the views of various sectors and strata of society. The crucial point is whether persons intending to run in the election will respond to the aspirations of various sectors upon hearing the views expressed and draw up a platform and policies that can strike a fair balance of interests of various sectors.

President, colleagues in this Chamber have different expectations of the future Chief Executive. I personally think that the ideal Chief Executive must accord priority and face squarely the problem of an imbalanced population policy. In the past few years, the Government has failed to address seriously the population policy of Hong Kong, this is definitely one of reasons for so many problems emerging in recent years.

In fact, policies relating to employment, housing, medical and education are affected by the population policy. Questions such as how many employment opportunities should be created, what types of job are required, how many flats, hospitals and schools should be built, how many doctors and teachers should be trained, are all related to the population policy. If the Government has no idea about the future demographic development, what basis does it have in formulating the long-term policies in governing Hong Kong?

Let me cite a simple example. Owing to economic restructuring of Hong Kong, there is a surge of low-skilled and low-education workers in the labour force, and the manpower mismatch has led to a widening gap between the rich and the poor. However, the Government has not provided any specific figures to indicate the types of talents that will be in short supply in the next five to 10 years, and the number of talents required. We do not know the number of

surplus manpower in Hong Kong and the measures to be adopted to address the problems.

The same problem is also found in housing. Housing policies are often pegged to property prices but not based on the future needs of the population. Since housing policies have been formulated on the basis of the wildly fluctuating property prices over the years, they have failed to address the housing needs and have even run out of control; as a result, the genuine needs of the public have been completely overlooked.

In the past, the community always avoids reviewing the population policy. I believe people are worried that any discussion about new arrivals may touch on issues relating to family reunion and even discrimination. Family reunion is a basic human right which should not be affected in all circumstances. Yet it does not mean that the Government should turn a blind eye to the situation and take no action.

Evading the problem does not help in solving the problem, instead the situation will worsen. I think the next Government should conduct studies on the population policy of Hong Kong as soon as possible and adopt a new mindset in addressing the population issues in Hong Kong.

As the land and resources of a place is limited, the populating carrying capacity of each place is different. It is just impossible to expand infinitely.

Actually, many countries and regions will conduct studies on their population carrying capacity. The authorities concerned will, based on the requirement of sustainable development and the actual figures, analyse the population carrying capacity of their countries or regions by means of a quantified model system, and set the standard in the light of the indicators on economy, society, resources, environment and population.

How many people can be accommodated in Hong Kong, being such a small place?

The population profile of Hong Kong is closely related to our overall development. The new term Government should set up a high-level task force to study expeditiously the carrying capacity of the population in Hong Kong, so

that the authorities may cap the population at a certain level in the next decade or two and formulate policies on employment, housing, medical and education according to the overall population profile. The authorities will then have the foundation to formulate relatively comprehensive policies to solve the deep-rooted problems in Hong Kong.

The second point I would like to point out is the consistently high unemployment rate of young people, which often remains at double-digit level. The opportunity of upward mobility for young people is becoming more and more limited. In the past, the Government mainly offered temporary posts to alleviate the problem of youth unemployment, which is not conducive to the long-term development of young people. On the other hand, the unemployment problem of the middle-aged is getting worse.

These problems are somehow related to the mismatch between the population and the types of jobs available. Hence, when the Government improves the population profile, it should at the same time address the problem of our economic structure being increasingly restrictive. Apart from implementing conscientiously the six industries with competitive edge, the Government should develop the seventh and the eighth industries according to the needs and pulls of society to enable diversified industrial development in Hong Kong. The Government should also re-examine the positioning of the industrial development in Hong Kong.

Thirdly, I would like to talk about the retirement and welfare system in Hong Kong. I think that the next term Government definitely should not dodge the problem of ageing population. Before the problem deteriorates, the next term Government should seize the opportunity to examine other retirement arrangements on the basis of the Mandatory Provident Fund (MPF), so as to offer protection to persons failing to benefit under the MPF system, such as low-income earners or family carers, with a view to enhancing retirement protection in Hong Kong.

Recently, the Governments of the United States and some European countries have to resort to cutting welfare benefits in the face of the debt crisis, which have sparked off protests and confrontations. The incident prompts me to reflect on the welfare system again. Once again, I accept that the responsibilities of the Government are actually to foster a favourable business

environment and create employment opportunities, and apart from taking care of the elderly, the disadvantaged and the disabled, it should promote by all means the "workfare mindset" instead of "all-welfare mindset" among the public. The Government should introduce policies to support and encourage people or families who are earning a meager income to stand on their own feet.

President, the preliminary competition of the Chief Executive Election has commenced. Many organizations in the community have started conducting opinion polls on the preference for candidates preparing or considering to run in the election. The fluctuations of their popularity rating is even greater and at a faster rate than that of the stock market. If the public request the candidates to listen to their aspirations carefully before they draw up their election platform, the public should understand the election platform of the candidates and the composition of their teams before they come to any decision. Since the candidates have yet to announce their election platform and team members, I think it is premature to draw any conclusion at this stage. I think if the public start giving their comments when the candidates have formed their teams and drawn up their election platform, it will initiate more rational and pragmatic discussion in society.

President, I so submit.

MR CHIM PUI-CHUNG (in Cantonese): President, when we debate this motion today, I thought I was in the year 2007 — four years ago when Mr Alan LEONG ran in the election. It seems most appropriate for him to put forth this motion for discussion, for he put forth this proposal when he was an eligible candidate in the election. But regrettably, I learnt from the media that he had given up the intention to run in the election.

President, as I often say in the Legislative Council, since Members come from various sectors, they have their own thoughts, ideologies and expectations, as well as their personal views. In Mr Alan LEONG's earlier speech, he made particular reference to democracy and human rights. We cannot say that there is no democracy or no human rights in Hong Kong. But if universal suffrage is regarded as absolute democracy, we do not have 100% but only 50% democracy in Hong Kong. When we look at the status of human rights and democracy around the world, we notice that the United States is taking the lead to bully other

regions. We know the fate of Libya. Is this democracy? Are these human rights? These are actions of intervening in the affairs of another country, which indeed warrant censure and criticism.

In paragraph (b) of the motion, Mr Alan LEONG hopes that functional constituencies will be abolished in 2016. I can tell him that this is absolutely and definitely impossible. In 2016, the election for functional constituencies will be improved, and in 2020, functional constituencies will be returned by universal suffrage. As for the mode of election, I have the idea in mind. By then, the target of one person having two votes, an idea often mentioned by the Democratic Party, will be achieved.

President, in my view, it is too early for us to comment on the various work to be done by the next Chief Executive at this stage. Why? The 1 200 members of the Election Committee will only be elected by 11 December. I strongly believe that any member of the public who manage to secure 150 nominations will be a potential candidate. However, we only have one nomination. We may have two nominations with the help of friends. No matter how, the 1 200 members will only be elected on 11 December. I believe the so-called candidates will come forward by then.

President, I hope that the motion today can really call upon persons intending to run in the Chief Executive Election to respond to the aspirations of the public. I am a member of the public, and I will automatically become an elector eligible for voting. Hence, I have the following expectations towards the next Chief Executive. First, after his team is formed, he should let incumbent Secretaries of Department and Directors of Bureaux understand that instead of being in a supreme position as officials, they are actually public servants. Now, in the Legislative Council, I hear many civil servants saying that they are officials and representatives of the Government. I always think that they should change this mentality and stop giving such comments, for the era of colonial rule was over. It is undeniable that civil servants had established good reputation and provided good governance in the past, yet they are not unpaid for their work. The costs incurred were significant, which were paid by the public. That era was over. They should repay the public and serve them sincerely in the capacity of a public servant. They should stop thinking they are superior in their official positions, or riding roughshod over the people and the public. As the Chinese character "官" (meaning government officials) suggests, officials have three "mouths", two of which are obviously found in the character but the one in the

middle is moving around frequently. Government officials should not regard themselves superior because of their position. This is the primary expectation I have on the team of the next Chief Executive.

Second, I think the next Chief Executive should ensure better communication with the Legislative Council. I suggest that the Chief Executive should propose to the Legislative Council for more communication. If communication is to be carried out in the existing manner, it may be better to do without it. If good communication and interaction cannot be ensured, it is better for us not to meet. The existing situation cannot set a good example for mutual support and co-operation between the legislature and the executive authorities in future, and on the contrary it poses a challenge to people's thinking. After all, the separation of powers is adopted in Hong Kong; the executive authorities and the legislature are two important links. It is undesirable if these two links fail to perform their functions properly to build up the confidence of the public. Hence, the two should stop smashing and challenging each other.

President, in fact, everyone in Hong Kong has a hope. Hence, the next Chief Executive should create a hope for the public. Whoever they are, be they in the education sector or other sectors, the Chief Executive should by all means let them know that there is hope. During the governance of the British Government, why did we have Mark Six so often? Why do we have horse-racing every Wednesday or Saturday? The answer is they bring hope. Never ever let the public feel hopeless. The original motion calls upon persons intending to run in the Chief Executive Election to respond to the aspirations of the public. President, it is easy to respond in words, but do the probable runners have the required capabilities and team members to put their words into actions, that is the concern of the public and people from all sectors. Everyone has different expectations. For instance, young people hope that they can "get a flat". However, the authorities should let young people know that the Home Ownership Scheme cannot make them owners immediately. The opportunities to be owners are neither granted by heaven nor the SAR Government, but depend on the effort they made to strive for such opportunities. Hence, members in various sectors do have a hope in mind. People engaging in politics should not only have their hopes but should also bring hopes to the electors. In addition to bringing hopes to electors, they should at the same time respond to the aspirations of the public. I so submit.

MR JEFFREY LAM (in Cantonese): President, from November up till next year, a number of major elections will be held, which include the District Council Election, the Election Committee Subsector Elections, the Chief Executive Election and the Legislative Council Election. Among all these elections, the Chief Executive Election to be held in March next year naturally attracts the gravest concern and is widely discussed by the public, for it has the greatest impact on the future of Hong Kong.

In the various elections, different people, even members from the same family, will have different views and aspirations on society and candidates. The coming elections allow the public to express their stances through various modes of election and different channels.

Naturally, there may be contrasting views within the Legislation Council. Various Members and political parties and groupings may have different expectations of the next Chief Executive in the light of their different positions, background and values. Hence, the focal point of attention may be different. In the original motion, part of the content is about the core values upheld by the people of Hong Kong; we all accept such values and strive to safeguard them. Yet, part of the content is only to the liking of certain politicians, the points are raised to meet the political objectives of some individuals and have not gained the broad consensus of the people of Hong Kong.

Over the 14 years after the reunification, the SAR Government has always upheld the principles of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". It has persevered in safeguarding the core values of Hong Kong people in accordance with the protection enshrined in the Basic Law, whereas the Legislative Council, being the monitoring institution, monitors the Government in the delivery of effective governance on such premises.

Hong Kong society has experienced a number of setbacks and challenges since the reunification. In the face of changes in the atmosphere of society, the SAR Government has put forth corresponding measures to meet different aspirations. It has endeavoured to ensure that policies implemented are for the long-term interest of Hong Kong as a whole, and every effort has been made to strike a balance in meeting the needs of various strata.

President, as a member of Hong Kong, I champion and treasure our core values. When it comes to respecting human rights, improving people's livelihood and safeguarding the long-term interest of citizens, as well as persevering in promoting democratic political development, safeguarding freedom of the press and of expression, upholding the spirit of the rule of law and defending the judicial system, I believe the SAR Government has made proactive efforts in championing these core values of the people of Hong Kong. Reasonable aspirations raised in society will be well understood and accepted by the Government and by people with a rational mind and an accommodating spirit. However, some people only focus on minor points without due consideration for the overall situation; they keep talking about democratic ideals without considering the realistic advancement. Hence, they put forth some fastidious and unreasonable requests. I believe the public perfectly understand this situation.

We notice from recent reports of the media that certain political parties make use of legal proceedings to manipulate innocent citizens to initiate lawsuits against the Government, trying in vain to delay the implementation of government projects and impede the further integration between the State and Hong Kong. They have totally disregarded the overall long-term interests of Hong Kong people. When the litigant frankly told the media that she was muddled and being manipulated to apply for judicial review, the lawyers and the representative of the political party concerned swiftly declared they have no relationship with the litigant, trying to make up all kinds of excuses to evade their responsibilities. The litigation in question was funded by legal aid applied by the litigant. As the litigation costs were paid by the Legal Aid Department, all tax-payers in Hong Kong have to bear the cost. The lawyer initiating the litigation has pocketed over a million dollar as legal service charges. Worse still, due to the delay in the project caused by the lawsuit, all tax-payers in Hong Kong have to share an additional cost of at least \$6.5 billion. Was champerty involved in any of the procedures of the lawsuit? Was it a deliberate violation of law? The public will have to make their judgment.

President, as a saying goes, "The fox knew too much, that was how he lost his tail". For someone who disregards the long-term interest of Hong Kong people, who chickens out in admitting his act, how dare he has the guts to call upon the next Chief Executive or probable candidates to defend the long-term interest of the public?

President, at this point when the situation of the international community is highly unpredictable and the global economy is experiencing fluctuations, Hong Kong can afford no internal strife and procrastination. With the strong support of the State, Hong Kong should make proactive efforts to capitalize on the opportunities arisen from the National 12th Five-Year Plan. Not only should it strive to develop Hong Kong into an international cosmopolitan city, it should also work hard to develop Hong Kong into a prosperous, stable and livable place, so that the people of Hong Kong will be proud of it and develop a sense of belonging.

The 7 million citizens in Hong Kong have different aspirations of the next Chief Executive, which rightly reflect that Hong Kong people have dreams and expectations about their future. We hope that the next Chief Executive will practice what he preaches, adopt a pragmatic approach and initiate changes in a prudent manner, leading Hong Kong people to have a promising future.

President, I so submit.

MR WONG TING-KWONG (in Cantonese): President, so far, no one has formally announced his or her intention of running in the next Chief Executive Election, but there are many "probable" runners doing all kinds of "probable" electioneering activities.

Regarding today's motion on "Calling upon persons intending to run in the Chief Executive Election to respond to people's aspirations", it naturally includes the aspirations of all strata and sectors in society. Hence, I think the next Chief Executive should attach importance to people's livelihood on the one hand, and give regard to views expressed by the industrial and business sectors on the other.

Economic development is of utmost importance to a commercial city like Hong Kong, but this is not mentioned in the original motion at all. According to a number of opinion polls in the community, people's livelihood, housing and economic development are the top three issues that the public are most concerned about. According to the opinion poll conducted by the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) in the middle of this year, the public were concerned about issues relating to the economy and people's livelihood. It is evident that the public expect the next Chief Executive to give

consideration to promoting economic development and addressing injustice in society.

Regarding the specific work on promoting economic development, most people opted for adjusting the economic structure and promoting diversified development, followed by reinforcing and enhancing the existing competitive edges of Hong Kong.

President, it is most important for those persons who really intend to run the Chief Executive Election to understand and listen to the requests and views of members of society. Anyone who takes the moral highland by merely speaking of lofty ideals will not be our desirable choice of the next Chief Executive who should be pragmatic. Hence, I welcome the persons concerned to show more concerns, listen more and raise more questions.

As a pragmatic political party, the DAB had organized a workshop some time ago on the expectations of the public on the next Chief Executive to be selected in 2012. Members of various sectors were invited to express their views, and a series of proposals was put forth to the Chief Executive candidates. For the business and industrial sectors, the small and medium enterprises (SMEs) are now facing considerable pressure and difficulties, which include the difficulties in financing, rising rental, increasing inflation, appreciation of RMB, and various consequential expenses on benefits arising from the legislation on minimum wage and increasing operating costs.

To address the above problems, the sector hopes that new economic growth points will be identified in Hong Kong for sustainable development of society as a whole. In our proposals, we suggest that the authorities can consider making use of the frontier closed area to develop new towns well supported by a comprehensive transport network. Various government departments, now located in various parts of the urban area, which do not have to provide daily reception service to the public (including the government department responsible for co-operation work with the Mainland) can be moved to the new town to promote its development. More sites in the urban area can thus be released for redevelopment.

Moreover, the authorities may examine the construction of new exhibition venues in these new towns, which will promote the development of cross-border

exhibition industries and the co-operation between the Mainland and Hong Kong on boundary infrastructure development. The development will attract private organizations to move in, forming a business hub consolidating various business and industrial development. I believe this move will promote business and industrial development as well as increase employment opportunities.

At present, probable candidates have commenced various electioneering activities which have been widely reported by the media. There are also some "outsiders" news, quoting sources from the so-called Central Authorities about "anointing" someone and "advising someone not to run in the election", as well as reports about love affairs and gossips. The reports cover every aspect of the candidates. However, I think it is more important for us to understand the governance philosophy and platform of the persons concerned. We may draw comparison among them and identify the suitable candidate for the next Chief Executive.

At the same time, members of the community should take this opportunity to get prepared for the election of the Chief Executive by universal suffrage in 2017. Though the Chief Executive is now selected by members of the Chief Executive Election Committee, persons intending to run in the election are now canvassing for public support proactively. They do not confine their targets to the 1 200 members of the Election Committee but members from all strata of society, and they respond boldly to the concerns of the grassroots in particular. I hope that the next Chief Executive will carry on with the tradition and open new paths to bring new hopes to Hong Kong.

President, with these remarks I support the amendments of Mr TAM Yiu-chung and Mr IP Wai-ming and oppose the original motion and the other amendment.

Thank you, President.

MR KAM NAI-WAI (in Cantonese): President, over the past few months, we were perplexed by the news concerning the Chief Executive Election. As many colleagues have said, the so-called "probable Chief Executive candidates" are conducting activities which we consider as electioneering every day.

Members may notice that a few months ago, when the probable Chief Executive candidates (that is, persons intending to run in the election) were still in the governing team of Donald TSANG, they took all sorts of "petty actions". I recalled that at the Chief Executive Questions and Answers Session held on 15 July, I asked the Chief Executive about this. At that time, he said that some people were taking advantage of the situation on the pretext of building political image. Members should still have a fresh memory about that.

In August, I established the Chief Executive Election Monitor (CEEM) and conducted a survey to urge the probable Chief Executive candidates to quit as soon as possible. At that time, over 70% of the respondents shared the same view. They asked those candidates to quit their official positions in the governing team of Donald TSANG and started the electioneering as soon as possible.

We all note that although the two probable Chief Executive candidates resigned from their official positions in Donald TSANG's governing team in September, they have not formally announced their intention to run in the election. It is probably because any expenses incurred in electioneering have to be included as poll expenses. We are perplexed, seeing the several candidates For instance, Mrs FAN is the first person to indicate her consideration of standing for election, but since she wavers over the decision and fools the public, her popularity rating has plunged drastically.

Recently, Henry TANG has often made inappropriate remarks. Besides, he always projects a superior image that can hardly integrate into the community. His popularity rating has dropped rather than increased.

As for LEUNG Chun-ying, he makes strenuous efforts to integrate into the grassroots and endeavours to put in good "performance", and his popularity rating showing signs of increasing. However, when we see these probable Chief Executive candidates As many colleagues have said, these probable candidates are not only facing the 1 200 members of the Election Committee but the 7 million people of Hong Kong, and thus they have to continue putting on these "shows".

A number of Members on the pro-establishment camp mentioned the findings of a number of opinion polls, which indicated that the public wanted to

know the views of the probable Chief Executive candidates on questions like people's livelihood, economy, education and development. However, I would like to tell Members, Hong Kong people are in fact most concerned about whether the Chief Executive candidates or the Chief Executive-elect can stand on their side, and safeguard their fundamental core values and interests. This is a prerequisite for being the Chief Executive of Hong Kong.

How then should we assess if they have such a requisite? Certain issues, like the 4 June incident, are the "Achilles' heels" of the probable Chief Executive candidates; once they touch on these issues, the game will be over. Recently, the remarks made by Mrs FAN on the 4 June incident had drawn criticism from DING Zilin of the Tiananmen Mothers. Hence, probable Chief Executive candidates dare not touch on similar topics.

For instance, we are eager to know their views about legislating for the implementation of Article 23 of the Basic Law and whether they will implement universal suffrage. The people of Hong Kong will use these benchmarks to assess whether the probable Chief Executive candidates are considering issues from their point of views. The most important benchmark is whether these candidates dare to say "No" to the Beijing authorities.

Certainly, in respect of people's livelihood, we all hope that the economy can be developed. All opinion polls indicate the importance of economic development to the people of Hong Kong. Yet, the people of Hong Kong also have another yardstick, that is, whether the next Chief Executive will consider issues from the perspective of the people of Hong Kong. Hence, I hope the probable Chief Executive candidates will expeditiously put forth their views on the issues I mentioned earlier, such as the realization of a democratic political system, and the ways to protect freedom of the press and of speech, and the upholding of the core values of Hong Kong like the spirit of the rule of law, as mentioned in the original motion.

Mr TAM Yiu-chung puts the above concerns in the last paragraph of his amendment, for he considers that though these issues are important, they are not as important as livelihood issues. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) always hope that the legislature will not discuss political issues but only livelihood issues in Hong Kong. However, I consider that the two aspects are of the same importance.

I mentioned earlier that probable Chief Executive candidates have to put up "shows" to address the concerns of the 7 million people in the territory. According to an earlier survey conducted by the CEEM, the public did not know who the 1 200 members of the Election Committee were. Did respondents know how the 1 200 members of the Election Committee were selected? Over 73% of the respondents said that they did not know. In other words, a majority of the public do not know how the 1 200 member of the Election Committee are selected.

Hence, in addition to monitoring the Chief Executive Election, I urge members of the public to pay attention to the Election Committee Subsector Elections to be held in December, for the numerous weird small coterie elections may render Though we have no right to elect the Chief Executive through "one person, one vote", the method for the formation of the Election Committee has a direct bearing on the election of the Chief Executive.

I implore the people of Hong Kong to monitor the Chief Executive Election as well as the Election Committee Subsector Elections.

I so submit.

MR CHEUNG KWOK-CHE (in Cantonese): President, less than six months are left before the election of the fourth Chief Executive. We all know who will be running in the election, it is only obvious. While we are still unable to elect the Chief Executive by "one person, one vote", the next Chief Executive will have to be accountable to all the people of Hong Kong in all circumstances. The next Chief Executive definitely cannot just give grandiose talk or appease "Grandpa". I believe persons who are sincere in running in the Chief Executive Election will not be so short-sighted to serve one term only. Rightly because of this, the candidates must be far-sighted, they should have a broad and forward-looking perspective to formulate proper planning for the next 10 years for Hong Kong.

At present, Hong Kong is under the hegemony of the property sector and the finance sector, whereas the problem of disparity between the rich and the poor is deteriorating. Worse still, the governance of the Government is fraught with problems. All these have intensified the division in society which is already plagued by a series of conflicts. Regrettably, the incumbent Government, which

only has a remaining term of nine months, turns a blind eye to the situation. It fails to seize the opportunity of the last Policy Address to try to resolve the deep-rooted conflicts in society. Honestly, the grievance of the public has reached a critical point. If the next Chief Executive does not face these problems squarely, a public outcry may break out and all the people of Hong Kong will suffer. Hence, my advice to the next Chief Executive is that he or she should accord top priority to livelihood issues upon assumption of office. The next Chief Executive should respond positively to the aspiration of the 7 million people by improving people's livelihood rather than merely safeguarding the interests of large consortia or big enterprises, nor just be accountable to the 1 200 members of the Election Committee.

In order to respond to the aspirations of the public effectively and sense the urgency that the people sense, there is no better option than implementing a democratic political system in Hong Kong. Without democracy, how can people's livelihood be improved? I have been emphasizing this point all along. Only a Chief Executive elected with substantial public mandate will serve the people and truly strive for the interest of the public, rather than making every effort to appease a coterie of members of the Election Committee.

The prosperity and stability of a society are not solely determined by the economic environment, freedom, human rights and democracy are indispensable factors. When the rights of individuals are not being respected, the Government will lack legitimacy. A government without legitimacy and with low popularity rating will meet hindrance everywhere and can hardly take forward any policies or measures even when such policies or measures are people-oriented.

Moreover, the functional constituencies of the Legislative Council should be abolished as soon as possible. Obviously, the existing functional constituencies only represent a small group of people, where certain functional constituencies only have 100-odd electors. I query their representativeness. Moreover, under the separate voting arrangement, Members from functional constituencies representing the honourable votes of a small group of people may easily veto motions or legislation put forth by Members returned by universal suffrage. It is an utterly ridiculous political system.

Although I am a Member of functional constituencies, when I ran for the functional constituency seat of the social welfare sector on behalf of the Hong

Kong Social Workers' General Union, I made it clear in my election platform that one of the targets I wanted to achieve was the abolition of functional constituencies. This is one of the most important reasons my voters support me to join the legislature. In my view, if the deep-rooted conflicts in political system remain unsolved, the existing divisions and conflicts in society will not be alleviated even if with good economic performance. This is a time bomb that will eventually explode.

President, I notice that the longer we are reunited with the Mainland, the lesser freedom of the press and of speech we can enjoy in Hong Kong. This is particularly the case when it involves the leadership of the Central Authorities, for the SAR Government is eager to show its loyalty even at the expense of the core values of Hong Kong people and high degree of autonomy.

Take the recent visit of Mr LI Keqiang, Vice Premier of the State Council, to Hong Kong as an example. The police had become a political tool for suppression. In broad daylight, plain-clothes policemen arrested an ordinary member of the public wearing a T-shirt with a "4 June" slogan, and they even attempted to cover up the misdeed by preventing the media from monitoring the police against power abuse. Definitely, the "black shadow" remark made by Andy TSANG, the Commissioner of Police, at the Legislative Council is the most ludicrous. His remark is something of a fantasy, in which he calls a stag a horse. Hence, I think that before the implementation of universal suffrage, the Government should not legislate on the implementation of Article 23 of the Basic Law, so that Hong Kong will not degenerate into a city struck by white terror.

Moreover, I have to stress that the Chief Executive-elect must make continual effort to uphold the rule of law and defend judicial independence. We must bear in mind that the political system in Hong Kong is featured by the separation of powers: the executive, the legislature and the judiciary are independent, and there are checks and balances. Hong Kong people are most proud of its independent and corruption-free judiciary. So far, we notice that the judgments of the Court, particularly in the two recent judiciary review cases on the environmental assessment report of the Hong Kong-Zhuhai-Macao Bridge and the right of abode of foreign domestic helpers, have shown that the Court has managed to make judgments in a fair and open manner without submitting to the pressure from the Government or public opinion. I hope that the next Chief Executive will endeavour to uphold the spirit of the rule of law.

Finally, I take the view that in the next five to 10 years, irrespective of the degree of changes in society, the authorities should still make plans to cater for the needs of the public in housing, medical service, education and retirement protection.

Mr TAM Yiu-chung and Mr IP Wai-ming have both put forth proposals concerning the improvement of people's livelihood in their amendments, which I agree primarily. Regrettably, as many core values which the people of Hong Kong are proud of have been deleted from the amendments, I find the amendments unacceptable.

President, I so submit.

MS MIRIAM LAU (in Cantonese): President, the Civic Party which puts forth the motion today had lavishly spent hundreds of thousands of dollars in September this year to place a full-page Chinese advertisement on a number of newspapers in Hong Kong for two consecutive days, claiming to the effect that "They have to defend the last treasure of Hong Kong — Democracy, Human Rights, Freedom and the Rule of Law". In the motion put forth by Mr Alan LEONG today, perhaps they still want to say something pleasing to the ears of the public, hoping that this will divert the attention of the public from the involvement of the Civic Party in the two lawsuits relating to the Hong Kong-Zhuhai-Macao Bridge and the right of abode of foreign domestic helpers.

Having said that, the Liberal Party strongly supports the core values on democracy, human rights, freedom and the rule of law upheld by the people of Hong Kong. Yet, we find that the public are more concerned about livelihood issues. According to the survey released by the Public Opinion Programme of the University of Hong Kong in October on people's expectation of the Policy Address of the Chief Executive, 35% of the respondents considered that housing should be the first priority in governance, while 23% considered that economic issues should first be dealt with. As for other areas, 9% of the respondents considered that social welfare should be accorded the top priority, 5% opted for labour and employment, 5% opted for medical policy, 5% opted for education, 2% opted for political development, 1% opted for human rights and freedom and 1% opted for civic education. It is obvious to all that at the present stage, the

public consider that priority should be accorded to estate development and economic issues of Hong Kong.

The Liberal Party believes that a majority of the public earnestly hope that persons intending to run in the election will give a detailed account of their housing and economic policies as soon as possible, so that they will know how persons intending to run in the Chief Executive Election will promote sustainable housing and economic development policies.

In respect of housing development, the Government has just announced the resumption of the construction of Home Ownership Scheme flats and the enhancement of My Home Purchase Plan, and consequently, the increase in property prices has slowed down, but this is only part of the overall housing strategy. Hence, we all wish to know the vision of Chief Executive candidates on housing development. The Liberal Party will present our views at the debate on the Policy Address to be held next week.

It is undeniable that deep-rooted conflicts have posed substantial hindrance to the sustainable development of the economy of Hong Kong. I remember a song titled "Find a job" sung by Sam HUI, which is about a lazy man called "MOK Da-mo" who does not want to work. Back then, as the lyrics put it, if "MOK Da-mo" had the determination to work hard, he would still have the opportunity "to climb to a higher position and possess a Benz". Yet, we can hardly play the same tune now.

In recent years, many Hong Kong people, particularly the younger generation, have lost the motivation to strive for success. Many young people and the grassroots consider that the ladder for upward mobility has in fact been blocked for a long time. No matter how hard they work, they can hardly break away from their original class and move up the social ladder. According to a survey conducted by the Hong Kong Federation of Youth Groups in 2010, the number of young people dissatisfied with the blocked social mobility ladder had reached a ratio of 48%, which was 20% higher than the ratio recorded in the same survey conducted four years ago. Some academics point out that apart from the 1.26 million grass-roots population who are in poverty, there are about 1.16 million people earning an income of \$10,000 to \$20,000, who are the new generation of persons in poverty.

In the absence of clear economic policies and given the ineffectiveness of the education and population policies in adjusting the situation, the upward mobility of the abovementioned new generation of persons in poverty and the grassroots will be further eroded and impeded, which will undesirably develop into a negative force affecting economic development. In this year's Policy Address, the Chief Executive has introduced a number of short-term relief measures, but no long-term strategies have been formulated to bring substantial improvement to the existing situation. Hence, the public do have expectations of the Chief Executive candidates.

Regarding the request for the abolition of the functional constituency seats in 2016, we would like to remind Members of the decision of the National People's Congress (NPC) last year that the election of the Legislative Council by universal suffrage would be implemented in 2020 at the earliest, which was established on the foundation of the consensus reached with the pan-democratic camp. If this consensus is overturned hastily, who can estimate how great the cost Hong Kong will have to bear and how many Hong Kong people will be disappointed? Perhaps this is the smug calculation of the Civic Party which had endeavoured in promoting the "*de facto* referendum in the five geographical constituencies".

Concerning the enactment of legislation on implementing Article 23 of the Basic Law, we consider that extensive consultation has to be conducted and the timing should depend on the consensus of society. Hence, it is unnecessary to strictly forbid the enactment of legislation within a specific time as stated in the original motion.

Article 35 of the Basic Law provides the people of Hong Kong with the rights to institute legal proceedings and judicial reviews, and we believe Hong Kong people treasure and support these rights very much. However, the public have much grievance about judicial reviews initiated by people abusing this right. The two lawsuits I mentioned earlier have aroused great reactions in society, and society as a whole has to pay a great cost. I believe the Civic Party knows how it feels, as a saying goes, "the one who drinks know whether the water is hot or cold".

Hence, the Liberal Party thinks that the public do not need people who talk about human rights, the rule of law and justice all the time but act in the opposite way. Since the Liberal Party can hardly agree with such "sugar-coated justice" in Don Quixote style, we will not support the original motion.

As for the amendments, the proposal put forth by Mr Frederick FUNG on "the formation of a committee dedicated to implementing dual universal suffrage" with the participation of the Central Authorities may be tantamount to requesting the Central Authorities to relinquish its decision authority in political development, which I am afraid is impractical and unreasonable. As such, we cannot support this amendment.

As for Mr TAM Yiu-chung's amendment, the detailed proposals on people's livelihood are good, which is indeed the set of proposals the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has all along been advocating. I believe the Liberal Party also has its own set of proposals, and likewise, the Democratic Party and the Civic Party also have their proposals. Since each and every political parties and groupings has formulated a set of proposals on improving people's livelihood, there is an array of proposals and ideas. However, we can hardly include all these proposals in a motion and request the Chief Executive to focus on certain livelihood proposals put forth by a certain political party. In our view, the Chief Executive-elect should listen extensively to the views of various political parties and groupings, and adopt those any proposals which are considered to be good.

In other words, if the proposals from the DAB are accepted, it will be one-sided and I believe there may be bias. It seems that the Chief Executive is requested to listen to the proposals of a particular political party. Regarding the proposal for increasing the number of labour holidays (*The buzzer sounded*)

Thank you, President.

MR ALBERT HO (in Cantonese): President, I have announced my intention to run in the Chief Executive Election. Certainly, it may be too early to say whether I can become a candidate or not. For this reason, I consider I am obliged to listen attentively to the aspirations expressed by Members representing

various political parties and groupings on the future Chief Executive candidates. I believe other probable candidates or the so-called persons preparing to run in the election also have the responsibility to understand clearly the aspirations of the legislature.

However, I would like to stress one point. In considering the suitability of a candidate, we should not just focus on whether he will accept certain specific or even piecemeal policies, and come to the conclusion that we will give our support or commendation if they accept those proposals. In my view, given the great responsibility of the Chief Executive, candidates must meet certain important criteria, and the public should assess and consider the suitability of candidates according to those criteria as far as possible. As we all know, the three factors are the integrity, ideology and commitment of the candidates.

These three factors are different, but they are interrelated. If a candidate only talks about ideology which has never been put into practice, on what basis can we put our trust on him? On the other hand, if we only know that someone has implemented certain measures, but do not know his values and governance philosophy, how can we tell whether the measures implemented are sustainable? Besides, some people may not act in accordance with the ideology they adopt. He may often be self-contradictory, and he may change his stance on different occasions. In that case, the political credibility and integrity of that person would be in question. Hence, these factors are of great importance. I think the public should observe a candidate from all perspectives in assessing his or her suitability. This is the first point.

Second, ideology is a very important. Since a leader has to make important political decisions, his ideology will form the guiding principles to maintain the consistency of the specific directions of work in the future.

President, I think that at this time, the public must pose critical questions to candidates to understand their political ideologies, philosophies and values. This is of utmost importance. We should not treat some matters lightly. For instance, when Mrs FAN said casually that she did not know exactly what had happened in the 4 June incident, and that she learnt everything from overseas news, which reported that people gathered at Tiananmen Square were all students, they were just singing and nothing had happened. Thus, she said that

she did not know what had happened. President, this is a matter of integrity, and it even relates to the most basic value of honesty. If a person fails to meet these basic criteria, how can he or she win the trust of the public?

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

By the same token, we should not treat lightly the comments made by Henry TANG concerning the visit of LI Keqiang, nor should we let Henry TANG off so easily. When the press complained about the suppression imposed on reporters, Henry TANG responded instantly that such complaints were "rubbish". Perhaps that is his subconscious response. Deputy President, this incident reflects his fundamental ideology about the responsibility of the ruling authority and that of the press, and even his perception about power and truth. These issues are matters of great importance.

LEUNG Chun-ying is smarter. On issues concerning right or wrong, he will simply just gloss over them, but we should not let him off. Every candidate should respond to the public honestly, expressing his views on these fundamental issues concerning right or wrong. He should make a full disclosure. The public have the right to know what kind of person the future leader of Hong Kong is and whether he is trustworthy. He will have to handle many issues like the 4 June incident and the enactment of legislation on the implementation of Article 23 of the Basic Law.

It is easy to talk about values, and it is easy to give grandiose remarks about major principles, say respecting judicial independence and human rights, and so on. However, when it comes to specific issues, I am shocked by the speeches made by a number of colleagues today — Mr TAM Yiu-chung, Mr Jeffrey LAM and Ms Miriam LAU — in which the truth was completely distorted. Regarding the legal proceedings initiated by the public in accordance with law and their perseverance in fighting for justice, you may disagree with their views and requests, but these are their basic rights. When you attack these members of the public, the lawyers supporting them and even the political parties concerned, you are acting foolishly and ignorantly. I just despise such acts. If people think this way, how can we consider that they have credibility and their

sense of value tallies with the core values of Hong Kong? Hence, the public should take a good look (*The buzzer sounded*)

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

MR CHEUNG HOK-MING (in Cantonese): Deputy President, the focus of all Hong Kong people is now on the Chief Executive Election to be held in March next year. The Legislative Council is a forum to reflect the views of Hong Kong people and of various professional sectors, and I believe the subject of our debate today will be helpful to those persons who intend to run in the next Chief Executive Election, to work out their election platform and plan for the future direction of governance once they have formally confirmed that they would run in the Election. Deputy President, one of the focal points of this motion is to call upon those persons who intend to run in the next Chief Executive Election to actively respond to the aspirations of 7 million people. I believe that the aspirations of 7 million people do not only include the concerns about constitutional development but also the concerns relating to various livelihood issues. Since the original motion of Mr Alan LEONG and the amendment of Mr Frederick FUNG are restricted to constitutional development and they have not taken livelihood issues into account, I will not support them.

Deputy President, next, I will express the views of the DAB on the Government's land planning policies, in the hope that the next Chief Executive would pay attention to the relevant development and make improvements.

Deputy President, the conflicts between conservation and the development of private land in rural areas has become increasingly serious but it seems that the Government has not made any efforts to solve the problem. When there are disputes and the conflicts remain unsolved, a public outcry will be provoked. The Government, in response, hastily included the land into the Outline Zoning Plan (OZP) and then retreated, considering that the problem has been solved. This practice, though regarded by the Government as a panacea, cannot effectively solve the problems and is unreasonable. If the Government merely freezes the land use without putting in efforts for conservation, the confrontation between conservationists and private landowners will become increasingly tense.

Our beautiful natural environment is the common asset of all Hong Kong people. Does anyone in Hong Kong want to find only concrete and asphalt in Hong Kong? However, if environmental conservation equals to sacrificing the interests of individual owners, does this run counter to social justice?

It is expressly specified in the Basic Law that the Special Administrative Region Government shall, in accordance with law, protect the right of individuals and legal persons to the resumption, use and inheritance of property. However, as the Town Planning Ordinance has not been perfected, it fails to address the problem of offering reasonable compensations to landowners for declining land value due to the restrictions imposed on the development of certain sites under the OZP. As stated in the Report of the Special Committee on Compensation and Betterment, many countries have legal provisions specifying that if owners cannot develop their land because of the restrictions imposed by the Government, they are entitled to seek compensation from the Government for acquisition of land.

Unfortunately, the Administration argued that this system has been adopted for many years and it complies with the Common Law principles, and as the existing Town Planning Ordinance does not have any provisions on granting compensation for development affected by planning purposes, the Administration uses such pretexts as justifications for ignoring the interests of rural owners, which has aroused great indignation. Since the natural environment is the common asset of all Hong Kong people, all of us should share the responsibilities. As conservation involves public interests, naturally the Government should allocate resources for the work. The Government should address the inadequacies of the Town Planning Ordinance by setting up a conservation fund and adopting measures such as land-for-land exchange or transfer of plot ratio. The Government should also reconsider the previous practice of issuing Letter B as a means for resumption of land. Alternatively, it can implement in the New Territories the new development direction of conservation by land exchange as recently adopted for the King Yin Lane. Such arrangement is effective in creating a win-win situation for conservationists and landowners.

Deputy President, I am also the Vice President of the New Territories Heung Yee Kuk. Recently, the Government has hastily introduced a policy to include 54 sites in the New Territories in the OZP, and even under the coverage

of country parks. The Heung Yee Kuk agrees in principle the concept of land planning and accepts that it is necessary to designate some sites for conservancy purpose; however, the inclusion of 54 sites in the OZP has caused indignation among landowners. The reason is simple, approximately 2 000 hectares of land within these 54 sites are privately owned. Once these sites are included in the OZP for planning purposes, even though nominally they can still be sold in the market, how can they have any market value as the use of the land has been frozen? Hence, great dispute has been aroused in the community. The Heung Yee Kuk always considers that the Government should provide subsidies in acquiring the land in these 54 sites, so that landowners will be treated fairly. The DAB and the Heung Yee Kuk have reached a consensus and they seek Honourable colleagues' support for this arrangement.

MR CHAN HAK-KAN (in Cantonese): Deputy President, recently when we watch television or read newspapers, we learn that some probable Chief Executive candidates have been getting around visiting schools, having tea with people, visiting the grassroots, and attending forums to speak on their future governance philosophy. For the moment, I notice that the two probable candidates have mainly focused on housing issues, and they have not spoken too much on their understanding and views of other policies, especially on how they are going to face and solve the problems of wealth gap and an ageing population in Hong Kong in the future. They have not made specific recommendations. The amendment proposed by Mr TAM Yiu-chung today has precisely included the DAB's views on the aspirations of the community that the new Chief Executive should address. I will focus on discussing how the problem of an ageing population can be solved or what new ideas should the new Chief Executive have for tackling the ageing problem, for reference by the probable candidates.

Deputy President, according to statistics, by 2033, one in four Hong Kong people would be aged 65 and above. How to maintain the quality of life of elderly people is an issue worth consideration by the whole community. Today, let us not discuss the situation in 2033 which is too distant. The problem of elderly in poverty has already aroused extensive concern in the community. There are figures showing that, as at July this year, there are 1.3 million elderly persons aged 60 and above, and 12% of them, that is, 150 000 elderly persons, are recipients of Comprehensive Social Security Assistance (CSSA). If the next

Chief Executive fails to face squarely the problems of an ageing population and elderly in poverty, given the continuous increase in the number of elderly persons, I believe the number of elderly CSSA applications will continue to surge, which will have implications on the image of our society, the quality of life of the elderly and the government coffers.

Although the present CSSA Scheme can, to a certain extent, subsidize the living expenses of the elderly, the Scheme has a host of problems. First, there is a negative labelling effect, which discourages many elderly persons from applying for CSSA. They would rather live in a frugal way on meager savings, or they would earn some money from collecting cardboards or soda cans, or they will rely on the \$1,000-odd Old Age Allowance. The problem cannot be solved and the quality of life of the elderly cannot be improved.

Second, the current CSSA Scheme accepts applications on household basis. If elderly persons are living with family members, their children are required to make a statement on non-provision of financial support, commonly known as "bad son statement"; in this way, their parents can be eligible to apply for CSSA. This arrangement has really distorted the relationship between elderly persons and their family members, and has gone against the frequently mentioned policy direction of giving the elderly a sense of support and a sense of security.

Deputy President, I understand that the term of the current Government will soon expire, and it cannot make any substantial adjustments or actions in respect of elderly policies. Upon exchanging views with experts and academics at an earlier time, the DAB has, in consideration of the public opinion we collected in the districts, come up with a proposal of reforming the existing Old Age Allowance scheme. We really hope that the probable candidates would listen carefully.

Our Chairman, Mr TAM Yiu-chung, convened a press conference yesterday, to elaborate on the details of some of our new ideas. I will just repeat some of the points he made. The DAB has suggested a retirement pension scheme, mainly in the form of a three-tier system. Pensions will be provided to elderly persons with different financial conditions, and the scheme accepts applications on individual rather than household basis. Each applicant can receive a monthly pension ranging from \$1,035 to \$3,105, based on his asset limits. As I have just said, the specific proposal has been published on the

DAB's website and publicize through other channels, and I will not go into the details again.

Deputy President, I know there are various views in the community on the retirement protection system. For instance, some people propose reforming the Mandatory Provident Fund (MPF) Scheme. As great controversies will be aroused, which involve the employee contribution arrangements, as well as the interests of some small and medium enterprises, it is difficult to implement. In comparison, the pension scheme that I have just mentioned only involves recurrent government expenditure and it can achieve the objective of universal retirement protection. The most important point is that this pension proposal can well utilize the resources. Elderly persons having genuine difficulties can receive higher subsidy amount through a tier system, which can improve their living and meet some of their daily expenses.

Some people may think that the pension scheme may affect or increase recurrent government expenditures in the long run, and the next Government may fail to make ends meet. However, I have done some preliminary calculations and I think that, if the Government really puts into effect the pension policy I just mentioned, the annual recurrent government expenditures will only increase by \$9 billion, which is at an affordable level.

Furthermore, most of us from the post-1970s generation have participated in the MPF Scheme and are making contributions, so we can withdraw certain MPF benefits upon retirement. We will have more comprehensive protection if we also have pensions.

In raising this pension proposal, the DAB is actually "casting a brick to attract jade", hoping to trigger public discussions about the ageing population problem. In particular, we hope that the probable Chief Executive candidates would listen carefully, and step forward as soon as possible to tell us how they are going to solve the ageing population problem, as well as how their perceived elderly policies can be implemented.

Deputy President, I so submit.

MRS REGINA IP (in Cantonese): Deputy President, Like Mr Albert HO, I have also said publicly that I am dedicated to serving Hong Kong and I am proactively considering running in the Chief Executive Election. For this reason, I have listened very carefully to the views of Honourable colleagues and I would like to take this opportunity to state my opinions.

Today, the subject of Mr Alan LEONG's original motion is "Calling upon persons intending to run in the Chief Executive Election to respond to people's aspirations". I think this motion is deficient in many aspects because an ideal Chief Executive does not only respond passively to the aspirations of 7 million people. I have noted that the two amendments mainly respond to people's aspirations concerning livelihood or the constitutional system.

Deputy President, for 14 years since the reunification, I believe we should have understood that the development of the SAR has definitely not been satisfactory. On the economic front, though we have the support of China as our hinterland and our country has outstanding economic achievements, our economic development has not been very satisfactory. When the Chief Executive delivered his Policy Address last week, he seemed to be complacent with our economic performance. However, if we compare the figures of Hong Kong with that of Singapore, we will find that Singapore has recovered better than Hong Kong from the financial turmoil and its economic growth has been stronger than Hong Kong these few years. Shenzhen has higher GDP than Hong Kong and Shenzhen people may soon overtake Hong Kong in terms of per capita GDP.

On the economic front, the widening wealth gap is always a subject of public denunciation. As for social development, various kinds of protest activities have become increasingly intense and the society is getting increasingly divided. Regarding some important issues, such as our core values, the community has not reached a consensus and contradictions have deepened.

For this reason, I think the next Chief Executive should not just passively respond to the aspirations of the community, he should also have proactive leadership. The future Chief Executive should have a higher level of ideology and more macroscopic concepts. Most importantly, he should understand how "one country, two systems" should be implemented and give play to the advantages of Hong Kong in its development as part of China. This is not just

about economic development, that is, how to consolidate the traditional industries or develop industries with competitive edge, but also about how to mingle the benefits of one country, two systems in areas of social development and cultural values.

We attach great importance to some western values that Hong Kong people treasure. Undoubtedly, Hong Kong people also treasure human rights, the rule of law and freedom, which are important assets. Yet, are these assets all our core values, and are these assets the contributing factors for our success in the past? We should study this question in great depth. I believe the future Chief Executive should have excellent leadership abilities, capable of leading our society in moving forward. There should be advancement in all aspects, which include economic development, social development, as well as cultural, intellectual and ideological advancements.

The Chief Executive-elect should also have very strong execution abilities; otherwise, "thousands of words flow from his pen, but there is not a solid idea in his breast"; there is no use talking about an idea but not taking actions. The Chief Executive-elect should have very strong execution abilities, which naturally includes the abilities to lead more than 100 000 civil servants, as well as other public-funded statutory and non-statutory bodies.

In mentioning civil servants, I do not think the next Chief Executive should necessarily be welcomed and highly-praised by civil servants. It is really not difficult to win the praise of civil servants, all he needs to do is to be more lenient in writing outstanding appraisal reports. Moreover, he can buy civil servants over by being "easy going" in accepting the work done or by bestowing petty favours, but does that make him a good leader?

As we have repeatedly discussed in this Council, there are many inadequacies in the former bureaucratic culture. If Hong Kong is to advance to a new level, the future Chief Executive should be able to lead civil servants and promote them to develop new ideas. He should respond better to public opinion, and can mingle political and technocratic values as political scientists have mentioned. Civil servants represent traditional bureaucratic values, they follow the rules and regulations and that they are rational and prudent. These are their advantages. As for officials under the political appointment system, in

particular the Chief Executive who is at the top echelon, he should be a politician with great vision who can bring in macroscopic views and lofty ideals.

Of course, we may doubt if there is such a person in Hong Kong. It is easy to list all the requisites, but we do not know if there is such a person; we only know if we have made a right choice after the Chief Executive-elect has assumed office. Even if a person performs very well in electioneering and beats all his opponents during debates, we still do not know whether if he is competent and performs well. Nevertheless, if a Chief Executive candidate has a better understanding of the problems that Hong Kong is facing, if he has formulated a better plan, and if he understands the operation of the systems in Hong Kong, including the operations of the Government and the legislature, as well as people's political aspirations, he will have a higher chance of success.

Thus, I earnestly hope that the coming Chief Executive Election will be fair, open and competitive. As some Honourable colleagues have just said, although only 1 200 persons are going to vote, and disregarding the number of votes that the future Chief Executive can get, he still has to face the whole community of 7 million people and even the international community. I hope that the future election would be fair, open and competitive, and would allow dedicated and talented people to come out and compete.

Thank you, Deputy President.

MR LEUNG KWOK-HUNG (in Cantonese): Deputy President, Mr Alan LEONG is really a man of moral integrity in moving this motion. He wants to do something for the socially disadvantaged groups, and he hopes that his remarks will be heard by those who declared that they would run in the election but have not yet participated in the election, to make a response. But, I still think it is meaningless to do so. Many Chinese and foreigner reporters have repeatedly asked me about the requisites for becoming the Chief Executive. I told them that the person must be shameless, and he must be the most shameless.

I am not joking. Honourable colleagues will understand what I mean when they review the answers given by the Chief Executive, Donald TSANG, in this Chamber last time. The script had been written but he acted badly. When I was in primary school, I played the role of a radish in the play "Pulling the

radish". As I rolled around so well that I was named the best actor. How did he treat Mr WONG Yuk-man on that day? It was utterly unjustified. The script had been written and all he had to do is to read from the script. I ask all Hong Kong people to watch carefully the clips on YouTube again. His acting was extremely poor, with a twisted face and a trembling voice, his last word "Ah!" was unbearably abominable. WEN Jiabao should have given him some advice during their frequent meetings. He did not answer the question during the session and he only did so afterwards and he highly praised Stephen LAM. Why did he not answer the question on that day? That was an extremely shameless act. He praised Stephen LAM afterwards for being hardworking, making frequent changes in governance, loyal and faithful. That is the worst example. Please do not forget that Donald TSANG called himself a politician, though he should say that he is engaged in politics. Thus, a person who becomes the Chief Executive must be shameless.

I am not belittling myself or making things up. Was TUNG Chee-hwa shameless? He was downright shameless. In 2002, he got all the 700 votes and attained dominance. It was really shameless for him to introduce the accountability system. What was his promise? He appointed three persons responsible for education, housing and elderly matters. One of them is now a probable candidate, Mr LEUNG Chun-ying, and he was responsible for housing matters at that time. Education and housing matters are "universally acclaimed" today. Was that shameless? Could he become more shameless? He stepped down while people had grave grievances. While Regina IP quitted, he complained about leg pain. Was that shameless? He announced in the grand Old Legislative Council Building that he had leg pain. Yet, he went around, eating and drinking without any problem afterwards, and the stock prices of his family business continued to rise. It turned out that one of the wealthiest persons in Hong Kong held nearly 10% of the shares of TUNG's family business; this fact was only known when details of shareholding had to be disclosed following a change in regulations. Was that shameless? Some Hong Kong people are poor, nonetheless, the richest family supporting him has become three times wealthier after the reunification, and Mr TUNG Chee-hwa's wealth has continuously increased. What was that if that was not shameless?

The second Chief Executive, Donald TSANG, is also shameless, as I have just said. Concerning universal suffrage, he said that he was going to "do a great job". In the end, it was a big mess. I have never seen any Chief Executive who

only talks about what he has done before he leaves and who has no political ideas at all. The future successor is asked to respond to Hong Kong people's aspirations. Can he not respond if there is party politics in Hong Kong? Can he not respond if he is elected by the people? If Donald TSANG is a member of a gang of swindlers, he should respond in the light of the rules of the swindlers, is that right? Donald TSANG does not need to boast about what he did in the past. If his party member follows what he did and runs in the next Chief Executive Election, he will be a candidate from a gang of swindlers. What he does today will certainly affect the future. If the successor of the Chief Executive thinks that Donald TSANG is not good enough, he should criticize him and force him to step down. Just like the case of Mrs Margaret THATCHER years ago, she was forced to step down by the gang including Chris PATTEN and John MAJOR. Why should he give him face?

What system is that? We ask a shameless person to make commitments that cannot be fulfilled even if he is willing to make efforts. A simple example is that Regina IP had once asked him how to develop Hong Kong's economy. As I have just mentioned, Donald TSANG was reprovved twice by LI Keqiang. Was it because LI Keqiang hated him? LI Keqiang said that Donald TSANG would be allowed to carry out some offshore RMB business. When Donald TSANG visited Xinjiang, he was asked if he had already carried out the business, and he responded in fear and trepidation that he had already instructed the Monetary Authority or other people to do so. He should never say so for he could only give directives to the Monetary Authority and the Securities and Futures Commission; he could not instruct them to do anything. How could he be so panicky? Regina IP mentioned how the economy can be developed, you need not think about that, because we will continue to be a "casino under Hoax Capitalism" under the 12th Five-Year Plan, as I have previously said.

We all know that China currently has \$3 trillion foreign exchange reserves, that is, approximately RMB 24 billion yuan is in the hands of foreign investors. Once the Hong Kong market is open and money pours in, the situation would be really bad. This is a very simple point that we all understood. What should be done?

The Chief Executive of the SAR must be shameless, and the more shameless a person is, the higher his chance. In fact, this is extremely tragic. What has Mr LEUNG Chun-ying said? Can he put what he said into practice?

We might as well ask him about his response to the 12th Five-Year Plan. Financial capitalism involves property speculation but not the construction of public housing. We suggest investing \$50 billion in elderly welfare and I ask him today if he can allocate \$50 billion from the MPF Scheme. He is not going to do that. What else is it if that is not shameless?

I would like to tell Mr Alan LEONG that it is pointless for him to do so. He must point out that the more shameless a person is, the higher his chance of becoming the Chief Executive. Thank you, Deputy President.

MS CYD HO (in Cantonese): Deputy President, the motion proposed by Mr Alan LEONG today actually focuses on some specific proposals of principles implemented for the future of Hong Kong. These four proposals are the cornerstones of Hong Kong's governance rather than immediate livelihood problems. Nonetheless, whether or not these livelihood problems and social conflicts can be effectively resolved would depend on the successful implementation of those four cornerstones.

In fact, there is no problem with Mr TAM Yiu-chung's amendments. In this Council, we are accustomed to see amendments like "Christmas tree decorations". The addition of 15 points is not a large number as I remember the highest record is a total of 23 points in an amended motion. It is possible to add 50 points on livelihood problems, however minor these points are. Yet, no matter how many points are added, the list can never be exhaustive, as Deputy President has said earlier. Let me name some issues which the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) often raise but not found in the amendment, such as increasing the number of university places, for instance, is not found in the amendment. Neither is there any mention of the 15-year free education and screen-like buildings. Even problems associated with stray dogs and cats, animal policy and neutering, which Mr CHAN Hak-kan likes to talk about, are not mentioned.

Regarding the amendment, the mere addition of 15 points is still far from enough. This is even so when 50 points are added. In the end, we have to go back to square one and consider what should be done to achieve good governance, to hold the Government accountable and to safeguard people's rights. These cornerstones have become the specific proposals put forward by Mr Alan

LEONG to implement the four principles. However, all these specific proposals have been deleted, including the proposed abolition of the functional constituency (FC) seats in 2016, the proposed abolition of the separate voting arrangement in the Legislative Council, and the proposed suspension of the enactment of a legislation to implement Article 23 of the Basic Law to protect freedom of the press and of speech. Only hollow words are left behind. The purpose of this kind of amendment is to put the cart before the horse and shift public attention. This is very similar to what the Hong Kong Federation of Trade Unions (FTU) had done to obstruct democratization before the handover of sovereignty. At that time, the FTU vowed that "we want meal coupons, not voting ballots" and opposed direct election. A quarter of the century has passed, there is no voting ballot and it has become more difficult to get meal coupons. There is no use recalling what happened after 1989. Just look at the past decade, the disparity between the rich and the poor in Hong Kong has further increased and the Gini Coefficient has ranked first in the developing region. We should be ashamed.

As evident from government statistics, during the decade from 2001 to 2010, the median income of the lowest income category has dropped from \$3,200 to \$3,000, a reduction of 6.3%. In fact, there were also reductions in the five lowest household income categories, ranging from 10% to 13%. Over the past decade, the median income of the highest income category has increased by 5.5%. Does this indicate that the wealth disparity has widened? These are objective facts and the relevant figures were obtained from the quarterly report published by the Census and Statistics Department. Why would this happen? This is attributable to the high land price and the continuous exploitation of the grass-roots workers. How come we cannot change the situation? Take a look at the Election Committee, how many of its 1 200 or previously 800 members have vested interests in the business or real estate sector? Because of the influence of the FCs in the Election Committee, it is not possible to revive our housing and land policies. How can we tolerate the absurd situation where housing expenses account for 70% of household income? Even if we can afford to purchase flats, we cannot stop FC Members from supporting and endorsing the legislation on compulsory sale in the Legislative Council. The legislation aims to abolish the Landlord and Tenant (Consolidation) Ordinance concerning rent control, which has put the grass-roots tenants in dire straits.

Deputy President, the wordings of this motion are actually very pitiable as the election under discussion is actually bogus. While members of the public

should have the right to put forth their requests, but as some netizens have said, they have to go down on their knees to call upon the candidates to respond to the Legislative Council. Worse still, the motion may not necessarily be passed. In fact, members of the public do not have the right to vote. The would-be candidates are currently competing eagerly for popularity because this is one of factors that Beijing would take into consideration. It is hoped that these candidates would gain high popularity in telephone surveys so that the result of the small-circle election will not look too odd.

However, when the survey findings showed that the popularity rating of LEUNG Chun-ying was higher than that of Henry TANG, WU Kangmin immediately came forward and said that those 1 200 voters were no ordinary citizens. The truth was therefore revealed. Notwithstanding this, both the Central Government and the pro-establishment camp of Hong Kong still said time and again that members of the public do have a part to play as their response to the public opinion polls has been interpreted as participation. This is nothing but a big joke. Genuine participation means having the right to vote, and to be informed of where the polling stations are or where they can cast the ballots in March. Participation does not mean responding to the random telephone survey conducted by Robert CHUNG.

Deputy President, it does not work if the candidates try to win popular support by winning the blessing of Beijing. With such a mentality, candidates will tend to shy away from the problem of privileges, which has created deep-rooted conflicts in society. Neither will they put in efforts to remove the coalition of political and economic privileges which have put the community in dire straits. Hong Kong is now very pitiable as the election is bogus. That is why the democratic camp has to make breakthroughs under various constraints.

In the policy debate to be conducted shortly, I hope that the democratic camp would work in co-operation with due division of labour according to the expertise of each individual, so as to formulate a blueprint for governing Hong Kong and a vision on governance for those people who have neither the power nor the ballot.

Thank you, Deputy President.

DR RAYMOND HO (in Cantonese): Deputy President, the political situation of Hong Kong under the British rule is different from that after the return of sovereignty. The colonial government, with a political mentality of transient rule, had not and was not capable of making long-term plans. As a result, major social, political and economic proposals which require long-term commitment of manpower and resources in planning and construction had been shelved. Many of such proposals involve major livelihood issues, such as social and economic developments, including social security, health and healthcare, old age retirement protection, housing development, education development, economic development, financial development, as well as the development of the agriculture and fisheries industry, land, urban area, logistics, environmental protection, transportation and so on. I can still name many more, which cover different areas. Basically, the colonial government's mindset in policymaking lacked long-term co-ordination and comprehensive planning. While no problems had arisen in the past, it does not mean that problems do not exist. Under the political environment prevailing at that time, the opposition camp was forbidden by the colonial government. The case is different now. After the return of sovereignty in 1997, the political situation has completely changed, and so has the political ecology.

Over the past 14 years, problems have emerged one after another and politics have become more radical. Yet, the SAR Government has failed to rectify the deficiencies of the colonial government in policymaking. Regarding the abovementioned major issues, the Government does not have the strong will and ability to carry out relevant reforms in a systematic, well-organized and comprehensive manner. Problems such as wealth gap, retirement, unemployment, as well as issues related to the elderly and young people (the so-called "post 80s") are not well tackled by the Government, and education is another area that has not been effectively dealt with.

Regarding economic development, generally speaking, the few major infrastructure projects launched before the reunification had successfully given impetus to economic development. These projects can reluctantly be described as long-term planning. At that time, projects relating to the new Chek Lap Kok Airport, the MTR and container ports expansion were also highly controversial. If these projects were to be launched today, they might be aborted due to the lawsuits over environmental impact assessment. In order to achieve success, in the initial stage of development of these projects, a detailed, well-planned and comprehensive public consultation had to be conducted. Furthermore, there

should be systematic support of long-term and all-round developments, coupled with sustained efforts after the reunification. The setbacks experienced over the past 14 years are apparent to all. The policy of "85 000 flats", introduced after the reunification, was hard hit by the Asian financial turmoil, and the policy was eventually scrapped without a trace. The proposed Hong Kong-Zhuhai-Macao Bridge and the bid to host the Asian Games also suffered setbacks recently. Even the West Kowloon Cultural District and the Express Rail Link projects could only pass the many barriers with great difficulties, and these projects may have to face judicial review at any time.

The development and planning of land has been the major issue of controversy in Hong Kong after the reunification. After the proposed building of skyscrapers at Site 6 at the harbourfront of Sham Shui Po was called to a halt due to the abolition of the policy of "85 000 flats" more than a decade ago, no buildings have been built on the site. With a large number of middle-class people moving into the area, the issue was recently brought back to light. As it runs counter to the Government's plan to develop Sham Shui Po to attract more middle-class people to move there, this would certainly spark major controversy.

Furthermore, the construction of screen-like buildings in Phase 8 of Mei Foo Sun Chuen has given rise to conflicts as people become more aware of environmental protection. The SAR Government should accord top priority in dealing with outdated planning, and strive to strike a balance between politics and law. In the past, the Government had proposed six major developments in the New Territories. However, owing to the decline of agricultural development in the New Territories and the failure to make timely planning regarding the use of the agricultural land, coupled with the longstanding housing problems which have a bearing on millions of residents in the New Territories, the Government has failed to devise a solution. Worse still, with regard to the need of young people and the sandwich class to buy their first homes, and the need to provide land expeditiously to build public rental housing flats and Home Ownership Scheme flats, the Government seems helpless in solving these problems owing to the lack of long-term planning for land development in the past, and the problem will aggravate when there is an increase in population as a result of an influx of immigrants.

Population planning and the compilation of relevant statistics are of paramount importance in addressing longstanding problems such as housing,

education and healthcare. Logistics development and green planning, however, are the Achilles' heels of the Government. The large number of unauthorized container yards and garage maintenance depots in the New Territories can well illustrate to us how rampant such illegal activities are. The operation of the logistics industry has gone out of control. Being a world-class logistics centre, such state of chaos is indeed beyond our imagination.

Deputy President, the continuing appreciation of Reminbi in recent years has aggravated the inflation problem, and the grassroots in Hong Kong are the hardest hit. And yet, it seems that the Government has failed to come up with a good solution to thoroughly resolve this problem. What Hong Kong desperately needs at this moment is a capable and committed Chief Executive with vision, who can form a capable governing team so that the Policy Bureaux can shake off the traditional mentality of sticking to the old rut. It is particularly important that the prevailing major livelihood problems relating to population, inflation and housing must be resolved. The next-term Government must reach out to the public and take the public pulse from time to time, so as to govern in a proactive and flexible way (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Dr Raymond HO, your speaking time is up.

DR RAYMOND HO (in Cantonese): and establish the prestige of the Government. Thank you, Deputy President.

MR ANDREW CHENG (in Cantonese): Deputy President, the topic of today's motion debate "Calling upon persons intending to run in the Chief Executive Election to respond to people's aspirations", as well as the wordings of the entire motion, are rather sad. Not only are we deprived of a universal suffrage, we also have to beg those would-be runners to respond to our aspirations. All we are asking is a response from them, nothing more. However, given that we are not their voters, they may not even bother to do so. Even in raising this subject, the major and the most crucial contents of the motion have been deleted by the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB). Just now, I was in my office, listening to Mr TAM Yiu-chung who spoke on

behalf of the DAB. He said that political issues must be put aside for the sake of people's livelihood. I think that this is probably his personal view, as this is what the DAB has been advocating.

Deputy President, I really do not want to say anymore. Why do we still have to live under "birdcage politics"? How can we resolve livelihood problems without establishing a good political foundation and securing public support? Have we not expressed our concern over the issues set out in the amendments over the past decade or so? Does this help resolve the problems? No, it does not. Presently, a group of young people, who are considered by many people as the most radical, are now occupying the HSBC Bank in Central, just like what other people in some other big cities do. The Government should not belittle this force, because if the situation continues, the anger and dissatisfaction of Hong Kong people may accumulate.

Many people do not make much noise and they keep an apathetic and watchful eye on our work in the Legislative Council. The Chamber is now so spacious that some people even think that it is as awesome as the Great Hall of the People. However, I wonder how many people are listening to our speeches. Can we change the entire system? Can we address the decade-long problem of collusion between business and the Government which is so familiar to us? Someone asks me, if I must choose between Henry TANG and LEUNG Chun-ying, whom would I choose. Frankly, if I am asked to choose, I might give LEUNG Chun-ying a chance to see what new tricks can be played in respect of the collusion between business and the Government as I am already so tired of the old-style collusion practised by Henry TANG. No matter what, collusion between business and the Government does exist. Is the district work currently done by him a response to our aspirations? This is obviously a heated political show. I believe LEUNG has never dreamed of overtaking Henry TANG so soon. Like the race between the rabbit and the tortoise, LEUNG has, to his surprise, reached the destination very soon while Henry TANG is still sleeping deeply.

While Henry TANG has drawn people's attention to his mistakes in his love life, LEUNG Chun-ying is found to become more invigorated. People think that their race is as interesting as dramas. Apart from Mr Alan LEONG and Mr Albert HO, has any Chief Executive candidate ever visited the district? This is nonetheless our regular work. In order to genuinely take the public

pulse, one should not visit the cubicles or discuss with students only in times of elections. In fact, they should have a good understanding of the relevant information without going to the district. Otherwise, how can they be regarded as runners in the Chief Executive Election? They went to the district and discussed with students for the sake of election.

Another would-be Chief Executive candidate is Mrs Rita FAN, who is a motherlike figure and is even more infuriating. She always plays with public opinion, saying that she has to take into account public opinion. And yet, everyone knows that she will support Henry TANG. While she hopes that Henry TANG can steal the show, she would brush him aside and take his place if he fails to do so. She believes she can still work for another five years. Are Hong Kong people not miserable when it comes to this? I have yet to mention Mrs Regina IP and my former party leader Mr Albert HO.

The humble request for a response to people's aspirations has been drastically amended. After the deletions, core points such as freedom of speech, the rule of law and universal suffrage were all gone. People's livelihood is certainly important, and I have been handling livelihood issues every single day over the past 17 years as a District Council member. Apart from this, we must not forget to examine our own conscience. Regardless of whether we are serving in this Council or working as the Chief Executive, we must ask ourselves if we are acting in the interests of Hong Kong people or the bigwigs in the north.

Let us look at what Mrs Rita FAN said about the 4 June incident lately. I had wondered if it was a slip of tongue when I first watched the CNN news. She said that she learnt about the 4 June Incident from the video clips on YouTube. But did we have YouTube in 1989? I am perplexed. Are these not words from people who have lost conscience? To win the confidence of the bigwigs and make them believe you are obedient, people's aspirations and public opinions are not worth mentioning in a community that does not have universal suffrage but only small-circle elections. Notwithstanding this, I insist to rise and speak in support of Mr Alan LEONG's motion because I believe my voice, no matter how weak it is, should flow freely in this awesome Chamber.

MR LEE CHEUK-YAN (in Cantonese): To continue with Mr Andrew CHENG, I will also talk about the mother-like candidate as her remarks on the 4 June incident are really infuriating. She said that when the 4 June Incident occurred, she was in Hawaii watching CNN news. I think she should We staged a protest against her the other day, bringing along a copy of the *Wen Wei Po* and a DVD produced by the Hong Kong Alliance in Support of Patriotic Democratic Movements of China, hoping that she would not become another YUAN Mu.

We used to condemn YUAN Mu of lying because he said that only 23 people died. At present, Mrs Rita FAN It is fortunate that she is no longer the President of the Legislative Council because chiding the President is an offence. Since Mrs FAN is the former President, I can criticize her now. She described the 4 June incident as "an unfortunate accident", saying that no one was killed in the Square. This is exactly what the Communist Party had said, that is, no one died in the Square. The fact is that many people were found dead in the Chang An Street, so does it make any difference if the number of casualties in the Square is known?

LEUNG Chun-ying is no better. I clearly remember that when he was asked if LIU Xiaobo should be awarded the Nobel Peace Prize, he replied that the award should be given to DENG Xiaoping instead. We have not heard the remarks of Henry TANG, but I am sure that he will certainly look up to the north and that is a kind of flattery. I think that it is his turn now. He has been having such a good time visiting the districts every day, meeting the secondary students and visiting manufacturers. Shall we ask him about his views on the 4 June incident tomorrow? After all, this is just a "flattery" competition between Henry TANG and LEUNG Chun-ying.

No doubt, this is a small-circle election or an election with candidate preordained by the Central Authorities. Mr Andrew CHENG just said that a candidate has become more invigorated, but I would boldly say that they have become uglier and more "ugly" things would emerge one after another. The sorrow of Hong Kong people is that they have to face such ugly things.

As Mr Alan LEONG has said, only 1 200 Election Committee members have the right to vote in the election. Indeed, we do not have the slightest confidence in such an election. Hong Kong people are being fooled. A kaifong asked about my views of this election and whom I support. I said, "It

does not matter whom you support when you do not have a ballot. Members of the public are not allowed to vote and the entire election is bogus. What is the point of giving our support?" I then asked whom he supports. He said it did not matter as he was not allowed to vote. He was right. People are not allowed to vote and the election itself is nothing but a bogus small-circle election, which is completely meaningless.

What is more infuriating is the substantial deletion of the contents of the original motion made by Mr TAM Yiu-chung. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) deleted the parts about abolishing the separate voting arrangement in the Legislative Council in 2016, as well as the undertaking not to enact legislation to implement Article 23 of the Basic Law before the full implementation of genuine universal suffrage. All these parts were deleted. Everything that relates to democratization and is refuted by the Central Authorities was deleted. This is precisely the style of the DAB, which is a pro-government party. Whatever the Central Authorities say, they will harp the same tune without any variations. Whenever the whistle is blown, all eyesores of the Central Authorities will be removed. This is definitely the stance of the DAB.

Mr TAM Yiu-chung just now said that people's livelihood is very important. This is nonetheless the policy adopted by the DAB or the pro-government party to keep Hong Kong people in ignorance and fool them. Do you think you can get those things without universal suffrage?

Let me cite a simple example. All these years, I have been fighting to remove the disparity between general holidays and statutory paid holidays by increasing the existing 12 days of statutory holidays to be at par with the 17 days of general holidays. It is just an increase of a mere five days, but do you think the Legislative Council would endorse it? All Members of the functional constituencies (FCs) voted against it. A relevant motion moved by me in this Council was voted down. So, do you think this proposal can get through if FC seats are not abolished in 2016?

As we all know, either the future or the existing Government colludes with the business sector. There is a special characteristic regarding this kind of government, that is, the government is free to say whatever it wants and introduces whatever policies it likes, provided that the bill is not paid by the big

boss or the employers. Everything is fine so long as they can continue to make money and profits, and do not suffer in any way.

A question was raised in this Chamber today: Why should Mandatory Provident Fund be used to offset severance payment? How did Matthew CHEUNG reply? He replied that a consensus was reached at that time. Now, I must clarify that there was no consensus at that time and I did oppose. However, my proposal to abolish the offsetting arrangement was voted down by FC Members. This is our Government. It always looks for consensus and employers' approval. How can it work in this way? Why should we wait for the approval of the FC Members? Should all proposals be shelved if no approval or consensus can be obtained? In respect of labour relations, all proposals requiring the payment of employers cannot get through.

In respect of government policies, given that the Government colludes with the business, proposals to increase tax or place heavier burden on employers or consortia under Hong Kong's resource allocation system to the benefit of the poor cannot get through either.

Recently, the Chief Executive indicated that public spending can at most account for 20% of our GDP. This 20% is the cap. If there is a wish to increase the percentage to beyond 20%, it is necessary to increase tax payment. He asked if people agreed to increase tax payment. We certainly welcome an increase in tax payment, but how come profits tax cannot be increased? Because the Government, which colludes with the business sector, would definitely oppose the proposed increase in profits tax. The purpose of the small-circle election is to protect the interests of developer or financial hegemony (*The buzzer sounded*)

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

MR LEE CHEUK-YAN (in Cantonese): Thank you, Deputy President.

MR LEUNG YIU-CHUNG (in Cantonese): Deputy President, just now, Mr LEE Cheuk-yan followed up on Mr Andrew CHENG's discussion on the remarks

made by the would-be Chief Executive candidates about the 4 June incident. Mr LEE Cheuk-yan said that he was infuriated with the remarks that the victims in the incident were unfortunate. This drove him mad.

I must therefore follow up on the issues raised by Mr LEE Cheuk-yan. If we had watched CNN news during the 4 June incident, we might notice that the worst thing about CNN is In the absence of freedom of the press and of speech, the entire 4 June incident was wiped out by the Chinese Government and the last words seen on screen were "Goodbye Beijing". The fact is that the whole incident was not shown.

However, Deputy President, it is unreasonable and unacceptable for anyone who has the genuine intention to run in the Chief Executive Election to simply describe such an important incident as "unfortunate" without gaining a better understanding.

This is indeed very miserable. How can anyone who intends to run in the Chief Executive Election be so perfunctory about this important issue? Do they have the responsibility or conscience?

Deputy President, with regard to conscience, many would-be Chief Executive candidates have shown their conscience today by going to the district and communicating with members of the public. Surprisingly, even Secretary TSANG Tak-sing asked, "How come the Chief Executive candidates become so amicable all of a sudden?" What does this reflect?

I think this is obvious to all. Since WANG Guangya said that one of the requirements of the next Chief Executive is a wide support from the public, so the candidates are sparing no effort in gaining public support. Our media is peculiar, it is keen to report on this type of "horse racing". With the media's support, an atmosphere that the Chief Executive Election is closely related to the general public has been created, giving the public an impression that they are also taking part in the small-circle election. This is the condition prevailing in the community.

On the other hand, it is also surprising to see that whenever a would-be Chief Executive candidate is present, members of the public would be most willing to talk to him and express views in a proactive manner. Deputy

President, why would this happen? After all these years, people are now filled with grievances and social conflicts have become very serious. As they found no avenue to vent their grievances or express their feelings, they seize every opportunity to do so.

We have also attempted to invite LEUNG Chun-ying to Kwai Fong Estate and discuss housing problems with us under the flyovers. Deputy President, many residents did come to talk to him, though not because of his charisma. What did they say? The residents queried if the previous housing policies formulated by him had taken into consideration the general public, and that is all. They did not come to express views to LEUNG as he is a candidate of the Chief Executive Election. Rather, they just wanted to ask him what he had done over the years while he was in office. Has he, being the convenor of the Executive Council, reflected on these problems?

What is more, although we have yet to invite Henry TANG to visit our housing estate, there is one strange point worth noting. When he was asked about his views on universal retirement protection, he replied that he had already put forward the Central Mandatory Provident Fund when he was a Legislative Council Member Sorry, Deputy President, it should be the Central Provident Fund. The question is: Since he had escalated to the core of power for a decade, what is the point of reinstating his stance now? Had he ever achieved anything over the past decade? What had he done? If he had such a stance, why did he not indicate it in the past? In this year's Policy Address, the Chief Executive even stated that it is not easy for the community to reach a consensus on a universal retirement protection scheme at present.

Strange enough, these retirement problems have existed for years, but former Chief Secretary Henry TANG only reiterated his previous stance when he was a Legislative Council Member. He was silent on the work he had done in the Government all these years. In the end, our Chief Executive only said that the issue of universal retirement protection does not have any breakthrough, we can therefore only see how the Mandatory Provident Fund Scheme can be improved. What does this reflect?

Those would-be Chief Executive candidates have fostered an atmosphere in which members of the public can vote in the election. And yet, only 1 200 people have the right to vote. It is pitiable to have such an atmosphere prevailed

in the community. However, what is more pitiable is that we can only express our aspirations on those candidates by way of a motion debate.

At times of an election, it is only right for candidates to proactively put forward their platforms for consideration before we cast our vote. Nonetheless, it is now completely opposite. I therefore consider it inappropriate for Mr Alan LEONG to propose such a motion today to call on the candidates to do something (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, your speaking time is up.

MR LEUNG YIU-CHUNG (in Cantonese): This is not an accountable approach and it gives rise to the present result.

MR IP KWOK-HIM (in Cantonese): Deputy President, just now I heard Mr Albert HO seriously criticize and denounce the would-be Chief Executive candidates, namely Henry TANG, Mrs Rita FAN and LEUNG Chun-ying. Being a Member who has indicated his wish to run in the Chief Executive Election, is it a conflict of interest for him to attack those three persons in the Legislative Council Chamber? Does a Legislative Council Member who has indicated a wish to run in the election enjoy such a privilege? Does this contravene the principle of fairness of an election? I hope that the President and the relevant election authorities will look squarely at the issue.

Deputy President, the motion proposed by Mr Alan LEONG today called upon the Chief Executive candidates to put forward specific platforms and respond to people's aspirations. According to Mr LEONG, people's aspirations include political aspirations such as democracy, human rights and freedom of speech. Although the motion also touches on livelihood problems of major concern to the public, it has not gone into detail. Worse still, it is silent on economic issues. If we simply look at the wordings of the motion, we can see that it is consistent with the established objective of the pan-democratic camp, which places politics above all things, which include people's livelihood. Instead of saying that the motion calls upon the Chief Executive candidates to respond to people's aspirations, it is probably more appropriate to describe it as a

call on the candidates to respond to the political beliefs of the pan-democratic camp.

I remember that the political platform put forward by Mr Alan LEONG when he ran in the Chief Executive Election in 2007 also emphasized political issues, which included implementing universal suffrage in 2012 and amending the Basic Law in due course. While the part on livelihood issues only confined to certain policies, there was not much mentioning of economic issues. Furthermore, it was completely silent on how the relations between Hong Kong and the Mainland could be improved. The result of the 2007 Chief Executive Election had demonstrated why Mr LEONG lost.

Deputy President, I believe no one would deny that human rights, the rule of law and freedom of speech are Hong Kong's core values. What is more important is that these core values are recognized and protected under the Basic Law. Whoever the elected Chief Executive is, he should promote democratization in Hong Kong, as well as safeguard the rule of law and human rights in accordance with the Basic Law. It has been 14 years since Hong Kong's reunification, and the Basic Law has been successfully implemented. Also, it is an undisputed fact that it has won high praises in the international arena. Nonetheless, in the earlier speeches, a number of pan-democratic Members criticized time and again that there is regression in Hong Kong's human rights and rule of law, and they pointed their fingers at the Central Government and the SAR Government. I cannot agree with them.

In respect of civil rights, members of the public have enjoyed a high degree of freedom of speech and of expression since the reunification. Not a single person has been imprisoned due to the words he said. Even the media can chide or bombard the Government, the Chief Executive and the Chinese leaders with criticisms. Furthermore, there are protests and demonstrations all year round. Some radicals and political parties always act against democracy under the banner of democracy. Take the consultation sessions of the previously proposed replacement mechanism as an example. Some protesters were in blatant defiance of the law and interrupted the meeting. They had shown no regard to people's safety and acted at the expense of the interests of other people and the general public, as well as suppressed other people's freedom of speech and of expression. All these are detrimental to the core values which Hong Kong people have cherished.

The SAR Government has all along proactively upheld and promoted the rule of law and judicial independence. After the reunification, however, the Government has been challenged by a number of judicial review cases. The recent case on foreign domestic helper is an example, in which the Court ruled that the Government lost the lawsuit. Although the Government and members of the public were concerned and dissatisfied with the court ruling, they reacted in a rational manner. This clearly manifests the spirit of the rule of law. Some people went into the street to protest against the granting of the right of abode to foreign domestic helpers. And yet, this is not a protest against the Court, but merely an expression of strong dissatisfaction with individual political party for not representing the interests of the general public. It is also an avenue to vent their anger at political parties, which have made use of the laws to achieve political objectives. This is people's right of expression.

Over the past 14 years since the reunification, the biggest problems which impede the development of the economy and people's livelihood are political conflicts and internal discords. People hope that the next Chief Executive will have the will, determination and capability to rectify the present quagmire of internal conflicts and discords.

Deputy President, the DAB does not support the original motion. Apart from the reasons stated by Mr TAM Yiu-chung in his speech, there are other reasons which have not been mentioned due to a lack of time. So, I am going to give further elaboration.

Apart from Article 35, Hong Kong's rule of law and judicial independence are also protected by various provisions under the Basic Law. We uphold the rule of law not merely for the sake of Article 35, but for the manifestation of the entire Basic Law, including the respect of power exercised by the Standing Committee of National People's Congress (NPCSC) and the Central Government in accordance with the law. We should not highlight any one provision to the neglect of others.

Since the amendment proposed by Mr Frederick FUNG has not deleted the relevant wordings, and the proposed "formation of a committee dedicated to implementing dual universal suffrage" has exceeded the scope of the "five-step mechanism" prescribed in the NPCSC decision, thus the DAB also opposes this amendment. Deputy President, I so submit.

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

MS AUDREY EU (in Cantonese): Deputy President, today's original motion calls upon people intending to run in the Chief Executive Election to respond to people's aspirations. Deputy President, there are about five months or 158 days to go before the Chief Executive Election to be held on 25 March next year. The reason why I think this is the sorrow of Hong Kong is that up till now, the probable Chief Executive candidates only say that they are preparing or considering; and they are still reluctant to reveal their stance to the masses. Since Hong Kong is an international metropolis which implements "one country, two systems", those intending to run in the Chief Executive Election should face the masses rather than hold closed-door consultation sessions. Furthermore, they should not tell different stories to the media at different times, saying that they will run in the election today, and they are not running in the election tomorrow, or they are still considering.

Deputy President, the second point I wish to make is that, at the meeting of the Panel on Constitutional Affairs held some days ago, I asked Mr LI of the Registration and Electoral Office if Henry TANG and LEUNG Chun-ying had publicly announced their intention to run in the election, such that the relevant expenses had been counted as election expenses. However, he failed to reply but instead asked me to seek the Court's advice.

Deputy President, Hong Kong has clear and specific rules. Why should we lay down so many guidelines and rules for elections when it is not easy to spend beyond the \$13 million election expense limit of the Chief Executive Election? It is apparent to all that people intending to run in the election are carrying out different forms of electioneering activities to solicit wide public support. However, they claim that they are not aware if the expenses incurred should be counted as election expenses. This is another sorrow of Hong Kong.

Deputy President, the original motion proposed by Mr Alan LEONG contains four points, and Mr TAM Yiu-chung of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has proposed a number of amendments. When colleagues of the DAB and pro-establishment camp spoke earlier, they queried why Mr Alan LEONG only put forward four points. They went further to say that this is the style of the pan-democratic camp, which only focuses on political issues to the neglect of livelihood problems. Deputy

President, they are indeed putting the cart before the horse. Their remarks clearly reflect that they do not have a good understanding of the most fundamental point, and that is, democracy and people's livelihood are inseparable. Being a candidate of the Chief Executive Election, it is of paramount importance that they have to tell us how he will handle these important political issues, especially the core values and political system of Hong Kong. For livelihood issues, as Deputy President has said, different political parties have their different approaches. It is therefore impossible to set out all the details in a motion, and the crux is actually the major principle.

Today, many Members mentioned the survey conducted by the University of Hong Kong (HKU) in their speeches. I nonetheless wish to quote another opinion survey. It is also conducted by HKU, which had interviewed 500 adult Hong Kong people to learn about their utmost concern. It was found that their utmost concern was that the Chief Executive candidates should be able to safeguard the core values of Hong Kong. Very few respondents were concerned if a Chief Executive candidate had the support of the Central Government, which turned out to be the least concerned factor with only 8.4%. This also explains why Mr Alan LEONG's original motion has placed those core values on the top.

Given that the pro-establishment camp has so much interest in everything associated with the Mainland, I would like to quote the views of a Mainland scholar, YU Keping. As Members may recall, he once said that "Democracy is a good thing". In another article, he again highlighted, "The improvement of people's livelihood and the development of democracy are complementary to each other and mutually reinforce each other. Democracy and people's livelihood are not repulsive. For a single citizen, economic interests and political rights are necessary for their normal life. For the entire country, improving people's livelihood and the development of democracy, after all, is to build China into a prosperous, democratic, civilized and harmonious modern power. Like a pair of wings, democracy and people's livelihood are essential in the revitalization and development of the People's Republic of China, and should not be biased. It is a wrong thinking to develop people's livelihood instead of democracy."¹ This explains why Mr Alan LEONG has accorded a higher priority to those core values, among which the most important are democracy, the rule of law, human rights and freedom.

¹ <<http://www.cbi.gov.cn/wisework/content/97496.html>>

When Mr IP Kwok-him spoke earlier, he said that some political parties like to make use of the law to achieve political objectives. I am also interested to know what political objectives will be achieved. Regarding the lawsuit on the Hong Kong-Xhuhai-Macao Bridge which he often mentions, first of all, what is the case all about? It is about whether or not the environmental assessment of certain infrastructural projects has been properly carried out, and whether or not the Government has taken into consideration people's health conditions. This objective is good as it does not only concern about Tung Chung residents, but also the entire population of Hong Kong. This is absolutely an objective relating to people's livelihood. As for another lawsuit regarding foreign domestic helpers (FDHs), he said that there are political objectives behind. I want to ask what these political objectives are. What political objectives can be achieved in helping the FDHs to fight for their vested rights in times of election?

First of all, the Civic Party is never an interested party of the lawsuit, but it is our concern to safeguard the rule of law. Everyone has the right to apply to the Court to uphold their rights, and all applicants should be legally represented. They may even apply for legal aid if they are eligible. These are Hong Kong's valuable systems. Why would anyone accuse these systems or people as dubious? On the contrary, Hong Kong's rule of law would be undermined if a lawyer refuses to take up a lawsuit which he ought to take up in times of elections.*(The buzzer sounded)*

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up. Does any other Member wish to speak?

DR MARGARET NG (in Cantonese): Deputy President, just now Mr IP Kwok-him said that Mr Alan LEONG was a typical pan-democrat who would only talk about politics but not livelihood issues. Please ask him to look at the first item in Mr Alan LEONG's original motion, which is "respecting human rights, improving people's livelihood, defending people's long-term interests and making actual efforts to resolve the deep-rooted conflicts in society". Is that not about people's livelihood? Is that not putting people's livelihood in the first place?

We participate in politics because we wish to enable people in society to lead a happy life. Today we can see that Hong Kong is an affluent society with

many talents. Yet there are cases of unfairness everywhere. While some people can enjoy lavish meals and have luxurious goods, some members of the community are forced to live in tiny places. What is the reason? That is because the system is unfair. Why did we strive for minimum wage? We strived for minimum wage not because we wanted to get any advantage, but because we considered that everyone should have a decent reward for the efforts they had paid. It was not only about economics, it was also about human rights. When the disadvantaged can only resort to seeking their legal rights in court, we have to point out, no matter how strongly other people in society disagree with what they do, we still have to provide them with direct access to court to facilitate their right of legal representation. That is because we have to protect the most disadvantaged groups in society.

Deputy President, today some Members said that it was too early for Mr Alan LEONG to propose this motion about the Chief Executive Election, because right now the Election Committee does not even have any member yet. However, we need to make the Chief Executive Election adopt a bottom-up approach. Today we debate on this subject in the hope of encouraging as many people as possible to express their views, so that members of the Election Committee will also listen to public opinion. They should understand that they, just like Members of functional constituencies, are not entitled to the vote they presently have. Since they now have such a vote, they should use it to express the aspirations of those who do not have a vote. This is the most important point. This is the core value of Hong Kong.

Deputy President, today many people have raised a number of subjects which seem to suggest that it is necessary to satisfy everyone's wishes. The one who will make this and that promise will be the ideal Chief Executive. However, such a person will not be an ideal Chief Executive. Deputy President, actually what we need most and desire most is a decent Chief Executive who is presentable. The scene at the Chief Executive's Question and Answer Session which we saw last week was unbearable. We do not wish the next Chief Executive to act in the same way. We hope that the Hong Kong Chief Executive will represent Hong Kong people's core values. We hope the Chief Executive will make Hong Kong people confident in the Government. How can he achieve this? That is, he must set a good example by honouring these values.

Regrettably, so far the performance of these probable candidates is indeed disappointing. We long for a Chief Executive who is honest and forthcoming. We long for a Chief Executive who is poised and graceful. However, up to the present moment, what we can see from these probable candidates, as Ms Audrey EU has just said, is that they are reluctant to reveal their stance. Why do they act in such a way? They just want to circumvent the rules. As we can see, these Chief Executive candidates are merely opportunists. This fact alone is suffice to make us think that the Chief Executive Election will also be highly intolerable.

Deputy President, the incumbent Chief Executive has mentioned to us what he regards as a remarkable achievement during his governance. That is, he has introduced the concept of so-called political ethics. He has not explained this concept of political ethics in detail, but in short, it is about treating people differently according to their affinity. Deputy President, who has an affinity and who does not have? The incumbent Chief Executive said he worked this way. How he acted and treated someone would certainly depend on that person's affinity with him. How did he make personnel appointments? Of course he would appoint those who had an affinity with him rather than those who had none. How did he spend time on communication? Of course he would communicate with those who had an affinity with him rather than those who had none. Who has an affinity with him? He has also made it very clear, that is, those who agree with him will bear an affinity with him, the same rule applies to those who support his policies. Those who criticize or object to his policies will bear no affinity with him. To put it simply, he will offer every advantage to anyone who flatters him, but anyone who criticizes him, regardless of that person's impartiality, will never bear any affinity with him. Deputy President, that is exactly the opposite of our common understanding of political ethics. Public officers should never mix their affinity differences with their work. Yet now we have adopted affinity as the criteria for offering political advantages.

(THE PRESIDENT resumed the Chair)

President, time and again Members of this Council have mentioned the so-called "Nolan Principles". How did they come about? When John MAJOR

acted as the Prime Minister in the United Kingdom, series of scandals broke out, causing the whole parliament to lose public confidence. Hence, an investigation committee was set up, and in the end the committee proposed seven principles which became the core values by which public officers should abide. What are these principles? In the original text, they are "selflessness", "integrity", "objectivity", "accountability", "openness", "honesty" and "leadership". That means public officers should serve as a role model and be scrupulous in separating public from private interests. Policies should be transparent and accountable. Appointments should be based solely on competence. All policies should be based on fairness and reasons. With the affinity differentiation, all these seven principles have gone. Such political ethics in offering advantages to the favourite ones must be eradicated. That explains why the incumbent Chief Executive does not enjoy the people's trust, and how come up to the present moment, we are still unable to identify a decent Chief Executive among the probable candidates. I call upon members of the public to request our future Chief Executive to uphold our core values, which are the four criteria proposed by Mr Alan LEONG today.

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

MISS TANYA CHAN (in Cantonese): President, the Chief Executive Election should be a major event which everyone in the territory is concerned about. However, today the election of the fourth-term Chief Executive has already been degraded into a "Chief Executive horse race". Earlier, when I took a taxi to come here, the radio was broadcasting news on horse racing as today is Wednesday. Now people talk about whether they have shown any cold sweat and whether they have a good shape. The event has been degraded into a "political show". Every day commentaries in the newspapers would comment on how those probable candidates performed in the "parade ring", whether they could enter the starting gates smoothly, how they looked in the morning training, and so forth. In fact, news about the Chief Executive Election is no different from the racing tips published every Wednesday or weekend as mentioned just now.

Only 1 200 people have the right to vote for the Chief Executive. Moreover, as soon as the "masters in the north" start leaking some information or

playing the magic flute, members of the pro-establishment camp in the Election Committee will obediently move with the flute music. People will immediately draw close to the chosen one ordained by the "masters in the north" and then wait for this new officer to assume office and award them accordingly. However, that does not mean all Hong Kong people will merely act as spectators of this ridiculous "political show". We should, through public opinion, ask all the candidates to make a solemn pledge to the whole population, which will serve as the basis for us to monitor the Chief Executive in the future.

We call upon the probable Chief Executive hopefuls, apart from going to the districts to meet with members of the public in such an obscure way as though they were staging a show, of which we have seen a lot lately, they should specifically present to the public their visions on governing Hong Kong. Moreover, they have to face the masses and truly listen to the aspirations of people from all walks of life. In fact, we still have considerable expectations of the future Chief Executive, expectations in various aspects.

President, the priority task which the next Chief Executive has to deal with, in my opinion, is certainly to reform this political system which enables him to climb to the top position with the biggest power. Universal suffrage will be implemented in 2017. What kind of universal suffrage will it be? Of course it should be genuine universal suffrage, one that is universal and equal. The Chief Executive Election should be held without any political screening, and functional constituencies should be abolished expeditiously. At least the separate voting system which hampers the Legislative Council should be scrapped. A recent opinion poll indicates that the biggest public concerns are wealth gap and livelihood issues. However, if the political system is not fair, if political privileges and "free lunch" still exist, it will be extremely difficult to improve people's livelihood and narrow the wealth gap after all.

The rising inflation has added to the already heavy burden in people's lives. Market monopoly by consortia is definitely one of the culprits. According to the news report these few days, after the wholesalers increased the commodity price by several percent, the supermarkets increased the price by over ten percent. If monopolization by big consortia does not exist, is it possible for major supermarkets to have a price hike to reap profits on the pretext of increase in import prices?

We should have passed the Competition Bill long ago to contain such outrageous behaviour. Yet during the scrutiny of the legislation, many Members put up checkpoints here and there, and the Government eventually made some concessions. We have put forward some specific amendments. We do not know if they can be passed. However, we observe that some fellows, who have been strongly against the legislation and who keep saying every day that what we want is an anti-monopoly law rather than a fair competition law, have already expressed their stance, saying that the concerns of small and medium enterprises are still not alleviated. Obviously, they are what we call insatiable. Still unsatisfied with these concessions, their response is still more or less the same. This is similar to the situation of political reform, it may remain a stalemate.

Besides, let us quote another example. The West Kowloon Cultural District (WKCD), which has been our utmost concern, has now, of course, become the responsibility of the Secretary who has just taken over, that is, your predecessor. Secretary Stephen LAM is now in charge of the WKCD. Learning that, I really cannot find the slightest connection which he has with this project. However, since he has taken over the position of Chief Secretary for Administration, the project certainly falls under his responsibility. Anyway, learning that the Government has previously said that a single tender approach would be adopted for the WKCD, we are all worried that this will be a property development project. With the votes in their hands, property developers can certainly exert tremendous influence.

An unequal system has caused such policies to be tilted towards major developers; small developers are unable to get a share. We just learnt that the bid for the site of several hundred square feet at Nam Cheong Station was again won by a big consortium, a major developer. What did we expect in the establishment of the WKCD? It was the development of software. Yet what have we seen now? What we have seen is just hardware. Who will be the final controller of the development of software? It will be in the hands of the Government, but after all, it is being developed in the most primitive way. Will the WKCD eventually end up with just a body but not a soul? We will continue our efforts in the monitoring work.

Conservation and sustainable development are also top priority tasks which the Special Administrative Region Government of the next term has to handle properly. To achieve conservation, first of all, there must be a policy together

with the tool, which is planning. If there had been good planning, the Tai Long Sai Wan incident would never have happened. If there had been good planning, the Government would not have pushed ahead with the demolition of the West Wing of the Central Government Offices, converting it into a shopping centre and Grade A offices. The Government even wanted to cut its own flesh for sale to the developers. If there had been good planning for trees, the tree management work would not have been carried out in such a sloppy way now. For planning, the most important thing is to have a long-term policy. I hope that the next Chief Executive will not be as short-sighted as Donald TSANG's Government or even neglect the long-term policies. Or it is not until the very end of his term that he proposes many long-term policies which require other people to follow up.

President, youngsters are our future. Their well-being and aspirations, which are highly important, need our full respect and consideration. Regrettably, a probable Chief Executive hopeful has earlier made some absurd remarks which broke the youngsters' hearts. Today he still has not apologized to them. We note that young people suffer from the confusing education system, inadequate funded places in universities, heavy burdens from student loans, stagnation in social mobility, lack of stable homes and remote chance of buying their own homes. These are the problems faced by youngsters. We very much hope that the Chief Executive with visions will expeditiously tell us what efforts and commitments he will make for young people. The election of the next Chief Executive is coming soon. The vast majority of the public do not have such a vote, but we still hope that they will actively participate and continue to review critically the political platforms of the probable Chief Executive hopefuls or Chief Executive-elect, so as to keep a monitoring role.

I so submit.

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

MR CHAN KAM-LAM (in Cantonese): President, Mr Alan LEONG has, in his motion today, called upon those persons who intend to run in the next Chief Executive Election to safeguard Hong Kong people's core values and actively respond to the aspirations of the 7 million people. First of all, I would like to

quote the findings of a number of surveys to illustrate the core values of Hong Kong people and the strongest aspirations of the 7 million people.

Recently, the Public Opinion Programme of the University of Hong Kong, the Hong Kong Institute of Asia-Pacific Studies of The Chinese University of Hong Kong and Hong Kong Research Association have respectively conducted opinion surveys on public expectations of the Chief Executive Donald TSANG's policy address. These surveys can certainly reflect to a certain extent their views on the future Chief Executive. According to the general findings of these three major surveys, the respondents considered that the focus should be put on housing, economic development, healthcare, education, social welfare, labour and employment issues. Those who chose constitutional development and human rights and freedom issues respectively only accounted for a very low percentage.

As we can tell from these surveys and researches, what Hong Kong needs to tackle now are livelihood and economic issues. With regard to respect for human rights, democratic political systems, freedom of speech and the spirit of the rule of law, of course we should continue to safeguard and develop them. However, these are not the strongest public aspirations right now. No matter how eloquent Dr Margaret NG sounded in her sophistry, such reality cannot be changed.

The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has always stayed close to public opinion and insisted that the Special Administrative Region Government should follow the pulse of the people, focusing on infrastructure and development, fostering social cohesion and facilitating sustainable development of livelihood and economic measures so as to attain a more harmonious and stable society. Today we have set out in detail more than 10 livelihood policies in our amendment. We hope to have a detailed discussion on these policies. Yet regrettably, there are not too many Members who really talk about livelihood issues except Members of the DAB. I believe the public will be rather disappointed. We also hope that the pan-democratic Members will not use public aspirations as their slogan, and instead, they will genuinely do something concrete for people's livelihood and for development.

What is more, may we ask Mr Alan LEONG, while he called upon those persons who intend to run in the Chief Executive Election to respond to the people's aspirations, what has he himself done for the people's aspirations?

Faced with the people's general demand to have the livelihood and economic issues addressed, what has the Civic Party done in the past? Let us take a look.

The public asked for economic development and promotion of infrastructure projects. Yet someone in the Civic Party instigated an old woman Madam CHU to file for judicial review and halt the Hong Kong-Macao-Zhuhai Bridge project, thus causing the construction price of the bridge to increase as much as \$6.5 billion, not to mention some 70 projects which were also suspended then because of the judicial review on the environmental impact assessment report. Who knows how much the increase in project costs will be after they are unfrozen. Faced with the opposition of 99% of the public against enjoyment of the right of abode in Hong Kong by foreign domestic helpers, the Civic Party dares not admit having assisted the foreign domestic helpers in filing for judicial review. Yet they went around defending themselves, persuading members of the public that there was no need to worry about dilution of social resources. They even shamelessly claimed, despite the facts, that they were being smeared. All such behaviour went against public interests and aspirations. How could Mr Alan LEONG still have the face to make such an appeal?

President, both Mr Alan LEONG and Mr Frederick FUNG cited the Occupy Wall Street movement which took place in the United States in recent months to criticize capitalism. I would like to remind the two of them, the Occupy Wall Street movement broke out in the country which they regard as having the highest regard for human rights and being most democratic, and the movement has further spread to other European countries. Such a fact illustrates that the democratic system of the western countries may not necessarily be the best system. The core values which western societies have emphasized all along may not be universal values. We lay stress on people's livelihood and economic development. That does not mean our democratic political system will come to a standstill. Now a conclusion has already been reached on the constitutional development in Hong Kong, with a timetable and a road map being set.

Members in the opposition party always talk about human rights, freedom of speech and independence of the judiciary, ignoring the major livelihood issues which are the people's utmost concern. In the European and American countries, there are democratic political systems. Yet now, with the economic downturn and huge indebtedness, their people are living in dire straits in a constant state of anxiety. The constitutional development of every country

cannot depart from economic development. Otherwise, even the best democratic system will only turn out to be a dishonoured cheque. We also cannot ignore the truth and attribute all social problems to the pace of development of the democratic system.

While Mr Alan LEONG and Mr Frederick FUNG lashed out at the capitalist system, they were unable to propose any better social system and solution to the problems. What they said sounded good, but sadly, it was devoid of substance. Ms Cyd HO said whether the livelihood issues could be handled properly would depend on whether the four main cornerstones could be implemented. May I ask Ms Cyd HO to open her eyes wide and look at what is happening in the European and American countries.

President, Ms Audrey EU said that the purpose in taking the case to court in respect of environmental protection was to check whether the Government had carried out the environmental protection work properly. That is wrong and misleading the public. The main purpose in taking the case to court was to check whether the Government had actually conducted the environmental protection work in compliance with the law. Besides, we need to protect the people's right to seek legal representation. That is right. However, suppose someone have incited members of the public who do not have any knowledge, like the old lady Madam CHU, who came forward and said, "I have acted like a silly woman. I have no idea what is happening. I did not want to take the case to court, but someone told me to do so", I believe this is not the kind of human right or democracy which the people want to see.

With these remarks, President, I object to the motion.

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

MR PAUL TSE (in Cantonese): President, after listening to Members' speeches, I have to speak out my thoughts, in particular, my views about the recent allegations or counter-allegations on the existing judicial system, as well as the two cases which have sparked a furore lately. As Members may aware, I am a member of the legal sector as I have been a lawyer and a barrister. When we join the profession, we clearly understand the professional ethics governing the

trade, regardless of what one's aspiration or ideal is, or whether one is in the pursuit of benefits.

President, I have a few points to clarify. Some people often stress that when something goes wrong, someone in this society of rule of law would step forward to defend the rights of individual litigants. I totally agree with this. In my legal career, I have often spend lots of time engaging in lawsuits to fight for people's interests free of charge, in order to uphold my ideals and beliefs. However, I wish to highlight a difference.

President, I remember Mr Alan LEONG has asked earlier, should a lawyer or a barrister refuse to help a bandit or a fung shui master who approaches him for assistance? I would like to highlight the difference. If some people really need help, be they CHEUNG Tsz-keung or anyone else, we must have the courage to defend their legal rights, knowing (or at least thinking) that they have indeed done something wrong. In some cases, even the clients themselves admitted that they have done something wrong, however, based on legal ethics, we still need to do our best to defend for them and ensure that they receive a fair trial. Even if he has pleaded guilty, we cannot accuse him to his face or adopt a positive defence approach by guiding him to state that he is not guilty. We can at least adopt a negative defence approach, that is, the so-called "frozen defence", meaning that even if the defendant has not denied the charge, the prosecution should at least be put to test to see if the case meets the standard and requirement of proof, and the proceedings are consistent with a fair trial where a defendant is only convicted after formal hearings. I think Members should understand this point and there is no dispute on this.

The only case which will give rise to dispute and disagreement, and even arouse people's doubt on the rule of law, is the so-called test case, used to test certain policies or issues. Test cases are popular in many countries, such as the United Kingdom and the United States, and they are pretty common. Very often, the objective of test cases is to look for a precedent case for class action or the expression of resentment to social policies. While there is nothing wrong about test cases, sometimes we have to consider how the relevant test cases are handled and whether they are proportionate.

Under these circumstances, if a certain issue which should be handled by way of politics is not handled in that way, but resort to litigation, it will often lead

to controversies, like the recent cases. What will happen then? Some people will "shop around" to identify some litigants who are frail and elderly, preferably CSSA recipients, who can apply for legal aid. Thus, no litigation cost would be incurred even if they lose the case. Apparently, in this Chamber, a number of barristers and lawyers have never taken the role as litigants to defend their ideals. Why? Because their "purse" is loaded and they might be asked to pay their own litigation fee, as well as those of the other party and the Government in case they lose the case. They certainly do not wish to do so, and thus they turn to the frail elderly people. They are the ultimate winner no matter they win or lose the case. This approach has aroused the resentment of many people.

In this respect, I have to sing praises for Mr LEUNG Kwok-hung because he has tested the law so as to uphold his beliefs. To uphold human rights, he has acted in contravention of the law, both criminal and civil laws. I am afraid that even lawyers and barristers present at the meeting have never done so. Instead, they have merely abetted or guided other people to do so. Many people are not happy with this and I find this understandable.

President, another point is that, very often

(Ms Audrey EU raised her hand to indicate her wish)

PRESIDENT (in Cantonese): Mr TSE, please hold on. Ms Audrey EU, what is your question?

MS AUDREY EU (in Cantonese): First of all, President, I wonder if you have noticed that though he has spoken for four minutes, he has not started talking on the subject. Yet, this is not the point that I wish to complain

PRESIDENT (in Cantonese): Please raise your point of order.

MS AUDREY EU (in Cantonese): OK. I am not complaining about his digressing from the subject. Another more important issue is that he accused the lawyers and barristers at the meeting for abetting other people to take the matters

to the Court. President, this has actually contravened the Rules of Procedure, so I hope

PRESIDENT (in Cantonese): Which provision of the Rules of Procedure has he contravened?

MS AUDREY EU (in Cantonese): President, he has contravened the provision concerning the use of offensive words by accusing other people of purposely abetting others. President, I wonder if he has accused all the lawyers and barristers at the meeting of abetting other people to take the matters to the Court. President, I hope that you will handle the case.

PRESIDENT (in Cantonese): Mr TSE, please clarify if you have accused Legislative Council Members from the legal sector of abetting other people to take the matters to the Court.

MR PAUL TSE (in Cantonese): President, for your convenience, do allow me to slightly change my wordings to "many people alleged that lawyers and barristers present at the meeting might do so". Only some people, but not me, alleged that they would do so. I think this is a fair judgment, such allegations and views do prevail in the community. Let me go back to the subject. I certainly know the subject of the motion, but as I am aware that Mr Alan LEONG has mentioned this issue time and again when he spoke on this motion some time ago, I do not think I have digressed from the subject.

President, what I want to say is that there are actually different ways of dealing with problems and legal means is just only one of them. There are more appropriate channels, such as the Legislative Council or other political means. Many people wonder what will happen if all problems are simply resort to legal means. President, this will give rise to abuse. The abuse which I referred to is not narrowly defined. An application for judicial review will certainly not be regarded as abuse if it has passed the first gate by obtaining the Court's approval. This is the narrow meaning of abuse. If it is broadly defined, abuse means the improper handling of political issues by legal means. It also refers to an abuse

of the legal proceedings. Environmental protection issues, for instance, can actually be dealt with through formal procedures in Legislative Council Panels or through legislative stage, during which a conclusion will be arrived after debates and discussions. We can then come up with the most ideal solution that can best meet public interests. However, if we resort to legal means at a very advanced stage and ask some elderly women to act for us, members of the public would certainly regard such act as abuse.

I must get these off my chest today. We do have many core values, among which capitalism is of paramount importance. Some people kept stressing the importance to safeguard our core values, but unless Article 5 of the Basic Law is refuted and capitalism will no longer be practised, otherwise those values would remain as one of the most important values. Therefore, I think we should not always pinpoint the rule of law. If the rule of law is a hammer, it should be properly used to hammer nails. It would not be appropriate if it is used to smash things irrationally. Same for the legal system, it can be very useful at the right time, but it can also be disastrous at improper times.

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Alan LEONG, you may now speak on the amendments. The speaking time limit is five minutes.

MR ALAN LEONG (in Cantonese): President, according to Marxism-Leninism-Mao Zedong Thoughts, the laws also serve the regime and politics as well. Is this what Mr TSE wants to see?

President, the original motion moved by me today has been drastically amended by Mr TAM Yiu-chung. When he spoke earlier, he said that he did this to help me after noticing that I had ignored people's livelihood. However, President, part (a) of my motion actually proposes to "improve people's

livelihood, defend people's long-term interests and make actual efforts to resolve the deep-rooted conflicts in society". Every time the State President and State Premier meet with the Chief Executive, they ask him to properly deal with deep-rooted conflicts. What kind of problem is this if it is not livelihood problem? And yet, how can we enjoy better livelihood without democracy? How can the deep-rooted problems be resolved if the political power, which is currently dominated by the privileged class (including property developers) cannot be more equal and fair?

President, Mr TAM Yiu-chung's amendment has deleted the parts concerning specific core values and he criticized what I did only serve a window-dressing purpose. If this is true, why would I spend so much time to talk about Article 35 of the Basic Law when I spoke? President, after listening to Mr Paul TSE's speech, I found that he also has serious misunderstanding. Since Hong Kong practises the separation of powers, namely the powers of the executive, the legislature and the Judiciary. However, two of them have lost their powers. President, I must say so though I am here in the Legislative Council. Justice cannot be found in this Council under the high-handed approach with the presence of the separate voting arrangement. Besides, there is still the presence of functional constituency seats, among which more than 60% is monopolized by vested interests.

President, worse still, there is a lack of administrative justice. How can we manifest administrative justice if Stephen LAM can assume the post of Chief Secretary for Administration? Under the separation of powers, if the executive fails to provide justice for people, and the legislature fails the same, people will naturally turn to the Judiciary for justice. This is precisely where the problem lies. The purpose of moving the original motion today is to point out that, if the above issues are not dealt with properly, the next Chief Executive and Hong Kong will be in bad luck. The reasons have been set out. So, how can I support Mr TAM Yiu-chung after he has deleted the highlights of my motion?

President, Mr TAM has deleted the entire part concerning the specific protection that the next Chief Executive should undertake to provide for the people, leaving only those general issues, like the protection of freedom of the press. Having said that, I just heard that the motion moved by Ms Emily LAU to propose the appointment of a select committee to inquire into how the managerial staff of Asia Television Limited has interfered with its editorial

freedom was voted down in the end. Mr TAM also proposed to defend people's long-term interests. And yet, I learnt from today's newspaper that favouritism has become very serious — Yesterday, Secretary Gregory SO met some Members of the pro-establishment camp and indicated that compromise would be made in relation to the protection of people's interests when the competition law is enacted. The law enacted is nothing but a "toothless" legislation. This is the result of deleting the specific protection but leaving only the vague headings. President, although the Chief Executive Election has yet to start, we can see that the Democratic Alliance for the Betterment and Progress of Hong Kong is very eager to protect its master by swiftly defending the future leader preordained by the Central Authorities. Therefore, it is impossible for us to support this amendment.

President, the Civic Party is now being attacked at all fronts. Many people smear us and put labels on us. Very often, it is difficult to explain in a few words if the smear is intentional. Just as the saying goes, "If you are out to condemn somebody, you can always trump up a charge." However, this does not matter. I think that, to a political party, such attack is no big deal. What matters is the attack directed at the core values defended by the Civic Party, which include human rights, the rule of law and freedom. Hong Kong people must be cautious about this. President, what has happened is precisely the case (*The buzzer sounded*)

I so submit.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, as I have said right at the beginning, I am going to give a concise speech tonight. Right now, I just want to state a few points.

Firstly, as far as I can recall, just now two Members hinted that they would run in the election. Ms Audrey EU also mentioned that there are probable candidates outside this Council. Here, I would like to give a gentle reminder: According to section 2 of the Election (Corrupt and Illegal Conduct) Ordinance (the Ordinance), a candidate is defined as a person who stands nominated as a candidate at an election, or who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate at the election. As provided in section 2 of the same Ordinance, in relation to a

candidate or group of candidates at an election, election expenses means expenses incurred or to be incurred, before, during or after the election period, by or on behalf of the candidate or group for the purpose of: (a) promoting the election of the candidate or group; or (b) prejudicing the election of another candidate or group, and includes the value of election donations consisting of goods and services used for that purpose.

President, here, I want to stress again that anyone who intends to run in the Chief Executive Election must comply with the relevant election laws and provisions. Subject to these laws and provisions, people intending to run in the election must act cautiously and seek legal advice where necessary.

President, coming back to the subject of tonight's debate, I just want to briefly discuss a few points.

The Chief Executive has placed the focus of this year's Policy Address on three important issues, namely housing, the ageing population and the cost of living, and short-, medium- and long-term initiatives have been proposed. The Policy Address has also touched on labour policy, which includes paternity leave for males as suggested by Members of the Hong Kong Federation of Trade Unions and standard working hours. Furthermore, the Policy Address has proposed the provision of support to the underprivileged and young people, and touched on various policy areas such as healthcare, education, environmental protection and conservation. As the Chief Executive has said on one occasion, he and his governing team would fight until 30 June of next year, and would work together to implement the various measures proposed in the Policy Address. Some Members had indicated earlier their wish to have the Government exerting greater efforts to expeditiously implement certain measures. I will relay this message to the colleagues concerned. As I am aware that there will be further discussions in this Council next week, I am not going to repeat today.

The Policy Address also describes the challenges ahead, which may not be completely resolved in the remaining months of the current-term government. The Chief Executive has suggested three major challenges: (a) the role of the Government; (b) the ageing population, and (c) the political reform. These three points coincide with the aspirations expressed by a number of Members concerning the Chief Executive. I believe whoever the next Chief Executive is, he must face these problems.

President, we will have a new Chief Executive on 25 March next year. As many Members have pointed out, there are only about five months left. Before that, I think there are still plenty of opportunities for people from all walks of life to express their aspirations. I have done a rough calculation earlier. A total of 29 Members have expressed their aspirations, which I think should be carefully considered by people intending to run in the Chief Executive Election.

President, last of all, I would like to quote a line from the speech made by Mr CHIM Pui-chung just now, which I totally agree. He said that the Chief Executive is indeed a servant, a public servant. His remark reminds me of my favourite book, the *Bible*. In the Gospel of Mark 10:44, it reads that: "Whoever wishes to be first among you will be the slave of all." Like many members of the public, I hope that people intending to run in the Chief Executive Election would be the slave of all.

President, I so submit.

PRESIDENT (in Cantonese): Mr Frederick FUNG, you may now move your amendment.

MR FREDERICK FUNG (in Cantonese): President, I move that Mr Alan LEONG's motion be amended.

Mr Frederick FUNG moved the following amendment: (Translation)

"To add "as recently, discussions about candidates in the Chief Executive Election are very heated in society, and" after "That,"; to delete "and" after "core values,"; to add ", reform the long-standing governance philosophy that tilts in favour of tycoons as well as people who are powerful and wealthy, and replace it with the principle of development for all people that gives consideration to all social strata as the basis of governance" after "seven million people"; to add "formulating comprehensive and fair social and economic policies, with a view to" after "long-term interests and"; to add "and alleviating the disparity between the rich and the poor" after "conflicts in society"; and to add "; forging a consensus through the formation of a committee dedicated to

implementing dual universal suffrage with the participation of the Central People's Government, the SAR Government, various political groups and the community at large, etc., as well as enacting legislation in one go to resolve issues such as dual universal suffrage and the abolition of functional constituencies, etc., so as to realize the implementation of genuine universality and equality for the Chief Executive Election in 2017 and the Legislative Council Election in 2020" after "Council in 2016".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Frederick FUNG to Mr Alan LEONG'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 Frederick FUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Frederick FUNG 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:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Ms Miriam LAU, Ms LI Fung-ying, Mr Vincent FANG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted against the amendment.

Dr LEUNG Ka-lau abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP 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, 21 were present, four were in favour of the amendment, 16 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 16 were in favour of the amendment and 10 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.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Calling upon persons intending to run in the Chief Executive Election to respond to people's aspirations" 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 Ms Miriam LAU 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 "Calling upon persons intending to run in the Chief Executive Election to respond to people's aspirations" 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 TAM Yiu-chung, you may now move the amendment to the motion.

MR TAM YIU-CHUNG (in Cantonese): President, I move that Mr Alan LEONG's motion be amended.

Mr TAM Yiu-chung moved the following amendment: (Translation)

"To delete "given that the Chief Executive Election is approaching, but only the 1 200 members of the Election Committee have the right to vote" after "That," and substitute with "as an election will be held next year to select a new Chief Executive"; to delete "calls upon" after ", this Council" and substitute with "opines that"; to delete "to put forward specific propositions on safeguarding Hong Kong people's core values, and actively respond to the aspirations of the seven million people; the relevant propositions must include" after "the next Chief Executive Election" and substitute with "should proactively consider"; to delete "respecting human rights, improving people's livelihood, defending people's long-term interests and making actual efforts to resolve the deep-rooted conflicts in society" after "(a)" and substitute with "directly replacing the 'Work Incentive Transport Subsidy Scheme' by a 'maintenance grant scheme for low-income families', so as to enable families not eligible to apply for Comprehensive Social Security Assistance but whose incomes are still on the low side to receive monthly grant"; to delete "persevering in the realization of a democratic political system and abolishing the functional constituency seats as well as the separate voting arrangement in the Legislative Council in 2016" after "(b)" and substitute with "reforming Old Age Allowance (commonly known as 'fruit grant') into a three-tier 'retirement protection pension', so as to provide elderly people with pension according to their financial situations"; to delete "protecting freedom of the press and of speech, and undertaking not to enact legislation to implement Article 23 of the Basic Law before the full implementation of genuine universal suffrage; and"

after "(c)" and substitute with "introducing 'voluntary long-term care insurance', with the Government partially subsidizing the contributions made by the public, and providing tax deductions in respect of such contributions;"; and to delete "upholding the spirit of the rule of law and defending judicial independence, so as to fully implement Article 35 of the Basic Law" immediately before the full stop and substitute with "formulating a long-term land and housing policy to ensure the satisfaction of the public's basic housing needs, and at the same time providing a home acquisition ladder to promote upward social mobility; (e) providing rental assistance to households on the Waiting List for public housing; (f) establishing a 'quota system for employing people with disabilities'; (g) through the approach of employer-employee negotiations and progressive implementation, including all general holidays other than Sundays as paid statutory holidays, and introducing paternity leave; (h) formulating a five-year plan regarding residential care services for the elderly and community care for the elderly, so as to draw up lead time targets and set down corresponding resource allocation and manpower support, having regard to the waiting queues for residential care homes for the elderly, residential care homes for persons with disabilities and community care; (i) increasing public medical manpower and resources for service improvement; (j) buying back the Western Harbour Crossing, alleviating traffic congestion and relieving the burden of cross-harbour transportation expenses on the public; (k) using the dividends received by the Government from the MTR Corporation Limited to stabilize MTR fares; (l) increasing the subsidies for outlying island ferry routes, so as to reduce fares; (m) developing new towns in border areas and relocating certain government organizations to such areas, so as to facilitate local development; (n) holding negotiations to draw up a 10-year plan on environmental co-operation with the Pearl River Delta Region, in particular focusing on holding negotiations to draw up co-operation schemes and work targets regarding air quality governance, emission reduction targets, the governance of Pearl River Estuary waters and Guangdong-Hong Kong water resources management, etc.; and (o) setting up a nature conservation fund, so as to resolve the conflicts between conservation and private land development in rural areas, etc., and urges the new Chief Executive to defend people's long-term interests, resolve the deep-rooted conflicts in society, and respond to the aspirations of the seven million people while striving to safeguard Hong Kong people's core

values, respecting human rights, persevering in the realization of a democratic political system, protecting freedom of the press and of speech, upholding the spirit of the rule of law, and defending judicial independence to fully implement the Basic Law".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr TAM Yiu-chung to Mr Alan LEONG's motion, be passed.

PRESIDENT (in Cantonese): I now call upon Mr IP Wai-ming to move the amendment to Mr TAM Yiu-chung's amendment.

MR IP WAI-MING (in Cantonese): President, I move that Mr TAM Yiu-chung's amendment be amended.

Mr IP Wai-ming moved the following amendment to Mr TAM Yiu-chung's amendment: (Translation)

"To delete "the approach of" after "through"; and to delete "progressive implementation," after "negotiations and" and substitute with "by way of legislation, progressively"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr IP Wai-ming to Mr TAM Yiu-chung's amendment, 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.

MR LEUNG KWOK-HUNG (in Cantonese): My button cannot be pressed. It is okay now.

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, have you pressed the "Present" button? You should proceed to vote now.

MR LEUNG KWOK-HUNG (in Cantonese): I have already casted my 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 WONG Yung-kan, Ms LI Fung-ying, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou voted for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE, Mr CHEUNG Kwok-che and Mr Paul TSE voted against the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Ms Miriam LAU, Mr Vincent FANG, Mr Jeffrey LAM and Prof Patrick LAU abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin and Mrs Regina IP voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN voted against the amendment.

Dr Priscilla LEUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, nine were in favour of the amendment, five against it and seven abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, nine were in favour of the amendment, 16 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): I now put the question to you and that is: That Mr TAM Yiu-chung's amendment to Mr Alan LEONG's motion be passed.

PRESIDENT (in Cantonese): 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 James TO rose to claim a division.

PRESIDENT (in Cantonese): Mr James TO 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 WONG Yung-kan, Ms LI Fung-ying, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted against the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Ms Miriam LAU, Mr Vincent FANG, Mr Jeffrey LAM and Prof Patrick LAU abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin and Mrs Regina IP voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN voted against the amendment.

Dr Priscilla LEUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, 10 were in favour of the amendment, four against it and seven abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, nine were in favour of the amendment, 16 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): Mr Alan LEONG, you may now reply and you have four minutes one second.

MR ALAN LEONG (in Cantonese): President, I thank the 29 Members who have spoken on the motion today.

I noted just now that Mr CHAN Kam-lam had looked me rather scornfully and said that I always talk about the rule of law and human rights, commenting that these are not the most important things to the people of Hong Kong.

President, I will not apologize for my remark. Indeed, I talk about the rule of law every day ever since I have been called to the bar in the 1990s. I think I am better than those double-dealers who, on the one hand say that they defend the rule of law, but on the other propose motions to interfere with judicial independence by means of legislation. Who is better? We had better know how to choose.

Actually, what I am saying every day is that I hope the law can protect the rights and freedom of an individual. I hope that our next Chief Executive will understand that the purpose of the law is to monitor the use of public powers and to protect the minority and the vulnerable. I hope the next Chief Executive will tell the people his or her commitment and vision in this regard.

President, just now during the debate, Members have quoted many opinion polls and I believe Ms Audrey EU has quoted the one about the public views on the next Chief Executive. It was found that the most popular candidates are not those anointed by Beijing, but those who are committed to defend human rights, rule of law and freedom. Mr CHAN Kam-lam quoted another opinion poll, which found that the people of Hong Kong put the lowest priority on the rule of law and freedom, thus saying that Mr Alan LEONG was wrong in moving such a motion.

President, in fact, it is fortunate that I have done so. Who will so readily put the rule of law on top priority? It is those who have lived in a state of anarchy, thus knowing how it is like to be in a lawless society, how it is like when you cannot get any help from anyone and how it is like when power is monopolized and you are not allowed to say a word. If you ask those people what is their prime concern, they will immediately say, the rule of law, human rights and democracy. Hong Kong has not reached such a stage yet.

President, a song may have aptly described this. "Who would treasure when you still have it?", as the lyrics go. I hope that by moving this motion today, I can remind the people of Hong Kong that they should have expectations of their next Chief Executive. What we should expect of the next Chief Executive is not a casual promise of an annual increase of 35 000 public renting housing (PRH) units or the shortening of the waiting time for PRH allocation to two years, but his or her commitment in upholding press freedom, human rights, rule of law, statutory independence and Article 35 of the Basic Law, as well as his or her promise not to enact laws to implement Article 23 of the Basic Law

before a genuine universal suffrage is implemented. President, the Decision made by the Standing Committee of the National People's Congress in 2007 does not apply to the abolition of the functional constituency seats and the separate voting system in 2016. I believe I do not need to remind the President about this. The present arrangement will at most apply until the term in 2012. The term in 2016 will be a whole new world.

President, I urge for Members' support of my motion today. I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Alan LEONG be passed.

PRESIDENT (in Cantonese): 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 Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Ms Miriam LAU, Ms LI Fung-ying, Mr Vincent FANG, Mr Jeffrey LAM, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted against the motion.

Dr LEUNG Ka-lau abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, four were in favour of the motion, 16 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 16 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negated.

PRESIDENT (in Cantonese): Second motion: Opposing foreign domestic helpers' enjoyment of the right of abode in Hong Kong.

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

I now call upon Mr WONG Ting-kwong to speak and move the motion.

OPPOSING FOREIGN DOMESTIC HELPERS' ENJOYMENT OF THE RIGHT OF ABODE IN HONG KONG

MR WONG TING-KWONG (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, many commentaries have said that Hong Kong is a pluralistic society where public opinions are divided, where it is difficult to reach a consensus on any particular policy. In fact, this is not absolutely true. On cardinal issues of right and wrong, and on issues of which the facts and principles are clearly presented before our eyes, public opinions have remained unanimous. "We are the 99%" has been a popular slogan recently, and there is also a case of "99%" in Hong Kong, as 99% of public opinions are opposed to foreign domestic helpers (FDHs)' enjoyment of the right of abode (ROA) in Hong Kong.

The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) collected signatures from the public in all 18 districts in the territory between mid-August and September to find out what the public think about FDHs' enjoyment of the ROA in Hong Kong. We have eventually collected more than 100 000 signatures from the public (including both supporters and critics) and among these signatures, over 90 000 oppose FDHs' enjoyment of the ROA in Hong Kong, which means that 99% of the public object to FDHs enjoying the ROA in Hong Kong.

The DAB is the political group which came forth the earliest in making an appeal to the community to pay attention to FDHs' enjoyment of the ROA in Hong Kong. Unlike what certain political parties have said, we did it not for the purpose of election strategy or slinging mud at other political parties. On the contrary, we are concerned about this issue because long before any in-depth

discussion on this issue was conducted in the community, we had from time to time heard the views of the locals in districts and they had also made enquiries with us. We then tried to gauge the impact of FDHs' enjoyment of the ROA in Hong Kong on the demands for employment, welfare, education, healthcare and public housing. The findings are gravely worrying to us.

According to our assessment, an additional 100 000-odd people enjoying the ROA in Hong Kong will put serious financial pressure on Hong Kong in the medium-to-long term, and the additional annual recurrent expenditure to be incurred by the Government is estimated to be \$25 billion. As the figures in our assessment have been cited in many newspaper reports, I am not going to give a detailed explanation here.

Regarding our projection of the need for Hong Kong people to foot the bill each year as a result of an additional 100 000-odd people enjoying the ROA in Hong Kong, some people have described it as alarmist talk. I challenge these people to convince me with statistics, rather than dismissing me by simply saying that the FDHs will not apply for it. It is because in policy formulation, the calculation of the expenditure estimate is always based on the number of eligible applicants, rather than making a simple assumption that the eligible applicants will not submit an application and then unscientifically paring down the estimate.

The case concerning FDHs' enjoyment of the ROA in Hong Kong has not only increased the pressure on Hong Kong as a whole. It has, in fact, created great psychological pressure on people hiring FDHs. During the signature campaign of the DAB, many members of the public came forth and signed on their own initiative, asking a diversity of questions and expressing concern. Particularly, some people who used to be on good terms with their FDHs have seen their relationship with their FDHs turning tense in the wake of extensive reports on this lawsuit relating to FDHs because their FDHs always asked them whether or not they can stay in Hong Kong permanently, how they can submit an application, and whether or not they can change jobs freely after making an application. All these questions have caused nuisances to many members of the public.

Although the replacement of FDHs may happen every day, if the ordinary citizens are made to bear intangible and unnecessary worries and pressure

because of this lawsuit relating to FDHs, we would consider this something that absolutely cannot be ignored. It is not the case that when those barristers who are ignorant of the livelihood of the masses and who like to fiddle with legal rhetoric made one single remark of "respecting the court judgment", the people will have to swallow their grievances as if nothing has happened. It is not the case that the "four hurdles" are an amulet which can save Hong Kong people the trouble of having to hire other FDHs after their FDHs are granted the ROA in Hong Kong.

In view of the heavy burden to be borne by Hong Kong people as a result of this lawsuit which will decide on whether or not FDHs will enjoy the ROA in Hong Kong, we have long since called on the Government to make preparations and draw up contingency plans for the Court judgment, with a view to alleviating the negative impact of this case on Hong Kong in the short, medium and long terms.

With regard to the judgment handed down by the High Court which ruled that the Immigration Ordinance is inconsistent the Basic Law and has hence enabled FDHs to become eligible for applying for the ROA in Hong Kong, we express our appointment and strongly support the Government's appeal in this case. Moreover, the Government must take all effective administrative measures to block FDHs from putting up a case for their applications for the ROA in Hong Kong and consider bringing the spirit of the Basic Law into full play by legal means.

President, although the term "ordinarily resident" is defined clearly as not including FDHs' years of residence in Hong Kong, the outcome, as we all see, is that the ruling runs counter to the wish of the people. Given the significance of this issue, the DAB considers it necessary to propose this issue for debate in this Council, so that the community can accurately understand the real legislative intent of the Basic Law in respect of "ordinarily resident". The Chairman of the DAB, Mr TAM Yiu-chung, will explain the views of the DAB in this regard later on.

President, as the saying goes, "people's livelihood is no trivial matter". As there has been great concern about the impact of FDHs' enjoyment of the ROA in Hong Kong on various policies and resources in Hong Kong as well as the burden

to be created in these respects, the DAB and its Members will later on give a detailed account of the troubles caused to the public and also their concerns. It is for these two reasons, one big and the other small, that I have proposed this motion today.

President, I so submit.

Mr WONG Ting-kwong moved the following motion: (Translation)

"That, as the enjoyment of the right of abode in Hong Kong by foreign domestic helpers ('FDHs') will impose a heavy burden on Hong Kong's economy, employment market, education, healthcare, housing and welfare, etc., and have far-reaching consequences, thus giving rise to widespread public concern, this Council opposes FDHs' enjoyment of the right of abode in Hong Kong."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr WONG Ting-kwong be passed.

Let me remind Members that Rule 41(2) of the Rules of Procedure provides that reference shall not be made to a case pending in a Court of law in such a way as, in the opinion of the President, might prejudice that case. As the Government of the Hong Kong Special Administrative Region has filed a notice of appeal to the Court on the judicial review of FDHs' ROA in Hong Kong, in accordance with the said Rule, Members should avoid making reference to matters which can prejudice the Court's judgment in this case in their speech.

PRESIDENT (in Cantonese): Four Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the four amendments.

I will first call upon Mr WONG Kwok-hing to speak, to be followed by Mr Alan LEONG, Mr James TO and Mr Paul TSE respectively; but they may not move their amendments at this stage.

MR WONG KWOK-HING (in Cantonese): President, my amendment is very clear. First, granting FDHs the ROA in Hong Kong contravenes the legislative intent of the Basic Law; second, it is necessary to protect local employees' right to priority employment.

President, FDHs' enjoyment of the ROA in Hong Kong contravenes the legislative intent of the Basic Law. Granting the ROA to FDHs is, in my view, absolutely unacceptable. It is because the controversy over FDHs' enjoyment of the ROA in Hong Kong arises from the seven-year residence requirement in Article 24(2)(2) and the provision that FDHs are not regarded as ordinarily resident under section 2(4)(a)(vi) of the Immigration Ordinance.

If we refer to the "Opinions of the Preparatory Committee for the Hong Kong Special Administrative Region of the National People's Congress on the Implementation of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China" (the Opinions) adopted on 10 August 1996, we can see what the opinion was back then. Paragraph 2(5) of the Opinions clearly stated that people shall not be considered as "ordinarily residing" in Hong Kong as provided in Articles 24(2)(2) and (4) of the Basic Law if they are "permitted to stay in Hong Kong under specific government policies". This is tantamount to saying that FDHs are not considered as "ordinarily resident" in Hong Kong so long as they stay in Hong Kong to undertake specific jobs. Therefore, provisions are made to specify that both FDHs and the People's Liberation Army are not considered as "ordinarily resident" in Hong Kong under the Immigration Ordinance precisely because they stay in Hong Kong for special needs of work.

President, although some people said that the Opinions does not represent the legislative intent, in the "Interpretation by the Standing Committee of the National People's Congress of Articles 22(4) and 24(2)(3) of the Basic law of the Hong Kong Special Administrative Region of the People's Republic of China" adopted on 26 June 1999, the Standing Committee of the National people's Congress (NPCSC) clearly pointed out that "the legislative intent as stated by this Interpretation, together with the legislative intent of all other categories of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, have been reflected in the 'Opinions on the Implementation of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China' adopted at the Fourth

Plenary Meeting of the Preparatory Committee for the Hong Kong Special Administrative Region of the National People's Congress on 10 August 1996." (End of quote) In short, the NPCSC has in its Interpretation given retrospective recognition to the Opinions adopted in 1996.

President, on 13 April 1997, Mr WANG Fengchao, Deputy Director of the Hong Kong and Macao Affairs Office of the State Council, made a speech in which he mentioned the principles for solving issues on the nationality and ROA of Hong Kong residents. In his speech he clearly said to the effect that under certain circumstances, people residing in Hong Kong are not treated as ordinarily resident in Hong Kong, such as illegal immigrants, people who are sentenced to imprisonment by Court or detained in Hong Kong, foreign workers, foreign domestic helpers, and so on. This shows all the more clearly that before the reunification, all open documents and speeches clearly pointed out that FDHs who stay in Hong Kong are not considered as "ordinarily resident".

President, this is why I stress in my amendment that we must examine the question of whether or not FDHs should enjoy the ROA in Hong Kong in line with the legislative intent of the Basic Law.

President, let me further explain my points on the basis of reason. I have a couplet with me now. People who are watching the television at home may not see this. Let me read it out. The first line is "Once foreign domestic helpers enjoy the right of abode" and the second line is "Local employees hang up the casserole". There is this allusion to hanging up of the casserole here. Some Members may not understand the meaning of "hanging up the casserole". It means that a person has no means to feed himself if he is jobless and so, he has to hang up the casserole. This couplet is adapted from a couplet written during the post-war period. The people's livelihood was difficult at that time and somebody wrote a couplet which reads, "During eight years of the War of Resistance people had no rice to cook; On the day of victory they hang up the casserole". My couplet is adapted from this one.

Today, I wish to use this couplet to stress our opposition to FDHs' enjoyment of the ROA in Hong Kong. Why? Because we consider it necessary to protect the right to priority employment of local employees and workers.

Members, we have seen that before the reunification of Hong Kong, the economy of Hong Kong underwent a process of restructuring with many factories closing down and relocating to places where cheap labour was available. Since then, factories have almost all disappeared in Hong Kong, leaving many workers jobless. The unemployment and underemployment situation is extremely serious. In 1996, there were 574 000 workers in the manufacturing sector but recently, the so-called manufacturing sector has only 117 000 workers.

Besides, the wealth gap has widened. In 1996, there were 123 000 poor households with a monthly income less than \$4,000, and the number rose to 205 000 in 2006. In 1996, the Gini Coefficient was 0.518 and it was 0.523 in 2006. The living of elementary workers and the public has become increasingly difficult.

Frankly speaking, these jobs of "live-in domestic helpers" can entirely be taken up by local workers. This is why the Federation of Trade Unions (FTU) once opposed the importation of foreign workers and FDHs but in vain. However, if, among the 200 000-odd FDHs currently working in Hong Kong, 120 000 FDHs were granted the ROA in Hong Kong on the ground that they have resided in the territory for more than seven years, local domestic helpers who are already underemployed will find it even more difficult to land jobs. If the children of FDHs apply for entry into Hong Kong for work in future The Motor Transport Workers General Union has already expressed strong opposition to FDHs' enjoyment of the ROA in Hong Kong because some employers have hired FDHs to work as drivers. This will not only affect local domestic helpers but also other jobs or posts. For this reason, we must protect the job opportunities of local employees.

In fact, in any country or place, there are always stringent legal provisions in respect of applications for entry of foreigners, the eligibility for obtaining the ROA and even nationality. The purpose is to prevent a massive influx of immigrants, in order to protect the job opportunities of the local people or nationals. This is an international convention and practice.

President, with regard to the several other amendments, I have the following views.

I hope that the Civic Party can clearly explain to the public today why they have sought to delete from the original motion the part of "..... will impose a heavy burden on Hong Kong's economy, employment market, education, healthcare, housing and welfare, and so on, and have far-reaching consequences, thus giving rise to widespread public concern", and whether the Civic Party supports the enjoyment of ROA in Hong Kong by FDHs. I call on them to state their position clearly.

As regards Mr James TO's amendment which proposes that "..... the SAR Government should make a request to the Central Government for an amendment of the Basic Law", we consider that there must be discussions beforehand and therefore, it is difficult for us to support it at this stage.

I particularly hope that the Confederation of Trade Unions and the Neighbourhood and Worker's Service Centre which always claim to be upholding labour rights can reply to the public as to whether they support FDHs' enjoyment of the ROA in Hong Kong.

I hope that these two organizations can support the FTU's proposal to "..... protect local employees' right to priority employment" and vote for it.

MR ALAN LEONG (in Cantonese): President, today, we are openly debating in this Chamber the case of FDHs' application for ROA which is still pending an appeal hearing in Court, in an attempt to pass the motion of (I quote) "Opposing foreign domestic helpers' enjoyment of the right of abode in Hong Kong" (end of quote). This is an attempt by a reckless and unbridled legislature to put pressure on the Judiciary. Such intervention by the legislature in the Judiciary will damage judicial independence, an underpinning of Hong Kong. The Civic Party feels indignant and considers this regrettable. We express our strong opposition to this. The Civic Party will do whatever we can to see to it that all the motion and amendments containing the line that I have just quoted will not be passed.

President, regarding the ROA case for FDHs, the SAR Government has clearly stated its intention to appeal. The President has also reminded this Council of this just now, while the Court is dealing with the remaining two judicial review cases. If we are resolved to defend the rule of law and judicial independence, we should allow the Court to interpret, in accordance with legal

principles, the provision in Article 24(2)(4) of the Basic Law written in black and white and make a judgment on whether or not the number of years that FDHs work in Hong Kong can qualify them to make applications for ROA in Hong Kong. However, Members from the pro-establishment camp have instead chosen to make use of the platform of the Legislative Council to answer on behalf of the Court this question relating to the interpretation of a legal provision which is being subject to court proceedings now. They have also badmouthed the applicants and the counsels representing them in this judicial review case and played up the problem of FDHs' application for ROA. This has stepped out of the line of pure expression of opinions, a blatant attempt to put pressure on the Court.

President, Hong Kong has all along upheld the separation of powers with the executive, legislature and Judiciary exercising checks and balances among them. Andrew LI, former Chief Justice of the Court of Final Appeal, left Hong Kong people with some very precious remarks before he resigned from his office. Emphasizing the importance of upholding judicial independence in Hong Kong, he said, (I quote), "The independent Judiciary has a vital constitutional role to ensure that the acts of the executive and the legislature comply fully with the Basic Law and the law and that our fundamental rights and freedoms, which are at the heart of Hong Kong's system, are fully safeguarded." (end of quote)

It is pathetic that over the past few months, the executive has willingly performed jointly with the pro-establishment camp in this farce of the interpretation of the Basic Law written, directed and acted by themselves. This great play was started by an anonymous "source of information" who spread the rumour that 500 000 FDHs and their family members would be swarming to Hong Kong to scare the people of Hong Kong. This was followed by continued exaggeration by the pro-establishment camp of this piece of "information" obtained from an unknown source. Just when Hong Kong people were tormented by this farce and plunged into panic, worrying about our school places, beds and jobs being snatched by other people, identical banners intending to sling mud at the Civic Party suddenly appeared at the same time in various districts all across the territory overnight. This huge production that required such an enormous input of manpower and resources merely aimed to make the audience accept that ruling Hong Kong by the interpretation of the Basic Law is the only way to achieve a happy ending.

However, President, this play now seems to be coming to the end. We must now come back to the reality. It is time we found out the truth.

What is the truth? President, with regard to the claim that 500 000 FDHs and their family members would swarm to Hong Kong, the Government has never confirmed the accuracy of this figure. There are now about 125 000 FDHs who have lived in Hong Kong for seven years, and no one knows how many of them meet the requirement of seven years of continuous residence in Hong Kong. I can only remember that some years back the then Secretary for Security, Mrs Regina IP, said that the ROA issue would result in 1.67 million children born in the Mainland to Hong Kong residents swarming to Hong Kong. I hope that before she employs the same tactic to threaten Hong Kong people today, Mrs IP can explain whether or not this figure was exaggerated back then.

President, the truth is that even if FDHs can meet the requirement of seven years of continuous residence, they must still satisfy the Immigration Department (ImmD) that they have taken Hong Kong as their place of permanent residence. It is absolutely not the case that they will be granted the ROA automatically. This is why I can see that although the Liberal Party has kept on propagating the theory of FDHs swarming to Hong Kong, in a newspaper article written by its Chairman, Ms Miriam LAU, she only said to the effect that FDHs would become eligible for applying for the status of Hong Kong permanent resident. It is because she should know that there is an obvious difference between the two.

President, another truth is that the ImmD absolutely has sufficient powers to guard the gate of Hong Kong. Like the immigration authorities in places all around the world, the ImmD in Hong Kong can exercise discretion to decide who can have the ROA in Hong Kong for the purpose of population control. In this case of FDHs, Justice Johnson LAM also stated that the immigration authorities certainly have the power to impose restrictions on the entry and stay of foreigners as well as their eligibility for the ROA, just that the question is whether or not the means thus employed is constitutional.

Being the former Director of Immigration, Mrs Regina IP has kept on belittling the gate-keeping ability of the ImmD, describing the Basic Law as almost defenceless against applications for ROA by persons not of Chinese nationality. I would like to ask her this question: Over the years, among those cases in which the Director of Immigration said that the applicants failed to pass the two hurdles of "seven years of continuous residence" and "taking Hong Kong

as the place of permanent residence" mentioned in Article 24(2)(4) of the Basic Law, how many could win their cases in the judicial review and overthrow the decision of the ImmD? I believe she should know this only too well. I know that the number should be very few. If not, President, why is it that many pro-democracy activists who hold valid travel documents are barred from entry into Hong Kong? At the invitation of the Civic Party, Mr YANG Jianli, who had taken part in the students' movement, came to Hong Kong on 7 October to attend an academic seminar on the centenary of the 1911 Revolution but was rejected entry. Why is it that the ImmD can be so tough to pro-democracy activists and when dealing with applications from FDHs, it seems to be — or as described by Mrs Regina IP — so feeble and incapable? Perhaps it is not a matter of ability, but a matter of reluctance.

President, several major elections will be held in the coming year. The Civic Party obviously knows that in distorting the facts and continuously exaggerating the impact of the ROA case for FDHs, the purpose of our political enemies is to kill two birds with one stone, so that while they can hurl attacks at the Civic Party, they can also normalize the interpretation of the Basic Law by the National People's Congress (NPC), with a view to achieving the ruling of Hong Kong by interpretations of the Basic Law.

President, "500 000 FDHs and their family members swarming to Hong Kong" is basically a false issue — I am responding to Mr WONG Kwok-hing — this is a false issue. The ImmD absolutely has sufficient powers to guard the gate of Hong Kong. Like other immigration authorities worldwide, it can exercise discretion. Hong Kong people who have applied for emigration must have deep feelings about this supreme power of immigration officials.

There are now two paths in front of us. One is to maintain blind faith in the false figures, circumvent the court judgment and seek an interpretation of the Basic Law by the NPC, thus sending Hong Kong's judicial independence onto a path of no return. The other is to firmly uphold the righteous course of the rule of law and respect the Court judgment. This path may subject us to a lot of threats and a lot of tests and trials but in return, our living will continue to be protected by the rule of law.

(Mr WONG Kwok-hing stood up)

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, what is your question?

MR WONG KWOK-HING (in Cantonese): I wish to ask the President this because just now, Mr Alan LEONG

PRESIDENT (in Cantonese): What is your question?

MR WONG KWOK-HING (in Cantonese): I only wish to seek an elucidation.

PRESIDENT (in Cantonese): Do you wish to seek a clarification by Mr LEONG?

MR WONG KWOK-HING (in Cantonese): Mr Alan LEONG said that I had claimed that 500 000 people would swarm to Hong Kong. I have never said that.

PRESIDENT (in Cantonese): You may sit down. Mr Alan LEONG, please go on.

MR ALAN LEONG (in Cantonese): President, I did not say that Mr WONG Kwok-hing had said that. President, like Hong Kong people, the Civic Party is certainly concerned about the massive influx of immigrants all of a sudden. But I hope that based on the above discussion, Members will understand that what they are worrying about will not happen. I sincerely hope that Hong Kong people will not do anything to ruin our cornerstone, the rule of law in Hong Kong, which is not easy to come by, because of a false issue.

The rule of law is no luxury goods for our appreciation when we have nothing to do after filling our stomachs. It concerns whether or not there is protection for our basic living. It concerns whether or not our homes will be relocated and demolished for no reason. It concerns whether or not there is no

way for us to pursue responsibility when our children are fed contaminated milk powder. It concerns whether or not evidence will be covered up without any investigation after people were killed and injured in a crash of high-speed trains.

President, if we do not wish to see all of these happen in Hong Kong, we must cherish the rule of law. The Civic Party wishes to share this with Hong Kong people! Together shall we work hard!

President, I so submit.

MR JAMES TO (in Cantonese): President, the contribution made by FDHs towards the economy of Hong Kong is beyond doubt. FDHs have assisted in and taken up a large share of household chores, releasing the labour force of many local families and thus enabling them to focus on their jobs. Without the help of FDHs, one can hardly imagine how such a degree of prosperity can be enjoyed by Hong Kong today. Relationship-wise, many families treat their FDHs as part of the family and friends. They know each other well and become good friends. Scenes of many FDHs like "Sister Peach"² taking care of their "young masters" and seeing them grow up are being played in reality day after day, and year after year.

Having said that, the question of whether FDHs should enjoy ROA warrants careful consideration. The Democratic Party considers that every government has its population and immigration policy. In considering which types of people will be absorbed to be its citizens, a government makes a decision in the light of the local economic and social conditions as well as the structure of the labour market. Taking an overview of other countries, we can see that they have set their own criteria for deciding who can have the ROA and be granted citizenship. Some countries, such as Canada, Australia and New Zealand, have adopted a points system whereby applicants who belong to the categories of immigrants or possess the skills and expertise needed at the time will be given higher points. For example, Quebec once offered a large number of licensed electricians the opportunity of emigration. Others such as plumbers, crane operators and even chefs have had a higher chance of emigration at certain times

² "Sister Peach" is a role in the film "A Simple Life" played by Ms Deanie IP who won the best actress award at the 68th Venice Film Festival.

than other professionals in the financial and information technology sectors. In the United States, other than the categories of family reunion and professional immigrants, there is also the lottery system, the policy rationale of which is not easy for outsiders to understand. Under the lottery system, any person whose lot is drawn can emigrate to the United States irrespective of his ethnic origin, occupation or social status, but the quota is very small.

As regards the types of immigrants in Hong Kong, the majority of them are mainlanders coming here on One Way Permits (OWP) issued by the Mainland. There have always been voices in the community demanding that the SAR Government should be conferred the power to vet and approve applications and decide who among these OWP holders can be granted priority entry into Hong Kong. The Government entirely has autonomy over the immigration policy. The most obvious example is the introduction of the Quality Migrant Admission Scheme by the SAR Government in 2006. Under the Scheme, the Government will, through a process of vetting, select applicants who are helpful to Hong Kong to come to Hong Kong for settlement. The number of selected applicants is very small and there are restrictions on eligibility for application. Over the past three years, less than 1 500 people have become permanent residents of Hong Kong under this Scheme.

It has always been the case that the policy on FDHs in Hong Kong is not an immigration policy. Nor does it involve fundamental human rights or racial discrimination. If this policy is changed in the future such that the employment of FDHs will be included as a kind of job eligible for settlement in Hong Kong, in-depth discussions will be warranted in the community to ascertain what consequences will be brought by these changes to the population structure, employment market, education and healthcare in Hong Kong in the future.

A decade ago the Legislative Council scrutinized the Immigration (Amendment) Bill 2001 which provided that Mainland officials holding Chinese Travel Permits with a special endorsement shall not be treated as ordinarily resident in Hong Kong during any period in which they are directed to work in Hong Kong in their official capacity. The Democratic Party opposed the resumption of the Second Reading of the Bill. We opposed it because we had reservations about the legal principle, technical issues and constitutionality of the Bill. But from the policy perspective, the Democratic Party did not agree that these Mainland officials posted to Hong Kong could become permanent residents

through this channel. I had specifically made this point clear during the resumed Second Reading debate on the Bill.

Likewise, the Hong Kong Garrison of the Chinese People's Liberation Army and other Mainland officials posted to Hong Kong by the Central Authorities come to Hong Kong for the purpose of work, rather than obtaining permanent resident status by working for seven years in Hong Kong. The Democratic Party considers that FDHs come to Hong Kong for the purpose of work, not for the purpose of emigration through employment in this capacity.

As for the ROA case, if there are inconsistencies between the provisions in the Basic Law and their legislative intent or the relevant policies, which caused the Court to rule against the Government on the ground that the Immigration Ordinance violates the Basic Law, the Democratic Party considers that if necessary, an amendment should be made to the Basic Law to resolve the disputes. We reiterate that the Democratic Party opposes seeking an interpretation of the Basic Law by the National People's Congress to solve the problem.

The success of Hong Kong hinges on our reliance on the rule of law. It is a fundamental right of the public to seek clarification of the law by way of judicial review. Judicial independence and the rule-of-law spirit of equality for all before the law are precisely the core values of Hong Kong. Therefore, the Democratic Party resolutely defends respect for the rule of law and protection of people's right to litigation. Excessive sentimental criticisms against people who take this case to Court or against the barristers or lawyers representing them will add fuel to the flames. This will not help the matter and will indirectly put the rule of law in jeopardy.

President, from the policy perspective, the question of whether or not FDHs should enjoy the ROA is open to discussion. There is no question of intervention in the Judiciary, as we are not debating from a legal viewpoint whether or not a judgment should be passed to grant the ROA to FDHs or otherwise. Therefore, President, it is on this basis that the Democratic Party and our colleagues speak in this debate, and we believe judicial independence will not be prejudiced.

President, I so submit.

MR PAUL TSE (in Cantonese): Let me state two points right at the outset. First, we agree with Mr James TO who said earlier that FDHs, be they Filipinos, Indonesians, Thais or of whatever nationality, have all made considerable contribution to the economy of Hong Kong, releasing an enormous woman workforce in society. Second, I wish to make it clear that my speech does not involve any discrimination.

In fact, as stated clearly in the relevant judgment or past judgments, the question of whether or not FDHs can have the ROA in Hong Kong does not involve discrimination at all. Even for Filipinos who come to Hong Kong not to work as FDHs but as musicians or in other capacities, they can, like people of other nationalities, apply for the ROA in Hong Kong after meeting the seven-year residence requirement. On the contrary, if the Americans or Europeans are willing to come to Hong Kong to work as FDHs — we currently do not have FDHs of such nationalities — the Hong Kong Immigration Department will still process their applications but in theory, they are also subject to restrictions under the relevant policy and are not eligible for applying for the ROA in Hong Kong.

As Mr James TO said very clearly earlier on, most countries do have strong autonomy over their immigration policies. Some people said that even if this does not constitute racial discrimination, this may still be deemed as job discrimination. In fact, President, insofar as the immigration policy is concerned, job discrimination has been widely accepted and recognized internationally. Even doctors and lawyers are often targets of discrimination, because the points that we can score are less than those of chefs, plumbers or bricklayers in the construction industry who can score higher points than any white collar. So, this power is very broad.

President, I wish to emphasize one point. Any major population policy is a sovereign act of a country. I remember that Mr CHOW Hin, who writes columns and commentaries on social issues, has mentioned repeatedly in his commentaries that insofar as a country's sovereignty is concerned, two things are of the utmost importance, namely, land and people. In respect of land, we certainly can sell individual parcels of land or residential flats but if we sell certain land in whole, it may constitute a violation of the sovereignty of the place. By the same token, while the vetting of a citizenship application from an individual person involves just one case, allowing blanket changes to be made to

certain population policies or immigration policies as a whole may involve the sovereignty of the place.

Speaking of sovereignty, we all understand the political reality. Hong Kong is not an independent political entity. Rather, the law and institutions of the country are involved. We must be careful in handling any population policy and immigration policy with far-reaching implications. We cannot and should not allow society as a whole and even the national sovereignty to be affected by an individual case or a ruling made by an individual Judge.

President, the second point that I wish to make, without prejudicing the case which is now pending appeal, and I must point out that as some people have said and as often stressed by certain political parties, we have the protection of the "four hurdles" to prevent FDHs from easily and automatically enjoying the ROA in Hong Kong. Instead of saying that we have the "four hurdles", we had better say we have four precedents that have made the current situation very difficult. What are these four precedents? They are the NG Ka-ling case, the CHONG Fung-yuen case, the Fateh MUHAMMAD case and the Prem SINGH case that Members should know well. These four cases are all precedents of the Court of Final Appeal and based on these precedents, I am afraid the result is like putting a record on an old record-player and then music is played automatically. Given these four precedents, I am afraid any case will most likely be shackled by the four cases and there could not be any surprising outcome. For any case involving the status of a permanent resident in Article 24 of the Basic Law, the result will be grossly obvious and that is, if handled according to common law, it will be like playing a record and music will invariably follow. Of course, we will know the result very soon, but the result is quite obvious and a sheer certainty, I am afraid.

President, under such circumstances, what options do we have? Certainly, Mr James TO suggested that consideration should be given to requesting an amendment of the Basic Law. This is surely one of the options. In fact, in any sovereign state, when an important policy is challenged in court and considered unconstitutional, actions will be taken the next day to put forward a proposal to the legislature for making appropriate amendments, in order to overthrow the court judgment on unconstitutionality, for it is against the legislative intent. But Hong Kong, being a special administrative region, does

not enjoy full autonomy in amending the Basic Law. Even though we very much wish to do so, we actually face great difficulties.

In that case, President, what other options do we have? We can either accept the reality or sit by while the record is played to bring the music to live. We have to listen to it even if it is not sweet to our ears. Alternatively, we may try to scratch the record or change the track, which is not very good though, and some different music may perhaps be played. Of course, there are two sides to a coin. Scratching a record may substantiate the many comments that this will ruin the rule of law in Hong Kong. Is this going to happen?

President, I am afraid we cannot look at this issue in a simple way as we did earlier in discussing the intervention in the freedom of the press. In fact, the rule of law situation in Hong Kong is no longer the same as that before 1997 when purely the Basic Law was used. In post-1997 Hong Kong, the rule of law includes the law of "one country, two systems" and especially in the interpretation of the Basic Law, there are the common law constructions and also the continental law constructions adopted by the State. The Court of Final Appeal in Hong Kong has time and again affirmed that where appropriate, the National People's Congress also has the power to interpret the Basic Law, and this is in line with part of the rule of law in Hong Kong. There is absolutely no question of an appropriate interpretation of the Basic Law constituting a violation of the rule of law in Hong Kong. Therefore, we must be very clear that not every interpretation of the Basic Law is definitely a violation of the rule of law, because the interpretation of the Basic Law is precisely an instance of the rule of law. Article 158 of the Basic Law and Article 67 of the Constitution of China have clearly provided for this, and this concept was also clearly affirmed by the Court of Final Appeal in the LAU Kong-yung case and the CHONG Fung-yuen case respectively.

President, once we understood this point, we would not lightly jump to the conclusion that any attempt to look at an issue not in accordance with common law is tantamount to a violation of the rule of law. Perhaps not every person will immediately come to this view. This is like the case that we used knives and forks when taking a meal before 1997 but after 1997, apart from knives and forks, we can also choose to use chopsticks. Sometimes, to use chopsticks is even better than using knives and forks. But Hong Kong is accustomed to using knives and forks, which means the common law, and this is why anyone who

does not use knives and forks is indiscriminately considered a barbarian in breach of the rule of law. I hope that Members can clearly see that under certain circumstances, knives and forks and also chopsticks can be used at the same time, and there are even times when consideration should be giving to using chopsticks first.

President, when an interpretation of the Basic Law was made in respect of the NG Ka-ling case in 1999, the Standing Committee of the National People's Congress actually made a final decision on this issue, just that the means adopted at that time might not be thorough enough, thus leaving behind problems for us to tackle now. Given the time constraint, I cannot possibly explain what consequences such an important population policy will bring to the politics, the economy and society of Hong Kong. All I can say is that we must attach importance to this issue, and we should consider the restrictions imposed by the precedents on the direction that we are moving in now. To choose a lesser evil, and as long as it does not go against the rule of law and even though it may be in line with just part of the rule of law, in order to reduce the divisions and torments caused to society as soon as possible, we should expeditiously take appropriate measures and in due course, we should even consider resolving this major problem by seeking an interpretation of the Basic Law. If an interpretation of the Basic Law is in line with part of the rule of the law, there is actually no point for us to go round in circles because I am afraid, at the end of the day, the interpretation of the Basic Law will turn out to be the final, the most appropriate and the best solution.

Thank you, President.

PRESIDENT (in Cantonese): I reckon that this debate can end at around midnight. So, I will adjourn the meeting after completing all the items on the Agenda.

SECRETARY FOR SECURITY (in Cantonese): President, the policy objective of the admission of FDHs to work in Hong Kong is to make up for the shortfall in the local labour market. FDHs come to Hong Kong not for the purpose of settlement, and they know very well that they will have to leave Hong Kong and return to their place of origin upon completion of the employment contract. The policy and practice concerning the admission of FDHs or whether or not FDHs

can be given the Hong Kong permanent identity card were not introduced after 1997. Since the admission of FDHs commenced in the 1970s of the last century, there have been consistent and clear provisions on this. The arrangement has remained unchanged before or after the reunification, and this policy has all along been supported by Hong Kong people. FDHs are different from other professionals who come to Hong Kong to work in terms of their conditions and nature of stay. This is an immigration policy formulated to serve the overall interest of Hong Kong.

Pursuant to Article 24(2)(4) of the Basic Law, persons not of Chinese nationality who have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region shall be permanent residents of the Hong Kong Special Administrative Region. Section 2(4)(a)(vi) of the Immigration Ordinance provides that a person shall not be treated as ordinarily resident in Hong Kong during any period in which he remains in Hong Kong while employed as a domestic helper who is from outside Hong Kong.

On 30 September 2011, the Court of First Instance (CFI) handed down a judgment on the judicial review on the ROA lodged by a FDH. The CFI has ruled that section 2(4)(a)(vi) of the Immigration Ordinance is inconsistent with Article 24(2)(4) of the Basic Law. The Government respects but is disappointed with the judgment of the CFI. The Government firmly believes that the relevant provision of the Immigration Ordinance is lawful, constitutional and consistent with the Basic Law.

The Government understands the immense public interest in the CFI judgment. After obtaining legal advice, the Government has made two applications to the Court in accordance with the law, including:

- (a) On 4 October, the Government has lodged an appeal to the Court of Appeal, and at the same time applied to the Court of Appeal to expedite the appeal hearing, because the Government believes that it serves the overall public interest to achieve final determination of the law as soon as practicable and minimize the unsettling factors pending appeal.

- (b) On the date of judgment, that is, 30 September, the Government applied to the CFI for temporary relief such that the Government needs not process ROA applications submitted by FDHs pending the outcome of the appeal. The application will be heard on 26 October. At this stage, the Government will not process ROA applications submitted by FDHs.

The CFI judgment involves an important constitutional issue and great public interest. The Government has lodged an appeal to seek to reverse the relevant judgment. If the Immigration Department (ImmD) processes ROA applications submitted by FDHs at this stage, there may be serious disruption to many households. There may also be events which cannot be unravelled, and detriments which cannot be remedied, should the legal position be reversed upon appeal.

The Government respects the rule of law. The Government will, in accordance with the law of Hong Kong, seek to reverse the CFI judgment within the judicial system and at the same time prepare for all possible difficulties and challenges, and seek to minimize possible disruptions to FDH-employing families pending appeal.

President, the Government is making its best endeavours to convince the Court at the temporary relief hearing on 26 October that it is necessary for the ImmD to withhold processing applications for verification of eligibility for permanent identity card submitted by FDHs until final determination of the law. If the application is granted by the Court, we consider it unnecessary at this stage to change the arrangements for the entry and employment of FDHs in order to avoid any disruption to the domestic arrangements of many families. Our priority is to make the utmost effort to pursue the appeal and present cogent arguments before the Court seeking to reverse the CFI judgment.

We will closely monitor the development and take all necessary steps to seek final determination of the law as soon as practicable. We are keen to explore all measures, which are within the law and serve the best interest of Hong Kong, and get fully prepared to address the issue.

President, I so submit.

DR LAM TAI-FAI (in Cantonese): President, the many social problems in Hong Kong, such as the wealth gap and the housing and education problems, have not led to crises and turbulence in society despite their long-standing prevalence. But in the last few months, the issue of ROA for FDHs has indeed caused quite a furore in society. The people have been plunged into a state of anxieties and society has faced crises on all fronts.

On this issue, members of the public have indeed displayed great solidarity by joining hands to oppose the enjoyment of the ROA by FDHs. President, many people have told me that some political parties, seeking only to serve their own political agenda and holding high the banner of defending justice, have acted to the neglect of the interests and views of Hong Kong people. They know only to make use of their legal knowledge to find out and exploit the loopholes in law. They have wreaked havoc rather than being constructive.

President, there are currently more than 270 000 FDHs in Hong Kong. They have chosen to leave their homes and be separated from their family all because it is not easy for them to find a job in their countries or the wages there are far too low. This is why they left their countries to make a living, such as by coming to Hong Kong for work. They originally do not plan to settle in Hong Kong because the contract has clearly stated that they must return to their place of origin upon completion of the contract. Therefore, the purpose and intention of their coming to Hong Kong cannot be clearer and that is, they hope to work in Hong Kong to make money, so as to support their family, and they will return to their home countries after making enough money. But no one would have imagined that in order to curry votes for future elections, some politicians and political parties in Hong Kong would act as the modern-day "WU Sangui" by exploring ways to help the FDHs obtain the ROA, instigating them to occupy the place of other people to the detriment of the well-being and benefits of Hong Kong.

The Civic Party has recently sought to gloss over this issue by some honeyed words. They said that this case is about the right of application, not the ROA, adding that other people have discredited them. They really think that Hong Kong people are so stupid as to be fooled by them into confusing right and wrong.

President, there are now over 120 000 FDHs who have lived in Hong Kong for seven years. If these FDHs and their family members come to live in Hong Kong, there will be around several hundred thousands of them. Even a fool knows how the economy and society of Hong Kong will be affected if hundreds of thousand people come to Hong Kong in one go or even in batches. This will certainly create a huge impact. The Policy Address announced not long ago that 75 000 public rental housing (PRH) units would be provided in the next five years and 17 000 Home Ownership Scheme (HOS) flats will be provided by 2016. What is the purpose of building all these flats? The purpose is to solve the housing problem now faced by the lower-middle class in Hong Kong. Then, how many HOS flats and PRH units must the Government build to house these hundreds of thousand FDHs and their family members? Should the Government do this to service other people? I think, if the Government should do it, it would be very difficult not to arouse fury among the public. As a matter of fact, the Government is simply short of means to provide housing for them.

President, the Civic Party has at least over 10 District Council (DC) members now. If they care to ask the view of a family in any district, I believe they will know clearly that no employer will agree to the enjoyment of the ROA by FDHs. Could it be that they have not visited the districts and are, therefore, ignorant of the opinions of the people? Or, is it that the views at the lower levels cannot be conveyed to the upper levels within the party and that they only say one thing but do another, rather than being genuinely committed to working for their constituents because their purpose is merely to curry votes for future elections? Such being the case, no wonder I have heard in the districts that the Civic Party has really made themselves detestable to the public and that in the forthcoming DC election, we must settle with them the debt of votes with votes and call on the public not to vote for the Civic Party. All these are what I have heard.

President, let me tell you a story. Last week, I went to Sha Tin. I know Sha Tin very well, and everyone knows this. It is said that Mr Ronny TONG seems to be prepared to contest the DC election in City One Shatin. If that is the case, does he know whether the constituents of City One Shatin support

PRESIDENT (in Cantonese): Dr LAM, as you know, the DC election is currently in progress. Your speech should not prejudice the impartiality of the DC election.

DR LAM TAI-FAI (in Cantonese): I know. I only wish to state some facts. I have no prejudice. I am not bold enough to make any prejudiced comments.

PRESIDENT (in Cantonese): Your speech should not cause any unfairness to the DC election, disregarding whether or not you are stating the facts.

DR LAM TAI-FAI (in Cantonese): In that case, let me speak from another angle. President, many people have told me that the Civic Party is actually contradictory. On the one hand they must agree that the Civic Party should uphold the rule of law and justice and so, they must help the FDHs file a lawsuit but on the other hand, they know that if they ultimately win this case, it will affect many families in Hong Kong and even smash their "rice bowls". As such, some voters will have to make a choice between upholding justice as vowed by the Civic Party or undermining the interest of Hong Kong people. I think putting it this way will not affect the DC election, because this is a fact.

Some people said that this is actually not true because when these many people have done such things to help the FDHs, the FDHs will regard them as their benefactors and will definitely vote for them in future and so, these FDHs will become "cast votes" for them. But this plan will actually backfire because Hong Kong people will not support political parties that sacrifice the interest of Hong Kong people and so, they will make a wise choice.

President, I very much agree that we must respect the law and respect the spirit of the law. But likewise, it is also very important to respect public opinions. What is most fundamental to a place where the law prevails? It is the protection of the overall interest of the people and the need to have regard to public opinions. If this objective cannot be met, I believe the Government and the Legislative Council are duty-bound to solve the problem for the public. Many people have been asking us to respect the law again and again, but while showing respect to the law, does it mean that we can ignore public opinions and pay no heed to the fundamental interest of the people? We are now in modern times, not the ancient times. Could it be that when I have a "chastity plaque" raised for me, I can do anything to the neglect of the well-being and happiness of other people? We must strike a balance.

President, what we are discussing now is the legislative intent and how the law should be interpreted, not the provisions of the Basic Law. This is why many people and experts have said that the most straightforward way is to seek an interpretation of the Basic Law by the National People's Congress (NPC). In fact, an interpretation of the Basic Law by the NPC is absolutely consistent with the Constitution of China and the provisions of the Basic Law. The SAR Government has no reason to act hesitantly and worry about the rule of law in Hong Kong being compromised, not to mention the fact that we have had several interpretations of the Basic Law after the reunification. On every occasion when an interpretation of the Basic Law was made, it was said that the rule of law would be jeopardized but it invariably turned out that the rule of law remained intact. On the contrary, if the Hong Kong Government does not address this issue early, once anything goes wrong, I believe the impact on Hong Kong would definitely be earthshaking. I, therefore, hope that the Government must be more decisive, and it had better seek an interpretation of the Basic Law by the NPC as soon as possible. In fact, Hong Kong people have always got along with the FDHs harmoniously. They have their own needs to meet. It is not their wish to be confrontational to each other; nor do they wish to see their "rice bowls" being smashed.

Today, I support the original motion of Mr WONG Ting-kwong and the amendment of Mr WONG Kwok-hing. I oppose the amendments proposed by other Members.

DR RAYMOND HO (in Cantonese): President, on 30 September this year, the Court of First Instance handed down a judgment on the judicial review on the ROA of FDHs, which ruled that the Immigration Ordinance is inconsistent with the Basic Law. I believe many Hong Kong citizens, like me, are gravely concerned about the very significant impact that this judgment may bring on our society, although we do respect the judgment of the Court.

Besides, the public also feel helpless about this case. First, FDHs come to Hong Kong to work as imported labour. Before they come to Hong Kong to work, they understand very well that they must return to their place of origin upon completion or termination of the employment contract. Moreover, FDHs are paid a higher salary in Hong Kong than in neighbouring countries and regions. While FDHs have enjoyed more favourable conditions of work in

Hong Kong, they have nevertheless taken us to court over the ROA issue, and this is particularly disappointing. With regard to their ROA in Hong Kong, I was a member of the Basic Law Consultative Committee (BLCC) between 1985 and 1990, taking part in the preparatory work for the formulation of the Basic Law. In my impression, the BLCC at that time did not intend to give FDHs the ROA in Hong Kong.

Given the far-reaching implications of this incident on Hong Kong, it is entirely understandable that local citizens are extremely worried about the developments of this incident. According to the estimate made by the relevant parties, there are over 120 000 FDHs who have lived in Hong Kong for seven years and these FDHs can also make applications to bring their family members to Hong Kong. If we use a family of four members for calculation, there will be 500 000 of them coming to Hong Kong. Based on this development, the number of immigrants will increase drastically in a short period of time and this will put enormous pressure on our healthcare, education, housing and welfare systems. Some members of the community think that the concern aroused by this prediction is quite unwarranted and that such an extreme scenario is unlikely to happen. In fact, the consequences caused by Mainland pregnant women giving births in Hong Kong to the local healthcare system in recent years can give us some insights.

In recent years, many Mainland pregnant women have made arrangements for giving births in Hong Kong. Although they are not Hong Kong residents, they have a keen demand for the local healthcare services in obstetrics and gynaecology, thus creating a knock-on effect in both public- and private-sector healthcare services in Hong Kong. This has not only caused local pregnant women to face a tight supply of hospital beds, but also rendered it not easy for patients in other medical disciplines to be provided with beds in private hospitals, thus adding to the pressure on public hospitals. If a large number of FDHs and their family members are allowed to come to Hong Kong for settlement in a short time, I believe the impact to be caused on local public healthcare services will be even more direct and far-reaching. Certainly, a massive influx of new immigrants will also add to the burden on the education, housing and even welfare systems. The consequences absolutely must not be neglected.

These consequences aside, the enjoyment of ROA in Hong Kong by FDHs is bound to deal a severe blow to the local labour market. After these new

immigrants have become Hong Kong residents, they no longer have to work as FDHs as they can change jobs freely and enjoy the minimum wage as other workers do. I believe those elementary workers and even the more junior white collars should be hit the hardest. Many FDHs can speak English. Some of them also have tertiary or university qualifications and I believe they have some sort of a competitive edge. Despite improvement in the local employment situation in recent years, the grass-roots people face increasingly fierce competition in the local labour market. The continued instability in the world economy has given us even more reasons not to feel optimistic about the future. If an additional hundreds of thousand new immigrants will join the labour market, I believe the grassroots will have to bear even heavier pressure.

Some time ago a political party claimed that even if the Court ruled against the Government, there would still be the "four hurdles" to bar a vast majority of FDHs from becoming permanent residents, and I wonder if their purpose is to allay the concern of the people about the development of this incident. They pointed out that foreigners who have ordinarily resided in Hong Kong for a continuous period of seven years are required to provide information to the ImmD to prove that they have taken Hong Kong as their place of permanent residence if they wish to apply for the status of permanent resident of Hong Kong. An applicant may be required to provide the following four types of information: (i) whether he has habitual residence in Hong Kong; (ii) whether the principal members of his family (spouse and minor children) are in Hong Kong; (iii) whether he has a reasonable means of income to support himself and his family; and (iv) whether he has paid his taxes in accordance with the law. But some time ago, some Members considered that these so-called "four hurdles" cannot hold water and may be considered unconstitutional. In view of this, we must squarely address the serious consequences that this case may bring to Hong Kong.

Although the Government has decided to lodge an appeal, we expect that it will take some time from the hearing of the appeal to the handing down of a judgment by the Court of Final Appeal. Furthermore, it is still unknown as to how the Court will deal with the Government's application for suspending the processing of ROA applications from FDHs. The Government is in a very passive position and should, therefore, make preparations on various fronts. These include giving consideration to seeking an interpretation of the Basic Law by the National People's Congress (NPC) to prevent irrevocable and serious

consequences. Indeed, an interpretation of the Basic Law by the NPC is a manifestation of the special constitutional status and role of Hong Kong under a sovereign state and "one country, two systems". It is lawful and constitutional. We should look at it not just from a negative angle. President, I so submit. Thank you.

MS STARRY LEE (in Cantonese): President, first of all, I must reiterate before I go on to speak any further that the DAB recognizes the contribution made by FDHs to the Hong Kong economy and their assistance given to many families here in handling all sorts of tasks in daily life. I wish to declare also that I hire a FDH and my FDH is about to have resided in Hong Kong for seven years.

Before all else, I wish to respond to the various accusations made by Mr Alan LEONG against the motion proposed by us. The first one, Mr LEONG claimed that our major premise this time attempts to interfere with the operation of the Judiciary. The DAB considers this accusation totally unfounded. First, I believe a Judge doubtless has the ability and conditions to make an independent and professional judgment. Second, the major premise found in the motion and the contents of our discussions here do not have anything to do with the contents of any court case and there is no demand on what kind of a judgment the Court should pass. So the accusation that we are interfering with the operation of the Judiciary does not stand. Third, if it is said that the premise and discussions have already constituted an interference with the operation of the Judiciary, then regarding the many discussions conducted in this Council on cases heard by Courts on the Mainland before, will Members think that they constitute interventions by this Council in the Mainland judicial system?

Lastly, if we simply cite the term "independence of the Judiciary" and say that no discussion can be made on any related policy, this I would think is not a matter of the independence of the Judiciary but hegemony of the Judiciary. So I can never agree with the accusations made by Mr LEONG against us. This is the first point.

The second point, Mr LEONG mentioned a number of times that we had held press conferences where we stated that once the FDHs were granted the ROA, there would be 500 000 FDHs swarming into Hong Kong. He accused the DAB of exaggerating the figures and being irresponsible. I find this view

most regrettable. I urge Members to browse the website of the DAB for that. I was in charge of that press conference and the information released was based on assumptions made by us. Currently, there are some 100 000 FDHs in Hong Kong who have lived here for seven full years and, to my understanding, the data from the Government are very close to the data we obtained from the newspapers. Based on the assumption that there are four members in each family to which a FDH belongs and they will apply for the right to come here, we arrived at the conclusion that there would be 500 000 people. Members of the public and other people may disagree with the conclusion based on the assumption that there are four members to each family, but if one should jump to the exaggeration accusation without presenting any concrete figures to refute our claim, then he is far more irresponsible. I hope other Members can present some concrete figures later to tell us what the actual number of FDHs who have lived in Hong Kong for seven full years is and that in fact there are less than some 100 000. Only in that way can there be the conditions for discussion.

Also, Mr LEONG has said that it is a farce of the interpretation of the Basic Law directed by people from the pro-establishment camp. I feel all the more sorry for this kind of view. If it is said that this kind of social action is a farce of the interpretation of the Basic Law, I would instead think that it is a social movement initiated by the public of their own accord, which sees the participation by people from across all sectors in defence of the overall interest of Hong Kong. It is also a movement that defends the right of Hong Kong to formulate its own immigration policy.

I hope Members of this Council can hear clearly the voice of the people. If they have visited the districts recently, they should have got the same message that we have. Recently, the DAB held a signature campaign on this issue, and in the records of these signatures, 99.6% of the people told us that they opposed FDHs' enjoyment of the ROA in Hong Kong. This is entirely a movement initiated by the people of Hong Kong of their own accord, and it sees the participation by all sectors in defence of the overall interest of Hong Kong as a whole.

Lastly, we have to talk about the "four hurdles" which many Members, including Mr LEONG, have talked about repeatedly. I have looked up the Immigration Ordinance for these "four hurdles", and as a layman in law, after reading the Ordinance, I failed to be convinced beyond doubt that these four

hurdles are fail-proof, that they can be used as the last line of staunch defence for Hong Kong. Let us take a look at these hurdles. It is stipulated that "the person is required (a) to furnish information that the Director reasonably requires him that the person has taken Hong Kong as his place of permanent residence. The information may — it is "may", not "shall" — include the following: (i) whether he has habitual residence in Hong Kong; (ii) whether the principal members of his family are in Hong Kong; (iii) whether he has a reasonable means of income to support himself and his family; (iv) whether he has paid his taxes in accordance with the law."

First, as I said just now, according to our understanding of the law, the provision only states a person "may", not a person "shall". Second, it is not stated in the provision that these four conditions should be fully met before the Director of Immigration will approve the person's application. Actually, the person may make an application if he fulfils only one of the conditions and he is not required to fulfil all the four conditions. As I read the wording, I consider the concern of the Hong Kong people to be totally reasonable and justified. If on the basis of these four hurdles alone that a call is made on the people not to worry that some 100 000 FDHs will come to Hong Kong, it is not convincing at all. I have asked some FDHs myself, including the FDH under my employ and others, whether they will make applications if they have the chance to apply for the ROA in Hong Kong someday. They replied honestly that they believed most of the FDHs would do so. For one thing, Hong Kong is really a very attractive place. And for another, we should not forget that a person needs not renounce his nationality when he applies for permanent ROA here. So to my understanding, I would think that the public concern is fully founded and it is hard for us not to believe that these some 100 000 FDHs will not apply for the permanent ROA should they have the right.

President, I have only very little time left. My remarks are meant not just to respond to the view expressed by Mr LEONG but also to convey the worries of the public about the FDHs getting the ROA. I would leave the other arguments in respect of the motion to the other colleagues from the DAB.

President, I so submit.

MR CHAN KIN-POR (in Cantonese): President, at the end of September when I was a speaker at a cocktail party, it left a very deep impression on me when someone said this to me that evening, "Too bad, the Government has lost in the court case." People who attended that occasion were middle- and top-level executives from the insurance sector. I found that they were all very unhappy. I was very upset for the whole evening as well because I thought the poverty problem in Hong Kong was already bad enough and if some 100 000 more people should come here, the situation would get out of control. Honestly, I was really upset. I hope to say to friends in this Council that many people from the middle class feel most unhappy. They are very upset. I really have to use the word "upset" because that was what I felt. I could not sleep that whole night.

Like most of the people in Hong Kong, I am not an expert in law and I can hardly understand why such a great dispute could have arisen out of something written so clearly in the laws of Hong Kong and where the legislative intent is stated very clearly in the Basic Law, and for which a consensus was arrived in the Sino-British Joint Liaison Group.

A very important aim in lawmaking is to take forward policies agreed by the public. As a matter of fact, both before and after the reunification, the Government did not have any intention to grant the ROA to FDHs. No one in the community ever questioned that and never had any FDHs raised such a demand. After the reunification, the Immigration Ordinance states clearly that persons who live in Hong Kong as FDHs cannot use their period of stay here to count as years of ordinary residence. This system has been proven all along. Before they come to Hong Kong, these FDHs know well enough that they will not get the ROA here. All these facts are clear enough.

Of course, the judgment handed down by the High Court is backed up by grounds and interpretations of the law and the Judge concerned stated that the legislative intent of the Basic Law was not considered. This accounts for the outcome of the case we have now. This is clearly another incidence of the conflict between common law and continental law. This is therefore a conflict in legal principles, not a dispute in policy.

Leaving aside the question of provisions in law, as we make an analysis of the incident from a macro perspective, it is clear from both the point of view of the Government and mainstream public opinion that FDHs should not have the

ROA. If we find that there are parts of the law which are unclear or inadequate, people who are genuinely acting in the interest of Hong Kong should use effective ways to perfect the law and plug the loopholes. They should act in the interest of the people of Hong Kong.

Doubtless had Hong Kong got enough resources and land, we would certainly welcome people from all over the world who can make contributions here to be part of this great family. But the fact is we simply do not have such conditions. According to official statistics, there are about 125 000 FDHs in Hong Kong who have worked for more than seven years and when their family members are factored into the computation, it is believed that there may be hundreds of thousands of people who are eligible to apply for the ROA here. It is estimated that quite a number of them would apply for Comprehensive Social Security Assistance (CSSA). Of course, there may be great controversies over these projections and there may be errors. But even if only some of these 400 000 people apply for entry into Hong Kong, our society will instantly be greatly affected. Public housing, healthcare, education and such like public services will become greatly strained. The benefits which the grassroots now enjoy will inevitably be affected. The taxpayers will have to foot all the expenses. Now when the problems of poverty and population ageing are deteriorating, it is believed that the people of Hong Kong will agree that resources should be expended on local members of the community who are poor. As the saying goes, "How can we invite guests to a banquet when we ourselves are starving?"

In addition, the amendment by Mr Alan LEONG mentions that FDHs do not automatically enjoy the ROA and the Government is urged to expeditiously clarify the criteria and mechanism for approving applications for ROA in Hong Kong so as to allay public concerns. All along the Civic Party considers that even if FDHs can apply for the ROA, they will have to overcome the so-called "four hurdles". But as our Honourable colleague, the former Secretary for Security, Mrs Regina IP, has said, these four hurdles are simply vulnerable and may even be ruled as unconstitutional. So the problem remains there. Also, once it is confirmed that the law permits FDHs to have the ROA, the Government would have to face a large number of challenges in court if the approval mechanism is used to bar their entry.

I am sure that in terms of policy, the Government has not done anything wrong and the position held by the Government is consistent with the common wish of society. If there are no other alternatives, I agree that the most direct and expeditious way is to seek an interpretation of the Basic Law by the NPC. This will prevent the debate on the issue from going on endlessly and make us overwhelmed with worries. What should not be done all the more is to seek an interpretation of the Basic Law after losing the appeal as this will only make people think that we are playing bad loser. In that event, it could cause greater harms to Hong Kong.

President, I so submit.

MR LEE CHEUK-YAN (in Cantonese): Mr WONG Kwok-hing raised a question earlier about the position of the Hong Kong Confederation of Trade Unions (HKCTU), I wish to tell him clearly that the HKCTU opposes discrimination against FDHs and depriving them of the equal opportunity of applying for the ROA.

Currently, all the expatriate employees in Hong Kong can apply for the ROA in Hong Kong. What I am saying are applications. Why are FDHs not allowed to make applications? Even if they do so, it does not mean that they will be granted. This is because, as it was stated clearly just now, they have to overcome the "four hurdles". I think the most outrageous thing is that the Government does not want to explain what these four hurdles are.

What is the last one of these four hurdles? Ms Starry LEE talked about it just now and she did so to scare people by focusing on one word. What is that word? Since a person has to prove that even if he has cleared three hurdles now the Court has ruled that these FDHs have to have ordinarily resided in Hong Kong, and suppose the FDHs win their cases over this issue of ordinary residence, they will still have to clear the fourth hurdle and, that is, to make Hong Kong their permanent place of residence. Ms Starry LEE focused on the word "may" when looking at the issue of whether FDHs make Hong Kong their habitual place of residence, whether their family members are in Hong Kong, whether they have a reasonable means of income to support their family and whether they have paid taxes. She stressed the word "may". Does the

Immigration Department (ImmD) not consider anything at all? The Government should explain whether the ImmD will consider all these four points.

I think the most outrageous person is Ms Regina IP. She used to be the Director of Immigration and the Secretary for Security. But she came forth to lash out at the ImmD, saying that they were careless and did not do a good job in gate-keeping and the hurdles imposed could easily be breached. Is that not outrageous to say these things? Why does the incumbent Secretary Ambrose LEE not offer any explanation? He only says that the Government will get prepared. What exactly are the preparations? Even if someone makes an application, in the end the application will only be considered. To be frank, it is not true to say that no one is making an application. There are expatriates making such applications, only that no FDHs are doing so. Have the authorities processed such applications? It is learnt that in one year, the authorities have processed some 10 000 applications, so is each applicant granted the ROA? The figures are clear. Of the some 19 000 applications, some 600 are refused. But they are expatriates, not FDHs.

If FDHs are allowed to make applications, after their applications are considered, in the end these FDHs may account for the majority of applications refused. But the authorities should consider the merits of each case. At least, the FDHs should be given the right to apply. Secretary Ambrose LEE, I do not understand why you do not say that there are four hurdles to clear and that the ImmD has all along been guarding the fourth one and that it has refused applications before?

I think this motion moved by the DAB and the FTU on this occasion is in fact meaningless. They say that 99.6% of the people of Hong Kong oppose FDHs' enjoyment of the ROA. Why do they not move a motion to oppose the 1.3 billion people from China to come here? This is because it would literally cause Hong Kong to sink. According to their reckoning, would 99.6% of the people of Hong Kong agree to that? I think they should not try to provoke public sentiments on some nonsensical issues.

I think the motion is in itself a senseless attempt to stir up hatred. It is making something out of nothing, full of discrimination, alarmist and is aimed at creating panic. What is the purpose behind all this? It is none other than protecting the jobs of the workers. It is only trying to fan xenophobic sentiments to create an issue for the upcoming elections. It is something done at

the expense of racial harmony, an attempt to gain advantage by trampling on the FDHs. The HKCTU opposes this. There is a whole set of laws in place to keep the gates. But they are making something an issue for no reason. As I said earlier — they might as well oppose the entire 1.3 billion people of China to come here. I am not saying that all the 1.3 billion people will come here. According to Ms Starry LEE's logic, the number can even be multiplied by four. Should this really be done? But the FTU is even trying to scare off the workers with the allusion to probable unemployment. I can only say that it really is much too lowly. Right? Does it have to scare the people this way? Where has their integrity gone? They have used a false issue to fan public sentiments. So how can the public trust them in the future? The case they created simply does not exist.

Of course, Members may say later that this is not the case. It seems that Mr CHAN Kin-por said that he was very upset and he asked what should be done. According to him, Hong Kong cannot be said to be very rich. Some people here are in fact very poor. And if they all come here, or as Mr WONG Kwok-hing has said, it will affect the job opportunities of local workers. Buddy, they have floated the number of FDHs coming to Hong Kong by multiplying 120 000 by four for no reason at all. This is similar to my claim that 1.3 billion people will come to Hong Kong and we should all sign up to oppose that. I think it is most irresponsible to say that. I do not think we should do it.

I think the most regrettable point in this incident is we are discriminating against some people who have worked so hard for Hong Kong and enabled our women to go out and work. They have made contribution to the development of our economy. So why the discrimination? Why is it said that this group of people will all want to come here and if they do, the situation will be disastrous? First, according to the law, they cannot come here at all. Second, if the FTU is really so opposed to FDHs coming here, why do they not oppose the admission of Mainland talents and foreign talents? If foreigners are to be repelled, why are the rich foreigners not repelled? We have to be sensible. When some issues are raised for no reason, it is impossible for the HKCTU to agree. The reason is simple. We must defend the jobs and the right to work of the local workers. But there is no need to raise a false issue to cause local workers to panic. This is really a false issue. I hope workers will not fall into this trap and believe it. Thank you, President.

MS LI FUNG-YING (in Cantonese): President, the FDH policy in Hong Kong has a history of more than 30 years. During these few decades, there have been monumental changes in both society and the economy of Hong Kong, and also some great changes have been seen in the nature of FDHs. I have been urging the Government to engage in a full-scale review of the policy on FDHs. My demand for a review of the policy on FDHs dates back to the year 2002 when the demand was put up by the three Members of this Council from the labour sector and the six employee-side members of the Labour Advisory Board. In 2008 when this Council discussed the levy on employers of FDHs and when discussion was held on the statutory minimum wage last year, I did not waver in this position.

For any discussion on the issue of the ROA of FDHs to make sense, we have to define the nature of FDHs working in Hong Kong first. In 2003, the Government did undertake a review of the policy on FDHs and apart from recognizing the fact that FDHs was part of the policy on importation of labour, the policy regarding FDHs was fully affirmed. The position of the labour sector in opposing the importation of labour is clear enough. We demand that a full-scale review of the policy regarding FDHs should be undertaken. A very important reason for this is that we can see many women can only take up some jobs at the lowest strata in society and where the working conditions are poor and the demand for physical exertion great. These include jobs like cleaning and working on construction sites. Because of this policy on FDHs, domestic helper jobs are basically all taken up by foreigners. This kind of monopolization caused by this policy is, according to the specious arguments advanced by the Government, a result of the reluctance of Hong Kong women to take up domestic helper jobs and so the FDH policy has served to release the female labour force in Hong Kong. The result is that when laws were passed to impose a minimum wage, a compromise had to be made because of the FDH policy to exclude stay-in FDHs from the protection of minimum wage. This has resulted in a distortion of the policy.

President, I do not agree to the importation of labour policy and I will certainly not agree that imported workers should be given the ROA in Hong Kong. Now the issue of whether FDHs should be granted the ROA has caused an uproar in society because views on that are so divided. Many people are indeed worried that once FDHs obtained the ROA, a heavy burden might be exerted on our society. I understand fully this feeling. However, the issue of

ROA for FDHs is still pending judicial proceedings. I respect the ruling to be given by the Court. More importantly, the SAR Government should get fully prepared for any ruling to be passed by the Court so as to minimize the impact on society.

President, I so submit.

DR PAN PEY-CHYOU (in Cantonese): President, Mr LEE Cheuk-yan said just now that we from the FTU discriminate against FDHs. I would like to clarify one point here. The FTU appreciates and respects the contribution and industry of the some 280 000 FDHs in Hong Kong who take care of the families here, including the elderly and people with disabilities. They also enable women to go out to work and develop their own career.

Take me as an example, since 1981 our family — apart from the time we were abroad — has always hired a FDH. It can be said that both from a personal point of view and from that of the entire community, we respect FDHs very much.

Hong Kong is not a place where other races are discriminated. This is because our city is actually a city of immigrants. Most people here came from the Mainland or other foreign places. We welcome people of different nationalities. Now the problem which worries us most is that if a large number of foreigners flood into Hong Kong, it will put a great strain on us.

Mr LEE Cheuk-yan said just now that Ms Starry LEE had used some figures to scare people. Let me first cite some figures as well. These are conservative figures, estimates based on the data obtained by us. In 2010, the total number of FDHs here was 286 000. Those who had lived here for seven full years totalled 125 000 as at May this year. Some people may say that not every FDH will apply for residence here. It is right. I have got some figures on that too. According to a survey done by the Domestic Helper Employers' Union of Hong Kong, 65% of the domestic helpers said that they wanted to apply for the permanent ROA in Hong Kong.

We have just learnt about the ratio of foreigners who have successfully applied for permanent resident status in Hong Kong; it is more than 90%. I have

done some computations with this figure. Suppose on average each FDH has got four persons in the family, that would mean a total of 290 000 people will apply for permanent resident status in Hong Kong, and that is in about two years' time. With this pounding impact by the influx of 290 000 people, who can bear the responsibility for it?

When I was listening to the speech made by Mr LEE Cheuk-yan just now, I was infuriated and lost for words. There was only one word that came into my mind, "strikebreakers". All that was found in my mind was this word.

If a large number of people should enter Hong Kong within a short time, all kinds of problems will arise. These include education, healthcare, housing, transport, social welfare, and so on. But I think the most serious problem is employment. As Members of this Council from the labour sector, we are most concerned about employment.

Many people would say that after these FDHs have obtained the ROA, they would continue to work as stay-in domestic helpers and they would not get the minimum wage. But the fact is, they will certainly go out to look for jobs for the difference in wages, and also the better conditions of work. Their spouses who have come here will similarly do the same.

Then what is the job market in Hong Kong like? In May this year, there were 56 600 job vacancies in the market. But please do not forget, this year is a fat year in economic terms and our jobless rate is only 3.2%. It can be regarded as a historic low. The economy will turn bad in the second half of this year. Now the recruitment situation has gone bad. Job openings will become fewer. With this number of job vacancies or even less, how do we expect to find enough jobs in such a short time for this army of job seekers which totals nearly 200 000?

In the face of competition from FDHs, it is doubtful if those who are old, less competitive or with a lower level of educational attainment can find jobs. It is likely that their wages will be pulled down. The situation is likewise bad for woman job seekers. Now the unemployment rate among young women aged 20 to 29 is 6.5%. I would say that they are the most vulnerable group. Their jobless rate is bound to rise.

Actually a number of occupations have been taken over by FDHs who work illegally. I am saying that they work in contravention of the law because they are not permitted to do such jobs. But when there is consent between employers and employees, it is very difficult to enforce the law. Driving is one such grey area. Many FDHs are working actually as drivers and they are exploiting this grey area. In fact, jobs in many eating establishments and even clerical work are undertaken by FDHs. This is because FDHs are fluent in English, so they have an edge in this kind of work and even in clerical work.

If all FDHs are given the permanent ROA in Hong Kong, when they come to Hong Kong for settlement, all the trades, especially the service industry, will be severely affected. Many wage earners here will be forced out of work.

We do not want to interfere with the judicial proceedings and what we wish to say here is only that we are very much worried and we regret very much that there are some people who try all sorts of ways to defend this group of people so that they can get some rights that they do not really deserve.

I am sure the people of Hong Kong want someone to say something fair on their behalf. The impact is too great, and we do not think Hong Kong can ever sustain it.

President, I so submit.

MS CYD HO (in Cantonese): I did not wish to interrupt Dr PAN Pey-chyou, so I have waited until he has finished his speech to raise my point. When Dr PAN was making a criticism of Mr LEE Cheuk-yan, he said that a word appeared in his mind and that was "strikebreaker". I consider this, according to Rule 41(4) of the RoP, "offensive and insulting language". Since we are all saying that there should be no verbal violence in this Council and Dr PAN is also a Member who adheres to that principle, I hope he can measure his action with this principle, and I request him to withdraw the word "strikebreaker".

PRESIDENT (in Cantonese): Ms HO, I notice that when Mr LEE Cheuk-yan spoke earlier, he said that Members of the FTU were discriminatory. According to contemporary political culture, saying that someone discriminates against a

certain ethnic group is also a very serious accusation. The term "strikebreaker" appears in certain classical discourse in political science and so it is not purely a term of abuse. "Strikebreaker" is used by people in the labour movement to refer to those who betray the interest of workers. I believe this kind of discourse is often found in the debates of this Council. Therefore, I do not consider it offensive.

MS CYD HO (in Cantonese): President, it is precisely because we are people in the labour movement that when a unionist Member accuses another unionist Member of being a strikebreaker, it is really a very serious accusation. President, you have said that you hope Members can use rational language to rebuild the culture in this Council. But why are you holding a different set of standards?

PRESIDENT (in Cantonese): Ms HO, I have made a ruling. But I do not mind making an explanation. The standards I use are consistent. For me, I would think that since we are all in public office serving the people, so when a Member accuses another Member of discrimination against some ethnic groups in our society, this is also a very severe accusation.

MS CYD HO (in Cantonese): President, then does it mean that we cannot even say the word "discrimination" from now on?

PRESIDENT (in Cantonese): I have not ruled that Mr LEE Cheuk-yan was in breach of the RoP when he said "discrimination". Likewise, I will not rule that the use of the term "strikebreaker" in discussions on labour movements is in breach of the RoP. I have made my ruling, so please sit down.

DR MARGARET NG (in Cantonese): President, would you please clarify this: when we say that a certain act, policy or remark constitutes discrimination, and what we are targeting is not any particular Member but a policy, then this will not fall within the ambit of Rule 41 of the RoP. But if we specify that it is about a certain Member and we speak out the name of that Member, then we are targeting

a particular Member. President, may I ask if you think that the difference between the two should be viewed in this way?

PRESIDENT (in Cantonese): Dr NG, you have put it very well. Earlier on, I heard Mr LEE Cheuk-yan say that Members of the FTU were discriminatory and Dr PAN Pey-chyou said that on hearing the remarks made by Mr LEE Cheuk-yan, he thought about the word "strikebreaker". About the circumstances involving the two Members, as to the question of what circumstances would meet Dr Margaret NG's point, that is, reference is made to a certain person and which circumstances constitute reference to a certain act, I think Members may make a judgment themselves. For my part, I have made a ruling.

MR TAM YIU-CHUNG (in Cantonese): President, I respect your ruling. Earlier on when Mr LEE Cheuk-yan spoke, he was very agitated and he lashed out at the people who raised this issue today, saying that they are trivial, discriminatory, inciting and creating fear, causing troubles and creating issues for no justifiable reason. He said that these FDHs would only be allowed to make applications and making applications did not necessarily mean that they could stay in Hong Kong. Then he noticed that Mr LAU Wong-fat had asked a written question, that is, Question No. 15 and there is a table in the reply, listing figures for the years 2004 to 2011 on such information as the number of applications, the number of cases approved and rejected. He also cited those figures. If we apply these figures to a situation where FDHs have the right to make applications, you can see that if 120 000 people make applications, about 110 000 people would be successful. I can only make a rough calculation in this way. I noticed that the Secretary nodded immediately. I am very poor in maths, but I need only apply these figures. He said that it would be alright. But then I recalled something. Often when I heard some anti-drug publicity on the radio, the person who lured other people into taking drugs would say, "Do not worry. Try it. It would be all right." Anyone who tries drugs on hearing those remarks will land himself into great troubles. In this way, I have the impression that he is saying like no harm would be done.

And I think that the people always have discerning eyes. They will not be scared off by a couple of remarks from the DAB or the FTU. They will not. How do we get this figure of 99.6% this time? We put two pieces of paper in

our booths on the street, one was for agreement and the other for disagreement. We had not asked the interviewees to write on which piece of paper. In each of these booths we put two pieces of paper so that the people could write on either one. They could express their views and we did not guide them. We did not create panic either. But the people just came forth and put their names on the piece of paper for opposition. This was how the figure of 99.6% was obtained. We did not create any panic. We gave the people an opportunity to express their opinions. Those who put down their names were very angry. Please do not think that they are all fools. We all have brains, don't we? We can think and we are sensible. There is one obvious truth in what they say and that is, these FDHs all come to Hong Kong to work. They have signed a contract and the contract terms are clear enough. No mention is made of the ROA. Then how come there is this talk about ROA?

The judicial reviews this time were not filed by the DAB. We did not initiate them. We would be very smart and we are terrific if we can incite some event like this to help us in the coming elections. Right? Where do we get so many barristers? No, we have no barristers. Do we have any barrister? Maybe we have some members who are barristers, but they are not Members of this Council. So it is not true to say that we are creating a false issue for the elections.

After thinking over the issue and learning more about it, we came to the conclusion that this is worrying. It is indeed worrying. If you say that there is no cause for worry and their applications will not be approved, then you are trying to fool people. We can know the situation by looking carefully at the data, information and history. Besides, I have got an example. We can refer to a past case about Dr Margaret NG representing a foreigner in suing the ImmD in 2003. That case was mentioned today. It was about a person named Prem SINGH. And I wish to make it clear that this case is not about FDHs as I am aware. After the judgment, Dr Margaret NG then made a very important point. At that time she said that on the question of foreigners applying for the ROA in Hong Kong, a very lax standard should be adopted. This means a person can have two permanent residences and a permanent resident of Hong Kong is not required to own property, have a family or a job here. All that is required is that the applicant claims that Hong Kong is his or her place of permanent residence. And that will meet the relevant requirements under the Basic Law. The SAR Government does not have the power to impose any restrictions under the Basic

Law. According to this view of Dr Margaret NG, it would be very difficult for us to shut the gate and not grant the right of abode. From this it can be seen that members from the Civic Party have been acting like this on this issue of ROA of foreign nationals and they have been doing this all along

(Dr Margaret NG rose once again)

PRESIDENT (in Cantonese): Mr TAM, please pause for a while. Dr Margaret NG, what is your question?

DR MARGARET NG (in Cantonese): President, Mr TAM Yiu-chung has misunderstood the contents of my commentary.

PRESIDENT (in Cantonese): Dr NG, this is not an interruption permitted by the RoP. You may only raise a point of order or ask the Member speaking to make a clarification.

DR MARGARET NG (in Cantonese): Yes, President. So I would like to ask you whether or not I am permitted to make a clarification. Mr TAM Yiu-chung has completely misunderstood the contents of the commentary written by me.

PRESIDENT (in Cantonese): Dr NG, you should wait for your turn to speak. You may respond to that when you speak later. Mr TAM, please continue.

MR TAM YIU-CHUNG (in Cantonese): Do not worry. There is a chance to speak on that later. What you raised just now cannot be regarded as a point of order. You may explain later why this is not so, that all along you have not been saying that the matter should be treated with leniency. However, from what I heard, that article — was it published in the *South China Morning Post*? I have not read it. My English is not good, but someone told me that this is roughly the meaning of that article. Besides, what is more important is that Justice LAM

said clearly in the judgment he handed down for the ROA case of FDHs that the question of whether or not an applicant has sufficient financial means should not be used as a tactic to restrict the claim for ROA in Hong Kong by the applicant. From this it can be seen that it is doubtful whether the "four hurdles" mentioned by Mr Alan LEONG or the Civic Party can close the gate and prevent a large number of FDHs from getting the ROA in Hong Kong. Or is it like flinging the door wide open so that a vast number of FDHs can come in and get the ROA in Hong Kong? I think we all have an answer in our minds.

Moreover, I am worried that once they have got this right to make applications, it is likely that another judicial review will be filed on the question of why they are not permitted to stay in Hong Kong and whether this is discrimination against them. So can we stop them and discriminate against them when they have got the right to make applications? Of course, had we got a lot of land to take in more people, it would not matter (*The buzzer sounded*) but that is not the case in reality.

MR WONG YUNG-KAN (in Cantonese): President, I once collected signatures on the street to oppose the granting of ROA to FDHs. I support the views expressed by my colleagues from the DAB. I would like to talk about the experience I gained in collecting signatures on the street. I feel compelled to talk about these views after listening to the speeches made by Mr Alan LEONG and Mr LEE Cheuk-yan.

Mr Alan LEONG said that we could use the "four hurdles" to bar FDHs from coming into Hong Kong. On the number of FDHs, my colleagues have just talked about them and I believe they are not fabricated. Why did I say that those numbers are not invented? Suppose there are 125 000 FDHs and when their family members are added to this, there will be 500 000. The number is no exaggeration. I would even say it is an underestimation. The actual number could be much greater than that. Besides, Mr Alan LEONG and Mr LEE Cheuk-yan said that we could disallow them to come here because the law could play a gate-keeping role. But we should know that once these FDHs are allowed to stay here, the most forceful ground that can be put forward by their family members is reunion. If these people are not allowed to stay here, they would ask why they are not allowed to do so. Another judicial review will be induced. And there will be a lot of applications for legal aid. I think this is a tactic used

all along by the Civic Party because this is a way to get some cases for lawyers or even engaging in maintenance and champerty. There are some newspaper reports about cases of maintenance and champerty, and I do not know if the case in question constitutes maintenance and champerty. If these people approach these political parties for initiation of court proceedings, would this be maintenance and champerty? Are some people doing something now for the lawsuits that may arise in future? I am worried this state of affairs will go on.

People on the street said to me, "Mr WONG, you must talk about this for us and these people should not be allowed to come to Hong Kong. We will be living a hard life if they come here." These FDHs will lead to problems in employment, housing, education, healthcare, welfare and a lot more. Can we simply sit on them? If they are not given these welfare benefits, will some of the Members sitting here speak out for them? Will they not speak out for them? Will they not instigate any legal action for them? Do they dare to say no to me? The people told me that these people would certainly initiate proceedings on behalf of the FDHs, and they would instigate legal actions endlessly. Just think, are these things good for Hong Kong? Are they good for the people of Hong Kong?

When we were collecting signatures, we placed two sheets of paper on the booths on the street, one being meant to show agreement and the other opposition. When people came to the booth, they would ask if it was for or against the issue. I said there were two options and they were free to sign up for either one. We did not offer any advice to them. They could sign up for or against the issue. Those who came forward all opposed the idea that FDHs should be given the ROA. Members may ask, are there people who are supportive? Yes, there are one or two to every 100 signatures of opposition. We must make this clear. We have never said that those who are supportive are not right. They can have their own view on that matter. It does not matter on our part. It shows that when we say 99.6% of the signatures collected by us indicate opposition, it is real and it is no exaggeration.

The local residents also told us that if this situation was allowed to go on, Hong Kong would literally sink in no time. First, we do not have the land to house these people and the Government will have to spend a lot of money to solve the housing problem. On the question of healthcare, now that the hospitals are fully stretched, the Government will have to bear a heavier burden in

healthcare. In education, this ROA issue would be good news for the education sector, because it is often said that some schools will be culled, so if there are more people, many schools would be saved from closure. But is this something we want to see? I do not think so. The worst thing is that some women in their forties came to me and said that once these people were allowed to come here, they would lose their jobs. They could not even go home and take care of their grandchildren. They said, "If things go on this way, what should we do?" That means, they will lose their jobs. Now there is still an ordinance which enables the Government to impose some sort of restrictions. If the Government should lose the court case once again, what is the use of this ordinance? What can be used to help our Government?

Some Honourable colleagues asked earlier if a request could be made with the NPC for an interpretation of the Basic Law. We do not think this should be done. The Government can lodge an appeal and strive to win the case. I fully support the Government in going ahead with the litigation. And we in the association of societies have also declared that we will lend our full support to the Government's appeal. This is our aspiration and, unlike Mr LEE Cheuk-yan's claim, we are not doing this to create some election issue. Our chairman of the DAB said very clearly just now that had we been so smart, we would have raised many more of this kind of issues.

There is no way we can turn the tides back, but I think the Hong Kong people are sensible and they can see clearly what kind of people and Members of this Council are working for the good of Hong Kong, which Members are striving for the benefits of Hong Kong people and which ones are always posing obstacles to our infrastructure and filing court cases to cost us tens of billion dollars. Mr CHAN Kam-lam has left the Chamber. He said that the cost was more than \$6.5 billion. Come to think about this. Is this amount of money fabricated? Mr LEE Cheuk-yan asked the Government to give an explanation just now, but will he listen to it? Will he listen to what the Government has got to say? He only knows to say that the Government is trying to scare the people. This is to me most insensible. So I appeal to the people of Hong Kong to see clearly how certain people in this Council exploit the judicial system to intimidate the people of Hong Kong and how they use the law to stifle the development of Hong Kong. This we have to see clearly. What should we do to these people? I think the people should know well enough. Thank you, President.

MR CHEUNG KWOK-CHE (in Cantonese): President, on the controversy over whether FDHs should enjoy the ROA, many people, misled by the Government and politicians, seem to be very worried about the possibility of FDHs being able to stay in Hong Kong. Some people even show some sort of hostility and allege that once the 120 000 FDHs who have stayed in Hong Kong for seven years can become permanent citizens of Hong Kong, they will become parasites and eat away the various kinds of benefits like education, public housing and healthcare in Hong Kong. President, this is sheer scaremongering.

First, whether someone can apply for stay in Hong Kong and having the right to stay here are two different things. I think a clarification must be given to the public and these two things cannot be mixed up. Now that the Court has only ruled that FDHs who stay in Hong Kong to work can be considered as ordinarily resident here. But it only means that FDHs who have stayed in Hong Kong for seven years are qualified to apply for stay here. There are also other approval criteria to be considered. The applicants have to furnish all information required to show that Hong Kong is their permanent place of residence. This includes, for example, whether they have a residence, enough income to cope with living expenses, relatives in Hong Kong or paid taxes. About the tax requirement, actually many FDHs do not have to pay taxes.

Therefore, I think all the Government needs to do is to explain clearly whether these four conditions are bundled for full satisfaction or they need just meet one or two of them. It is because the public does not know about these four conditions, nor do they understand the principles and procedures involved. The result is that they are greatly worried. I hope that when the Secretary speaks later, he will make a detailed explanation.

So even if those 120 000 FDHs who have lived in Hong Kong for seven years can meet the basic requirements and make applications to the ImmD for permission to stay, just how many people will want to make an application and how many are permitted to stay in Hong Kong after tendering their applications? Therefore, there is no cause for worry for members of the public and they should not believe in such alarmist talk and worry for no reason.

The rule of law is the most important core value in Hong Kong and both the Government and members of the public should all abide by the law, respect the judicial proceedings and judgments of the Court. So this dispute over ROA

should be resolved by the Court in accordance with the existing law. I admit that every country or place in the world has its own immigration policy and the local immigration department may impose various kinds of restrictions. This is perfectly understandable. But if there are loopholes in the law, they should be plugged as soon as possible. Even the Basic Law can be amended. Or the situation can be remedied by administrative measures instead of exaggerating the figures to mislead and incite members of the public.

In addition, this dispute over the ROA of FDHs should have been a case of "individual rights" under human rights. But because of the upcoming District Council elections, some political parties and individuals are blowing up the matter and using it as a tool to smear their opponents. The issue is being used to fan populist sentiments and mislead the people, very much to my regret. Also, when the case was pending proceedings in Court, some political parties launched a campaign in public opinion, seemingly exerting pressure on the Court. This move has done enormous damage to the image of Hong Kong in terms of the consistent respect for the rule of law.

In this connection, the incident reminds me of a local movie called *A Simple Life* which has won numerous acclaims abroad. I am sure some people have watched the movie already. The movie is about a young man brought up in a rich family and his close relationship with the family maid. Apart from fine depictions of the relationship between the young master and his maid which are most moving, the movie also pays tribute to those ordinary people in society who work hard silently. It also conveys the idea that women and the underprivileged should enjoy equal and fair treatment.

Likewise many FDHs are like the maid in that movie and they care very much for our children and treat them as their own. They have made so much contribution to Hong Kong and for us, apart from paying them a meagre salary as a reward, should we not sympathize with them and stop treating them with hostility, hence dividing up society further?

President, I so submit.

DR MARGARET NG (in Cantonese): President, the question of whether FDHs should have the ROA is presently being heard in the Court. That a motion like

this is proposed in this Council, is blatant disrespect shown to court rulings and in view of this, I have to voice my strong objection.

President, Secretary for Security Ambrose LEE in fact answered questions from some Members this morning. The Secretary made himself very clear when answering questions from Members. He said that this issue involved legal matters and hence should be resolved by law. In order that the people could rest assured, the authorities would try all means to urge the Court to hear the cases expeditiously. He also stated clearly that Hong Kong is a society that upholds the rule of law and one has to resort to law to solve problems. I hope Members have listened carefully to the Secretary's remarks.

President, some Members asked this morning whether or not the "four hurdles" mentioned by some political parties would serve the purpose or not. And if these FDHs could meet all the four requirements, would their applications be certainly approved or not? Could these requirements be met very easily? Honourable colleagues, please note that the Secretary has refused to fall into this trap. The Secretary said that all these are just some information and in the end public officers will have to verify whether the applicants have taken Hong Kong as their place of permanent residence. In other words, even if an applicant can meet these four requirements, provided that there are reasons to show that he has not taken Hong Kong as his place of permanent residence, he can also be refused ROA. In certain cases, if it is considered that an applicant is qualified and meets the conditions for becoming a permanent resident, this is not open to challenge. The Secretary has made all these very clear. Had the Secretary told Members today that these four hurdles could be cleared very easily and should a person meet all these requirements, there is nothing the Government can do but to grant approval and that would give rise to reasonable expectation. Would Members hope to see a reasonable expectation like this? My experience of handling many cases of judicial review throughout these years tells me that this is certainly very difficult.

President, the question of whether a person has ordinarily resided in Hong Kong for a continuous period of seven years and made Hong Kong his only place of residence is to be decided by the Court. And we can see that any particular fact or case cannot be used as the yardstick for passing a judgment on the parties in another case. At most, they can be taken as reference. On the 26th of this month, the Court will hear another case. Even if the Court rules that in view of

the circumstances of the applicant, he meets the requirement of ordinary residence and should be granted ROA, that does not mean that other people may invoke this case as a precedent.

President, if Members of this Council are so concerned about whether or not loopholes exist in this policy, they should urge the Government to make a clarification and undertake a review. Ms LI Fung-ying has all my respect for what she said in her speech earlier on. She said that the Government should review the policy to see if there were loopholes and whether the importation of so many foreign labourers would affect the job opportunities of local workers. This is a right suggestion to make. Why should the blame be put on the people who take the case to the Court and their legal representation? And why should blame be put on certain political parties because these parties have certain lawyers who represent these people? Should a clarification not be made on that?

If we hold that this policy is not foolproof, the Government can proceed to undertake a review and tighten the policy. In plain terms, the power to allow persons not of Chinese nationality to enter Hong Kong rests entirely with the Director of Immigration. In Hong Kong, the matter of allowing people who do not have ROA here to come entirely rests with the Director of Immigration's decision. No one has the power to allow any person to come to Hong Kong. So the power always rests in the hands of the Director.

Whether a person should have the ROA is not for this Council to decide, but the Basic Law. Article 24(2)(4) of the Basic Law stipulates that persons not of Chinese nationality can have ROA if they meet these requirements. But the question of whether they can meet these requirements and under what policy will foreigners be allowed to come to Hong Kong are all decided by us. What is the use of saying for no reason that there should be an interpretation or amendment of the Basic Law? The judgment handed down by the Court only says that with respect to the definition in law used by the Government to prevent FDHs from obtaining ROA, that is, stating that working as a FDH cannot be regarded as ordinarily resident in Hong Kong, is consistent with the Basic Law.

Let me respond to Mr TAM Yiu-chung's view which is misunderstanding on his part. He said that the information concerned is used to verify a person's claim to having taken Hong Kong as his place of permanent residence. The power concerned is entirely in our hands. But if anything is used as a hurdle to

impose restrictions arbitrarily, in the view of the Court, this will undermine the power conferred by Article 24(2)(4). For so many years, the Hong Kong Government has failed to clarify this point, resulting in so many problems.

It is clear that the Government cannot resort to using the law to turn something black into white, but the right to formulate policies remains in the hands of the Government. It is unthinkable that certain officials should think that an interpretation of the Basic Law should be sought whenever anything happens. An interpretation of the Basic Law is the easiest way out. The Basic Law has conferred this power on us, but we would ask for an interpretation of the Basic Law every time when we cannot solve our problems. Is this way of administering Hong Kong not showing that the administrators in Hong Kong are so lame?

President, with respect to the worries of the people, I think Members are obliged to allay their concerns. Members should study the problems concerned and make enquiries with the Government, instead of yelling in panic that this is the end of the world.

MS MIRIAM LAU (in Cantonese): President, the High Court handed down a judgment on a judicial review of the ROA claim filed by FDHs some time ago and it was ruled that the Immigration Ordinance in claiming that the period of employment of FDHs in Hong Kong could not be regarded as proof of their having "ordinarily resided in Hong Kong" was inconsistent the Basic Law. In other words, as at this May, the 125 000 FDHs who have lived in Hong Kong for seven years are entitled to applying for ROA. The number is considerable and even if one third or half of these FDHs make an application, the number would be huge when their family members also apply. This will certainly impose a heavy burden on public resources, welfare benefits and conditions in our society. Far-reaching implications would thus arise. So, both the Liberal Party and many citizens in Hong Kong are very much worried about this ruling.

After the judgment was handed down by the High Court, the Liberal Party conducted another opinion poll this month, that is, from the 6 to 9 October on the fight for ROA by FDHs. A total of 1 536 citizens of Hong Kong aged above 18 were interviewed at random on the telephone. They were asked questions about

the ROA issue. Findings show that as much as more than 85%, that is, 86.3%, did not agree that FDHs should be entitled to applying for ROA. Certainly, this number is, in comparison, lower than what Members from the DAB said after collecting signatures on the streets. But a signature campaign is somewhat different because those who are willing to sign will come forward. And as we conducted a random telephone survey, our percentage is somewhat lower, but nonetheless it is a large percentage. Moreover, in our survey, more than 70%, that is, 72.5% of the interviewees said that once FDHs are given the ROA, they will bring a heavy burden to our society.

Therefore, when the Liberal Party Members met with the Secretary for Security earlier, they made an explicit demand that the authorities should make the right preparations to cope with the serious consequences that may come once the appeal is rejected. Leaving aside the question of whether the appeal would be allowed, it is not known whether the Court will approve of the application for leave to stay to be filed by the Government on 26th this month.

In this connection, Mr Alan LEONG in the amendment he proposes today is trying to water down the backlash of the successful case of FDHs in claiming ROA. He is trying to shift the focus onto the so-called "four hurdles" imposed by the Government. That is to say, the Director of Immigration in requiring the applicants to provide information in four areas may deter FDHs from becoming permanent residents of Hong Kong. From this it can be seen that on the one hand the Civic Party supports FDHs in claiming ROA and on the other, they are playing some underhand tricks, in advocating that the responsibility of preventing FDHs from staying here should be passed onto the Director of Immigration. In any case, this approach is full of contradiction. No wonder when I visited kaifongs in the districts and talked with them about this issue recently, some of them told me that they were flabbergasted to see the Civic Party playing double in this issue.

As a matter of fact, the so-called "four hurdles" has been discussed many times today and I do not wish to repeat what the Secretary for Security said in reply to questions earlier. Besides, many Members have talked about them already. These "four hurdles" are in fact not hurdles, still less prerequisites. They are not conditions that must be fulfilled before consideration is given or approval granted. They are only information that should be provided. In fact, approvals and verifications are quite lenient. Mrs Regina IP, the former

Secretary for Security, has affirmed this earlier, that is, the ImmD is quite lenient in granting approval in such matters. As facts show, are these "four hurdles" effective? I am grateful to Mr TAM Yiu-chung for reminding us earlier that in the oral questions raised today, the reply to Question No. 15 clearly said that more than 90% of the applications were successful. The effectiveness of these "four hurdles" is therefore self-explanatory.

I would like to advise the Civic Party that any attempt to shift the focus and water down the incident or its serious consequences is in fact useless. The eyes of the people are discerning. In the survey I have just talked about, we asked another question and the findings showed that as many as 70% of the interviewees thought that the Civic Party should bear the responsibility for the consequences caused by this lawsuit. This is almost 20% higher than the findings shown in our earlier survey on the same issue conducted at the beginning of August. It shows that after learning more about the incident, the people have come to a stronger view that the Civic Party should bear the responsibility.

As a matter of fact, the terms of employment for FDHs state that they shall return to their place of origin at the completion of a contract. This implies that they are here only to work and earn money, instead of coming here for settlement. Furthermore, when the Chinese and British sides drafted the Joint Declaration, they had long before reached a consensus that FDHs should not have ROA. This point was later confirmed by the Preparatory Committee for the Hong Kong Special Administrative Region. And on the very day of reunification, the Immigration Ordinance was amended to tally with the situation.

However, the judgment passed by the High Court on this occasion is clearly in conflict with the legislative intent of the Basic Law of not allowing FDHs to enjoy ROA. Therefore, in order that the meaning of the relevant provisions can be clarified and that the constitutionality of the Immigration Ordinance upheld, we agree that the Administration should file an appeal as soon as possible.

Of course, it is hard to tell whether a lawsuit will be successful or not. Because of this, there is a view that the Basic Law should be amended. But I wish to point out that it is the legislative intent of the Basic Law that FDHs are not allowed to have ROA. It is absolutely not the case that there are ambiguities in meaning in the Basic Law and hence amendments are necessary. With

respect to this, I am not sure if the Central Authorities will entertain a request for amendment of the Basic Law. This is because it is not due to ambiguities in the Basic Law that there is a need to amend it. In the eyes of the Central Authorities, the meaning of the Basic Law is crystal clear. Moreover, any proposal on amendment of the Basic Law will need the consent of a two-thirds majority of Hong Kong Deputies to the NPC and the support of a two-thirds majority of Members of this Council. The procedures are very complicated and it is likely that it will take at least half a year to a year's time. By that time, how many FDHs would have flooded into Hong Kong? We have no idea and I am afraid things will only get more complicated and the situation will get out of control.

I do not quite understand also why the Democratic Party on the one hand do not agree that FDHs should have the ROA while on the other say that they oppose seeking an interpretation of the Basic Law. Is this an attempt to face popular demand in a perfunctory manner and trying to please both sides? I do not know. And our opinion polls also show that (*The buzzer sounded*)

Thank you, President.

DR PRISCILLA LEUNG (in Cantonese): President, Article 24 of the Basic Law has been subject to repeated challenges since the reunification. The most representative case is the NG Ka-ling case in 1999 involving the question of whether children born out of wedlock in the Mainland to Hong Kong residents can settle in Hong Kong. The CHONG Fung-yuen case in 2001 also involves the question of whether or not children born of Mainland parents in Hong Kong are entitled to ROA in Hong Kong. Today, or 14 years since, these two cases have proved their huge impact on Hong Kong's population.

Today, Article 24 of the Basic Law has met another challenge and the Government lost its case again. As a result, those 120 000 FDHs who have lived in Hong Kong for seven years, as well as their immediate family members, will have a great opportunity to settle in Hong Kong. I believe many Honourable colleagues have mentioned the serious implications on housing, education and welfare. Today, I would like to focus on discussing why we think that FDHs who come here to work under the FDH policy should not enjoy the ROA and this does not involve any discrimination. I believe generally foreigners who have obtained the ROA in Hong Kong through normal channels

such as marriage, investment or other avenues in accordance with the Immigration Ordinance are very much welcome regardless of whether they are Filipinos, Thais or Indonesians. However, our focus should be placed on the FDH policy.

After the CHONG Fung-yuen case that day, I believe many people in fact underestimated the implications of the court ruling. Today, many Mainland pregnant women giving births in Hong Kong have imposed a heavy burden on many hospitals. They have made Hong Kong people this morning I met a kaifong, who urged me to truly reflect the serious implications that the policy has brought about on them for they are really immediate implications.

Why should I stay in the Chamber to make a speech? Because I have just received an SMS from a kaifong telling me he has heard Mr Alan LEONG's remark that the issue involving the ROA of FDHs was stirred up by the Government and the pro-establishment camp and caused great panic among the public. The kaifong who has sent me the SMS requested that his views be reflected. So, I have deliberately waited for my turn to speak. In my opinion, Heaven is watching everything that one does. In fact, Hong Kong people generally have discerning eyes. Many Hong Kong people have urged us to truly reflect their views. They have urged us, as Members of the Legislative Council, to reflect their views to the Government direct as they are really very worried.

Moreover, there is this very much clear view that Hong Kong people would not have agreed to importing such a large number of FDHs into Hong Kong through the FDH policy if it were not for the common understanding and consensus that these great many FDHs coming to Hong Kong under the FDH policy would not enjoy the ROA under the existing policy. Put simply, will Hong Kong throw the gates wide open for them? Many of us have hired FDHs. You can imagine that the process of employing FDH is indeed as simple as merely filling out a form. Sometimes, you will not have any interview or get a thorough understanding of the applicants' ability or the reason why the applicants have quitted their previous jobs. The process is very simple. Therefore, if it is so easy to obtain permanent residence through this channel under this immigration policy, many people will not consider other means. They would rather apply for entry into Hong Kong as FDHs so as to obtain permanent residence here in seven years.

Therefore, by common logic, the original intent of formulating the policy to enable the influx of FDHs into Hong Kong through the FDH policy is that the door will not be opened to 100 000-odd or even more FDHs who will otherwise obtain the ROA very easily through this policy. It has also been discussed in a court ruling that consensus on this should have been reached when the Basic Law was drafted by the Hong Kong Government. It is also understood that under Hong Kong's immigration policy, the formulation of Article 24 of the Basic Law will not throw the door open to an enormous number of FDHs who can obtain ROA very easily through such a policy.

Of course, I recall that in an article I wrote some time ago I reckoned that the Government would lose its case because, as indicated in previous cases, the Government would cite the legislative intent of the Basic Law as its justifications which, however, would not be accepted by the Court. Hence, the Government would invariably lose in cases involving ROA. This time around, however, as the case has aroused strong reactions, many people have really felt the immediate impact unlike the CHONG Fung-yuen case, the consequences of which emerged only several years later. In this case, many immediate consequences can be seen now and as a result, people's reactions are also immediate.

We have also collected different public views on this issue in the local communities. I would like to tell the Secretary that many people hope that the Government can really adopt a vigilant attitude towards this court case and try to anticipate the consequences if it really loses it. We have heard some Honourable colleagues keep saying that many FDHs who have obtained ROA may not come to Hong Kong and the issue is being used as a tool for gaining popularity. In fact, as the Philippines is less developed compared to Hong Kong, if FDHs can have the opportunity to settle in Hong Kong and enjoy the welfare benefits here, why should they hesitate to do so?

Therefore, I do not see any reason why FDHs will not come to Hong Kong if they are granted ROA. Some even said that as FDHs used to live in their employers' residences in Hong Kong, they would lose such a good living environment if granted the ROA and hence they would not want to stay in Hong Kong. I heard this from some commentators on the radio. I think this will really mislead the public; it is really misleading. They even tried to shift the blame onto the Government and the pro-establishment camp. I think these are

false accusations and we should not discuss the issue from such a perspective. On the contrary, we should earnestly study the problems before us now. Given that it will be extremely difficult to make any amendment to the law, the policy or even the Basic Law, as some mentioned this morning, we should take precautions to provide against any possible impact on Hong Kong as a result of this lawsuit.

The following message comes not from me but a kaifong who has signed and written it down in my book. He said, "We should not take the slightest risk, nor should any gap be created (*The buzzer sounded*)

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

DR PRISCILLA LEUNG (in Cantonese): nor should we allow Hong Kong's future population development to be steered by lawsuits."

Thank you, President.

MR FREDERICK FUNG (in Cantonese): President, recently the issue of whether FDHs should enjoy the ROA in Hong Kong has become a hot issue in our society. It is only normal that the issue has aroused such a great concern because significant interests are at stake, including those in population planning and principles like the spirit of the rule of law, and so on.

However, my worry is that in some cases, the situation is not purely black and white and some people are trying to label each other and making comments to elevate the issue to the political plane. I think we must all watch out. Some people have seized the opportunity to cause panic and spread comments that FDHs will become a heavy burden for Hong Kong. They are doing this in the hope that their opponents will suffer in the coming elections. I can say that these people are all taking some sort of political advantage out of this issue.

On the other hand, there are people who have hoisted the anti-discrimination banner and raised the issue to the human rights context in the absolute sense. They regard other people who are not their friends simply as enemies. They have oversimplified the issue and taken a one-sided approach to

it. They have also elevated the issue to the plane of absolute morals. I do not agree to this because it is an uncompromising and polarizing approach to the issue. All these will only incite confrontation among the people, and society will become polarized.

President, I wish to state the position and views of the Hong Kong Association for Democracy and People's Livelihood (ADPL) on this issue. The ADPL thinks that giving the FDHs ROA in Hong Kong defeats the intent of the FDH policy. There is an obvious difference from what is commonly seen and agreed by the public. With respect to this great policy change, the authorities must conduct extensive public consultations and formulate a long-term population policy and undertake relevant planning. These are meant to fulfil the requirements of procedural justice. Therefore, the ADPL objects to FDHs' enjoyment of ROA in Hong Kong.

The ADPL respects the right of FDHs to initiate proceedings and this is a right vested by the Basic Law and it must not be questioned. Also, the ADPL completely recognizes the contribution made by FDHs to Hong Kong. They have left their homelands and come to a faraway place like Hong Kong to earn a living. They have become part of our society and greatly reduced the pressure borne by many Hong Kong families in doing cumbersome household chores. They have helped unleash the woman labour force. They are our companions and that applies especially to our children as many of them grow up under the care of these helpers.

I wish to stress that Hong Kong people in general do not harbour any discrimination against FDHs. Remember the hostage incident that happened in Manila? After the incident, we did not vent our grief and indignation by treating the Filipino maids working for us badly in revenge. On the contrary, we prayed together for the dead and wounded and directed our discontent at the inept politicians and Government of the Philippines. This is a demonstration of the core values cherished by us. We all strive for justice, inclusion and pluralism.

But all such advocacy of FDHs causing our society to collapse and equating the ROA of FDHs with human rights in the absolute sense are actually pushing the relationship between local employers and FDHs which has previously been peaceful and harmonious to the brink of tension.

President, countries all over the world have their own naturalization policies and they have specified conditions and circumstances whereby foreign nationals can apply for naturalization. In this way they have a set of naturalization practice. But as a matter of fact, it is never a born human right to demand that a country should accept foreigners as the citizens of that country.

President, this is also the case with our FDH policy. Our FDH policy embodies the consensus reached in society and the restrictions imposed on naturalization. These are the principles understood by the citizens of Hong Kong and adopted by the Administration in processing applications for ROA. When an employment contract expires, the FDH concerned has to return home. This is a point which FDHs understand when they sign their contract. And both the Hong Kong and Filipino Governments have a common understanding on this kind of restrictions on the stay of FDHs in Hong Kong.

Hence it is two different matters concerning the contribution made by FDHs to Hong Kong and whether they should be granted ROA. The situation is similar to those persons who stay in Hong Kong with a refugee status, as consular corps and members of the People's Liberation Army garrisoned in Hong Kong, and so on.

The said consensus in society is presently being enforced by laws and regulations. However, some FDHs have lodged judicial reviews by invoking the Basic Law to challenge the relevant laws and regulations. This is in effect rocking the consensus already reached over the FDH policy, hence accounting for the strong repercussions on this occasion.

We will not blame FDHs for lodging judicial reviews, for this is the right vested in them by the Basic Law. However, I wish to point out that this kind of conflict has emerged because the relevant laws and regulations, and also the Basic Law, are challenged. I have therefore, got the impression that this consensus cannot stand the test of legitimacy. The authorities should have seen the problem coming a long time ago and proposed solutions. I have a feeling that the Government is being too insensitive and it has acted too late. Had the authorities carried out studies on this especially after the September 11 Incident, it would have been much better.

Let me reiterate the position of the ADPL. Although we do not agree that FDHs should have ROA in Hong Kong, should there be a need and as a last resort, we agree that the Government should propose an amendment to the Basic Law in order to settle the dispute. Of course, this remains the last necessary resort.

President, on the question of how we will vote in this issue, the ADPL will abstain from voting on the original motion and the amendment proposed by Mr WONG Kwok-hing. The reason is that we do not agree with the premise of the original motion, that is, it fails to point out the real reason for our opposition to FDHs enjoying ROA in Hong Kong and that is, it has deviated from the consensus reached in society.

As regards the amendments proposed respectively by Mr Alan LEONG and Mr Paul TSE, the ADPL will oppose them because they fail to state clearly our position of not agreeing to FDHs' enjoyment of ROA in Hong Kong.

As for the amendment from the Democratic Party, we agree to it and we will support it.

MR JEFFREY LAM (in Cantonese): Hundreds of thousands of FDHs became eligible for applying for permanent resident status in Hong Kong after working in Hong Kong for seven years or more as a result of a High Court ruling last month that the provision in the Immigration Ordinance on restricting the granting of ROA to FDHs is inconsistent with Article 24 of the Basic Law. I would like to point out that FDHs, if eligible to apply for permanent resident status in Hong Kong after working here for seven years or more, will exert tremendous pressure on Hong Kong's economy, labour, welfare, housing, education and healthcare resources and impose an unbearable burden on Hong Kong. We in the pro-business alliance oppose FDHs' enjoyment of the ROA in Hong Kong.

With the current number of FDHs who have worked in Hong Kong for seven years or more having reached 125 000, it is estimated that if all of them apply for the ROA in Hong Kong and if their family members will come to join them, the population of Hong Kong will increase by 500 000 if an average of four members in a family is used as the basis for calculation.

President, Hong Kong people have been complaining all the time about Mainland pregnant women coming to Hong Kong to give births, thus stretching maternity wards to the limit and depleting social resources. Being a tiny place with a dense population and limited resources, Hong Kong can hardly accommodate more immigrants. So, how can it house these hundreds of thousands of people? As the saying goes, "A slight move in one part may affect the situation as a whole". The settlement of hundreds of thousands of FDHs and their family members in Hong Kong will definitely impose a heavy burden on Hong Kong in terms of housing, education, healthcare and welfare. In the worst-case scenario, the Government may have to incur an additional hundreds of billions of dollars in public expenditure. As a result, the annual recurrent expenditure will increase by \$20 billion to \$30 billion.

Furthermore, FDHs will enjoy protection under the Minimum Wage Ordinance should they be granted permanent resident status. As their monthly wage will thus increase substantially, most of the middle-class families will find it hard to bear. Even if they have a very good relationship with their original FDHs, they have no alternative but to give them up. In order to avoid making long service payment and other payments in the future, employers may be compelled to replace their FDHs every four years. This will cause employers a lot of trouble in terms of money and time. Furthermore, quite a number of FDHs might switch to other jobs after becoming permanent residents, thus exerting tremendous pressure on the grass-roots labour market. This is likely to push up the unemployment rate in Hong Kong and, what is more, create social disharmony.

President, the FDHs' contribution to Hong Kong must not be dismissed. They are among those who promote Hong Kong's economy. We recognize their contribution. However, according to the immigration policies of many places around the world, such as the United States, Singapore and Taiwan, foreigners are not allowed to obtain permanent resident status by way of working as domestic helpers. Due to considerations in its population policy, Hong Kong is no exception. The reason is we do not want to open the gate to immigrants, thus aggravating the burden on society in many aspects. For the past two decades or so, the policy on the stay of FDHs in Hong Kong has been very clear. Both employers and intermediaries and even FDHs themselves clearly know that they are working in Hong Kong as domestic helpers. Regardless of their period of stay here, they will not be eligible to become permanent residents. Now, if the

community has to overturn the social consensus reached over the past two decades or so, resulting in the community accepting all of a sudden hundreds of thousands of FDHs to become permanent residents in Hong Kong, I believe this is hardly acceptable to members of the public.

Some people in the political circle have attempted to water down these impacts by claiming that FDHs applying for the ROA will still have to face "four hurdles" and might not succeed. Many members of the public have asked me why I could have believed in the words of those barristers, for they would suggest people to initiate lawsuits to deal with everything. It will very bad if people fully trust them. According to the law, it is not difficult for an applicant to succeed. Even if an application for ROA is rejected by the Director of Immigration, FDHs who are dissatisfied with the judgment may apply for a judicial review. Hong Kong might then be reduced to the "capital of judicial reviews", with litigations and disputes dragging on without an end. Should that happen, certain barristers might have another opportunity to reap a huge gain. Do Hong Kong people want to see this kind of division in society?

President, when the Basic Law was drafted in 1985, the Chinese and British sides discussed the definition of ROA in Hong Kong and reached a consensus. According to the consensus, which is manifested in the report submitted by the Preparatory Committee with respect to Article 24 of the Basic Law, FDHs who work in Hong Kong are not considered to have "ordinarily resided" in Hong Kong. Upon the reunification of Hong Kong, the Immigration Ordinance was amended according to the views of the Preparatory Committee. On 26 June 1999, the NPC interpretation clearly pointed out that the report by the Preparatory Committee had manifested the legislative intent of the Basic Law's provisions on ROA in Hong Kong.

We in the pro-business alliance consider that FDHs should not enjoy the ROA in Hong Kong from the legal, sentimental or rational perspective.

President, I so submit.

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

MS CYD HO (in Cantonese): President, my speech today seeks to reiterate an ancient, well-understood and simple principle governing the rule of law and that is, all men should be equal before the law. Furthermore, under the Basic Law and the existing legal framework, we should respect court rulings.

Should there be discrimination before the law, and when fighting a legal battle, someone can say that the protection provided for in a certain provision is not applicable to certain persons and members of the public can be stripped of the protection provided by the law arbitrarily in litigations, then no one will trust this system any longer. Members of the public will use their own methods or even act in unlawful ways in order to protect themselves, and so this system will collapse and the rights enjoyed by everyone will become unprotected.

Hence, it is for the sake of ourselves, not for FDHs, that we must uphold the rule of law and the principle of ensuring all men are equal before the law. Once this system collapses, our rights will be at stake. I agree with some Members' view that the ROA is not an absolute right. Some Members also pointed out the fact that when it comes to immigration applications, all places and countries will have their own preferences and implement a points system with respect to different professions. However, a points system is an open system. Once it is established, everyone will follow it. Unlike the present case in which the Government raise objection only when a legal battle is pending, prior announcements will be made even if hopes are expressed for a revision of the points system as a result of demographic change or the number of practitioners in a certain trade or industry having reached saturation.

When it comes to immigration policy, I understand that people definitely have a protectionist mindset. However, even if we are to protect local workers and safeguard local resources, we still have to bear in mind that if the legal system is damaged, and if we are free not to abide by all sorts of rules formulated, we will only hurt ourselves in the end.

By the same token, in the event of any disputes in respect of explicit provisions, a ruling on the disputes should be given by the Court if we respect our legal system. While this case is being heard by the Court, and this legislature has every right to enact legislation, it is inappropriate of us to express opposition openly before a judgment by the Court is made, for doing so will easily give people an impression of interference with the Court.

In fact, Rule 41(8) of the Rules of Procedure provides clearly that "the conduct of Judges and other persons performing judicial functions shall not be raised", the purpose of which is precisely to put restraint on Members, so that we cannot intervene with the Judiciary. The debate today can be considered to have gone overboard.

Many people have also gone overboard by continuously lashing out at the lawyer representing the plaintiff, which is also an extremely dangerous act. Everyone is entitled to the right to impartial legal service. Even an unpardonably wicked murderer or rapist should have access to legal assistance, so that he can receive a fair trial in the complicated court proceedings. If people in the community do not support a certain party and act in unison to attack or pressurize the lawyer representing him, then they are actually destroying the code of practice for the profession and, at the same time, destroying the rule of law. If it is considered that FDHs should not reside in Hong Kong from the angle of social policy, it is only right to review the existing laws and policies, rather than repeating the mistake of seeking an interpretation of the Basic Law.

Next, I would like to say a few words on how we should treat others. Sometime ago, Mrs Regina IP expressed some views at the City Forum, saying "Hong Kong people are unable to support you", and the expression "you" here refers to the FDHs. I wish to point out that FDHs do not need Hong Kong people's support. According to their contracts, they will perform household duties for Hong Kong people at a monthly wage of \$3,740, which is way lower than the minimum wage. Moreover, they do not enjoy daily statutory working hours, and they are only entitled to seven-day paid leave per annum, which will be increased in accordance with their length of service to only 14 days after nine years of service. They are not here eating and drinking without doing anything. On the contrary, they are here to provide service at a very low pay, thereby enabling an enormous local labour force to be released.

Hence, I really hope that Ms Regina IP can retract her remark that "Hong Kong people are unable to support you", though this remark was not made in this Chamber. In fact, it is the wish of many communities to draw upon foreign labour free of responsibilities. In the late 19th century and early 21st century, 80 000 Chinese were sold as cheap labourers to Canada for the construction of a railway across the country. Moreover, they were charged Can\$500 each in head tax, which was equivalent to two years' income earned by them. There are

indeed some similarities between the treatment of these Chinese people in the past and that of the FDHs now. However, the Canadian Government already apologized in 2006 for its treatment of those Chinese people.

I would like to read out some remarks made by the Chief Executive in the Policy Address: "Hong Kong is a city of migrants. Our forebears from diverse origins came to this tiny island simply to earn a living and build their homes. They worked hard through the years and, without realizing it, created a unique city with its own character. We cherish freedom, respect the rule of law, and treasure equality, justice, integrity, pluralism and inclusiveness. These are the core values of Hong Kong." I just hope Members who are going to vote in favour of the Policy Address can realize the spirit of these remarks.

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

MR PAUL CHAN (in Cantonese): First of all, President, I would like to make a declaration. I have employed a FDH to work at my home. Furthermore, I am the Chairman of the Legal Aid Services Council. However, I am speaking today in my capacity as a Member representing the Accountancy Constituency.

President, like the general public in the community, most of my friends in the accountancy profession have expressed great concerns about the ruling by the High Court late last month, that the provision in the Immigration Ordinance that a FDH should not be considered an "ordinary resident" in Hong Kong was inconsistent with the Basic Law, meaning that FDHs are eligible to apply to become permanent residents in Hong Kong. Their concerns include whether our community can bear this, the impact of such change on ordinary households in terms of work and livelihood, and the impact on women at work. As some colleagues have already spoken on these issues just now, I will not repeat the points already made. I only wish to point out that there are similar concerns in the professional sectors, too.

I also noticed the view shared by some political parties and Members, that even if FDHs are eligible to apply for the ROA, the Immigration Department may vet the applications lodged by them in accordance with the "four hurdles"

stipulated in the Immigration Ordinance. Therefore, being eligible to apply for the ROA is not tantamount to having the ROA.

Having said that, what will actually happen? Just now, quite a number of colleagues explained what would happen. Even Mrs Regina IP, former Secretary for Security, elaborated the vulnerability of these hurdles in actual implementation, and so I will not repeat the points already made. Nevertheless, I would like to point out that, even if the Executive Authorities can exercise executive powers to impose restrictions and conditions for approving the ROA applications by FDHs, will doing so lead to another round of judicial reviews, thereby further causing the problem to drag on? If things go on like this, more energy and resources of the community as a whole will be wasted, and the uncertainties surrounding the whole matter will increase even more.

Honestly, in order to cope with these judicial review proceedings, social resources (not only legal aid) have to be expended on providing support. Furthermore, in litigations, there is no guarantee that someone will definitely win, however strong one's arguments are. One might lose the legal battle with the slightest lapse. Therefore, the persons concerned, including government officials, have to expend considerable energy on dealing with these legal battles. Should they get distracted, they may lose sight of the things they are supposed to deal with.

President, I have great respect for the rule of law of which Hong Kong people have always been proud. As members of the community, including Members of this Council, professionals and ordinary citizens, we must understand our own rights and powers. But we must also understand that we must exercise our rights and powers carefully.

In the community, regardless of one's identity and role, one is entitled and duty-bound to monitor the administration by the Government. If it is found that the policy of the executive or local legislation is flawed or it is envisaged that problems will arise, should we remind the executive at the top of our voice and in a timely manner, urging them to conduct a review and requesting them to expeditiously take corresponding measures to plug the loopholes? Could it be that we will not be pleased unless everything is settled before a court of law, hence proving the Government's mistakes, lameness and poor performance?

President, when former Chief Justice of the Court of Final Appeal, Mr Andrew LI, delivered a speech a couple of years ago at the Ceremonial Opening of the Legal Year, he said, and I quote, to this effect, "The court does not assume the role of the maker of the challenged decision the courts cannot provide a solution to any of the various political, economic and social problems and, still less, a panacea to political, economic or social ills the appropriate solution can only be found through give and take of the political process". Hence, the desirability and appropriateness of attempting to resolve problems through judicial reviews rather than the political process, which should originally be the case, are open to question.

In my personal opinion, the proposal put forward today to discuss these issues does not seek to rock the rule of law in Hong Kong. I personally do not have the slightest doubt about the important role played by the Judiciary under the framework of separation of powers. I very much hope that every one of us can think twice about the consequences in handling every matter. I also hope that we can deal with these issues with a positive attitude. If there is any impropriety with the executive authorities or local legislation, we are obliged to point it out vigorously in the hope that the relevant authorities can detect it at an early stage, conduct a review, and take measures to plug the loopholes.

Thank you, President.

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

MR WONG YUK-MAN (in Cantonese): President, the strikebreaker, LIU Shaoqi, died without a proper burial place, so it can be seen that calling someone a strikebreaker is far more serious than accusing a Member of criticizing another political group for discriminating against certain ethnic groups. This is not to mention the fact that it is a personal attack rather than a comment on an issue. President, you have blundered again.

PRESIDENT (in Cantonese): Mr WONG, please speak to the question. Do not criticize my ruling.

MR WONG YUK-MAN (in Cantonese): I will speak, of course, I will speak because there are only seven minutes, right? In fact, I have already written an article entitled "The right of abode issue involving foreign domestic helpers is a 'demon-spotting mirror' in the political circle", but the comments made by Members again brought to mind many conceptual issues. Some Members have mixed up concepts. What is meant by "the Devil's Advocate" is once again manifested in the legislature today. What is meant by the "magic of theories" — buddy, you are very well-versed in this — is again manifested in the legislature today. However, their level is really too low, so no matter what they say, they are just making the same points, are they not? You think that these are really the warnings to a prosperous age? Are those talks of "all men being born free and equal in rights and dignity" mere lip-service?

Certainly, President, it takes some courage to criticize the rich and powerful, but saying "no" to the masses requires even greater courage. Some people have adopted double standards, lambasting us for instigating populism. However, you can see how neatly the legion of the DAB is marching, and even Mr WONG Yung-kan was grinding his teeth in anger in making those remarks. This is rarely seen, is it not? Dr PAN Pey-chyou was on the brink of tears in his speech, saying that he only had fairness in his mind. Sometimes, the conclusion can be correct but the justifications advanced may not be sufficient to validate the conclusion and the reverse may also be true. When listening to the arguments presented by Mr Paul CHAN just now, I found that they were apparently nothing out of the ordinary but as I listened further, they really sent a chill down my spine. If his remarks hold water, there will practically be no need for the law courts, will there?

President, what is the separation of powers? When the executive encounters obstacles in its administration due to a judicial ruling, it has to return to the legislature, does it not? If any citizen suffers oppression by the executive, he has the right to seek judicial remedy. When a citizen is oppressed by the executive and cannot find any remedy on his own, if there are channels for him to seek judicial remedy, he would do so. If the outcome of the judicial remedy is that he can have remedy but Ambrose LEE cannot, then the Government, to which Ambrose LEE belongs, has to return to the legislature for remedy. The rationale is as simple as that, yet you have substituted the concepts by presenting specious arguments. I must really ask this question: Do a lot of people in the Philippines want to come to Hong Kong now?

Hong Kong people will surely find your remarks to their liking. You people, after boarding the bus, tell the driver not to stop at the next stop to pick up more passengers. Am I right? On the issue of Mainland children born of Hong Kong parents coming to Hong Kong for settlement, you also adopted this kind of attitude. On 29 January 1999, the Court of Final Appeal delivered its ruling on the ROA of these children. The editorial of *Ta Kung Pao*, which was called "commentary" by the newspaper, on 30 January sang high praises of the ruling of the Court of Final Appeal, saying that it had defended the "one country, two systems" principle and judicial independence. However, when "Grandpa" gave his order, *Ta Kung Pao* realized all of a sudden that it had placed the wrong bets. It was even more terrible for me. After *Ta Kung Pao* had published that commentary on 30 January, I read it out soon afterwards on the radio, almost believing that *Ta Kung Pao* had really gone back to the era of ZHANG Jiluan, when the policy of "no party affiliation, no political endorsement, no self-promotion, no ignorance" was adopted. I really felt happy for a while, but only for a while, because soon afterwards, someone called me in my radio programme, saying that he wanted to kill me, and a lot many other things. Moreover, I also received a large pile of intimidation letters. When Mr HO Hei-wah and I were walking in the street, we were really afraid of being chopped to death. All these arose because we defended the ROA of these children.

All these matters conjured up a lot of thoughts and feelings in me. However, to change the subject matter, I have to criticize those Members who are absent. I remember that on 6 November 2002, when the Legislative Council voted on the Immigration (Amendment) Bill 2001, which excludes Mainland officials holding Chinese Travel Permits with special endorsement from being treated as ordinarily resident in Hong Kong during their stay as such holders, members of the pro-establishment camp supported the passage of the Bill but the Democratic Party, the Frontier and the ADPL voted against it together. At that time, in her speech, Ms Emily LAU, a Legislative Council Member who still belonged to the Frontier at that time, asserted with all righteousness that according to the literal construction of Article 24(2) of the Basic Law, these people may acquire the ROA in Hong Kong and suggested the Government to adopt an administrative measure to post officers back to the Mainland when they had lived here for more than six years. I think that it is perhaps also feasible to apply this to the FDHs now.

It turned out that when the Democratic Party was conducting election campaigns for the District Council elections, it was doing the same things in the

local communities as the DAB by organizing signature campaigns against giving FDHs the ROA and demanding that the Government lodge an appeal immediately and expeditiously. With these additional allies, small wonder that the DAB has been so arrogant today, with its entire legion marching so neatly. I have listened for a while in fact, today, originally, I only intended to vote, that is, to vote for the amendment proposed by Mr Alan LEONG and oppose the original motion, thereby simply performing a ritual. However, the more I listened, the angrier I became and the more laughable I found it to be. Why are Members' emotions stirred so easily? When emotions are stirred, rationality stops. This is also how I am like, is it not?

President, I really cannot tell politicians from politicians very well. I only know that some people really depend on politics for a living, do they not? Were it not for the imminent elections, the "Pigeon Party" would have adopted another approach, would it not? It is being furtive, trying to muddle through. It wants to be a prostitute but also wants to get a plaque of virtue, trying to please both sides. In times of elections, it cannot withstand the pressure from the people in the local communities, so its leader, who is a Legislative Council Member, is pretending to be stupid, is she not? As a result, those people in the local communities are filled with righteous anger and in fact, they are just like the DAB. They are even more expert than Mr Paul TSE in organizing signature campaigns but at least, Mr Paul TSE is consistent.

After this speech of mine, those people would again say that I am targeting at them. But, so what? Why have we got to such a state as being human beings, or in being involved in politics? For this reason, I often say that politics are not for human beings. If I continue to be involved, I would also become a beast. Thank you, President.

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

MR LEUNG KWOK-HUNG (in Cantonese): President, I heard Dr PAN Pey-chyou talk about the term "strikebreaker". I know what a strikebreaker is. It is a person who organizes a yellow trade union and betrays the interest of the working class to which he belongs. If we try to figure out the whole issue from the perspective of the party programme of the Communist Party of China (CPC), these Filipino domestic helpers should be regarded as brothers and sisters in the

same social class and they are members of the proletariat whom members of the proletariat all over the world should unite. But he is talking about them as if they were criminals. What kind of view is that except that of a strikebreaker? I have never heard such things before.

President, you are a member of the CPC, please correct him. Tell him not to put himself into shame by make those remarks of abuse. Can a trade union deprive workers from another country of the human rights to protect the brothers of its own class? Honestly, I have never heard of that. It turns out that workers suppose there is an oversupply of labour now and the capitalists want to make use of this opportunity to suppress the wages, can we say that this is not the fault of the capitalists but that of the workers? Do workers hire workers? Are Filipino maids hiring Hong Kong workers to pull down the wage level of the Hong Kong workers? It is a shame that he talks about such things. No matter how, the FTU is an organization funded by the CPC. To this day, the CPC has not admitted that it is a bourgeois political party. Will he please retract his remarks. Lashing out at others and accusing them of being strikebreakers really brings himself into shame. This is the first point I want to make.

Second, Ambrose LEE, you are sitting here and you always nod. Why did you nod when people talked about the number 120 000? Did you agree that 120 000 people would make their applications? Did you endorse that idea? At that time when the Government said that 1.67 million people from the Mainland would flood into Hong Kong, you said boldly and firmly that they would not come here and you wanted us to believe in you. It was what you did then. Your boss at that time, Mrs IP said it, but you did not refute her. I now ask you, how can a FDH prove that she is self-employed or employed by someone? They cannot even get the minimum wage, so how can they have their own residence? Do you set up a company and hire all of them? This is clear enough, as you must be aware. If you lose the appeal case, you will seek an interpretation of the Basic Law by the NPC. This is what you think a responsible government would do. You know well enough what the result will be, but you have not talked about it here today.

President, let me quote something to this effect: Things and actions are what they are and the outcome is the outcome they will get. Then why should we work so hard to deceive ourselves and other people? This is what you people are: you are deceiving yourselves and other people. You have denigrated the integrity of the Filipino maids and that of the working class in Hong Kong.

You have made them think wrongly that the hardship they have been suffering is caused by the new arrivals to Hong Kong. In this ROA incident, from the very beginning you have been discriminating against your own compatriots. May I seek your advice on this: Now that workers' wages are going down and there is a huge wealth gap in society, are these caused by the Filipino maids over the past decades? Is this the case? These Filipino maids can never lodge applications for ROA. The Court has only granted them the right to make applications. You people are lying in this Chamber. Now answer me, can you find a Filipino maid who can rent a place for herself, get exempted and have a salary above the minimum wage, prove that she has taken Hong Kong as her home and hence can lodge an application? Leaving aside these Filipino maids, there are some Westerners who cannot even do it. I know quite a number of these Westerners who hold grudges against this. Ambrose LEE, it is not that you are not aware of this. In the past, British nationals could stay in Hong Kong for as long as they liked, but now they cannot. So they are complaining. Show some respect for yourself. I will go to IP Kwok-him's constituency tomorrow. I am not afraid that he will point a finger at me. Whenever I have got the right occasion, I will explain these arguments. After the people have listened to them, they would say that it turns out that this is what the fact is. There was this old lady who once pulled my arm and asked me not to lend my support to the Filipino maids. I explained to her and she then said that it turned out that that was the fact.

Ambrose LEE, it is a disgrace being a strikebreaker and it is more so a disgrace when you sell your soul again and again. This is what the Government is like as well. It was like that when The Link REIT was listed. At that time the Government said, Hong Kong would sink if The Link REIT could not be listed. It turned out later that what the DAB had supported would all make Hong Kong sink. Did you people not agree that the CSSA payments should be slashed? Did you ever think of those CSSA recipients? Did you ever?

President, you are a member of the CPC — or may be you are not. We need to have moral fibre. Paul CHAN is even more ridiculous. Does he think that when the Government makes a policy blunder, and when people tell it about this, it will listen? This guy Donald TSANG — I have thrown something at him — I told him that what he said was not law. But he went on and talked about it three times. This is why I applied for a judicial review. Will you people listen? What you are doing is to kill your conscience with your voting machine. You think that things will be fine once you have voted. This is what you do whenever you bump into a blunder. And now you are telling us to give our

advice to the Government. This Government only knows to count the votes in its hand and it will never be reasonable.*(The buzzer sounded)* Let me ask you

PRESIDENT (in Cantonese): Mr LEUNG, time is up. Please sit down at once.

MR LEUNG KWOK-HUNG (in Cantonese): Why do you not tell the Government that you people are a ruling coalition? LAU Kong-wah is here, and TAM Yiu-chung is here also, why do you not tell the Government earlier? Nonsense.

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

MISS TANYA CHAN (in Cantonese): President, it has been an eye-opener today. Just now, a number of Members have presented some specious arguments. On the motion moved by Mr WONG Ting-kwong today, in particular, in respect of the last sentence in the motion that says, "this Council opposes FDHs' enjoyment of the right of abode in Hong Kong", in fact, first, I have to clarify that I am not involved in this case. However, on this matter, there are a lot of rumours doing their rounds among the people. As a result, the Civic Party has been subjected to a lot of queries and accusations. At the same time, many Members of the pro-establishment camp have raised a lot of queries continually, for example, saying that members of the Civic Party had not visited the local communities or listened to views. Sorry, I have visited the local communities and listened to views. What views have I heard? Of course, some people were very worried, so whenever possible, we would explain to them. After hearing my explanations, a lady realized immediately that the issue is not about gaining the ROA automatically but the right to make applications and that there were four requirements. Her response was: First, she found that it was actually necessary to apply for the ROA and that the issue at stake was only the right to make applications; second, most importantly, when she found that obtaining the ROA in Hong Kong was as difficult as emigrating to Canada, she said nothing more but just turned round and left. Moreover, another man said to me that the all-enveloping smearing tactics made him feel very apprehensive and worried. He was very concerned about how the SAR Government governed

Hong Kong in the past year, including such incidents as the "dark shadow theory". He was born here and he grew up here, but he was even considering emigration now.

At present, how many of the FDHs who have resided in Hong Kong for seven years can fulfil these four requirements? The Government has not made any disclosure all along. Of course, we will know by looking at the Immigration Ordinance and today, many Members have also cited the relevant provisions. However, interestingly, although we talk about the four requirements frequently and I have also heard Members of the pro-establishment camp talk about them frequently, they are not willing to spell them out one by one. For this reason, let me talk about them. The four requirements are: Whether one has habitual residence in Hong Kong; whether the principal members of one's family (spouse and minor children) are in Hong Kong; whether one has a reasonable means of income to support oneself and one's family; and whether the applicant has paid taxes in accordance with the law. Since we do not have the information now, we have to determine by ourselves how many FDHs stand the chance of meeting all four requirements.

Today, many Members quoted from Question No. 15 seeking a written reply. Members, please do not make misrepresentations. Will Members look at what the question asks? The question is related to non-Chinese persons excluding those employed as domestic helpers from outside Hong Kong. President, what does that mean? That means apart from the oranges, 90% of the apples are also sour, but does that mean that 90% of the oranges are also sour? You do not understand? I do not understand what they are talking about either, because the logic is fundamentally flawed. How can Members draw the conclusion based on these figures that 90% of the FDHs will be able to apply for the ROA successfully? This is practically impossible.

Of course, as a member of the Civic Party, I will certainly support Mr Alan LEONG's amendment. Moreover, the original motion has implications on the several cases being dealt with by the Court now. The Court of First Instance has just given its ruling on one of them. In addition, the Government has also stated its intention to lodge an appeal. At this stage, it is actually not preferable or appropriate for the Government and the legislature to make comments that may influence the outcome of this case. We should bear in mind and abide by the principle of the separation of powers.

Mr WONG Yung-kan said earlier that often, the pro-democracy camp does not listen to the Government. If he likes to do so so much, perhaps I should read out to him the comments made by a government representative. The Secretary for Justice, Mr WONG Yan-lung, issued a statement prior to the beginning of the hearing on the first case in August this year, saying that as legal proceedings were in progress, it was not appropriate for us now to make any comments, including going into the various legal arguments or other relevant issues involved. He also stressed in the statement that the Government fully understood the concerns expressed over the case amongst different sectors of the community, and the different views over the possible impact any ruling of the Court may bring. However, he also sincerely urged the public, when they were minded to express any view, to show the greatest respect to our Court and our legal system, and to avoid by all means making any comments which might prejudice or affect the Court's adjudication of the case.

Just now, in the Ante-Chamber, I found that Dr LAM Tai-fai had gone so far as to openly call on the people not to vote for the Civic Party in the upcoming District Council elections. Of course, I heard the President give him a reminder. If Dr LAM Tai-fai wants to listen, I wish to offer him a piece of advice. In 2008, he was elected uncontested in the Industrial (Second) Functional Constituency, so he may not understand the electoral laws very well. However, as one of his colleagues, I call on him to look at the electoral guidelines because had it not been for the Legislative Council (Powers and Privileges) Ordinance, he might have committed a criminal offence just now. Which piece of legislation is the most important one? I can tell him that it is the Elections (Corrupt and Illegal Conduct) Ordinance, so I advise him to look at it clearly on going back. Otherwise, later on, when he gives his support to those prospective candidates for the Chief Executive office, it would not be very nice if he causes other people's boats to sink.

Furthermore, I also wish to quote from the speech delivered by the Secretary for Justice, Mr WONG Yan-lung, early this month at a business luncheon in Paris, in which he said that the rule of law is key to Hong Kong's success. I hope that later on, after the Court has given a ruling, Members would not behave like a bad loser by intervening in the judicial procedures, since doing so would make Hong Kong lose its key for success, which was mentioned by the Secretary for Justice, Mr WONG Yan-lung, in his speech. In that event, we will also lose the preference of multinational corporations, business opportunities as

well as causing an exodus of capital and talent. As a result, there will be even greater implications on society and our future.

I so submit.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, the original motion moved by Mr WONG Ting-kwong today starts with the following wording: "That, as the enjoyment of the right of abode in Hong Kong by foreign domestic helpers (FDHs) will impose a heavy burden on Hong Kong's economy, employment market, education, healthcare, housing and welfare, and so on". This, I believe, will arouse the concern of many Members in this Chamber and even Members supportive of the proceedings. Ms Starry LEE has even stressed over and over again that if FDHs can enjoy the ROA, 500 000 people will be coming to Hong Kong. I think the number of 500 000 is very much an exaggeration. Even if I cut the number by half, there will still be 250 000, and if it is further reduced to just one quarter, some 100 000 people will be coming. Of course, if this number of people is really coming, it would certainly warrant our concern.

But the question is whether it is true that so many people will be coming to Hong Kong, hence putting such a heavy burden on us. This, I think, is the question that is really worth asking, and it warrants our rational and objective examination.

Why do so many colleagues support this case? President, allow me to read out the judgment handed down by Justice Johnson LAM on this case. What did he say? He said to the effect that the ROA does not involve discrimination; nor does it involve such basic values as fundamental human rights, racial discrimination or humanism, and that it is not a person's inherent human right to ask a foreign country to take him as a citizen of that country, and that any sovereign state has the power to decide on its own the criteria for approving citizenship applications from foreign nationals and to draw up on its own the conditions for conferring such a status. This is all very clear. It means

that the Government plays a very important role in determining the principles for granting foreign nationals the resident status. This is most important point.

Many colleagues have repeatedly stated that the existing Immigration Ordinance has clearly provided that an applicant is required to furnish certain information to the Director of Immigration (the Director). What types of information are included? A Member has just read them out. Let me repeat them here: First, whether he has habitual residence in Hong Kong; second, whether the principal members of his family and most importantly, his spouse and minor children, are in Hong Kong; third, whether he has a reasonable means of income to support himself and his family; and fourth, whether he has paid his taxes in accordance with the law. The most important point is, as often reiterated by us repeatedly, whether he has habitual residence in Hong Kong. In fact, according to a precedent of the Court of Appeal, the Judge ruled that the applicant must fulfill the following condition in order to meet the requirement of the Basic Law. What is this condition? President, the condition is that an applicant has the duty to satisfy the Director that he has taken Hong Kong as his place of permanent residence. In other words, if an applicant cannot provide sufficient evidence to prove that he has taken Hong Kong as his place of permanent residence, the Director entirely has the power to reject his application. Besides, an applicant is required to state his wish to take Hong Kong as his place of permanent residence and point out that he does not only wish to live in Hong Kong for a limited period of time, but permanently and for an indefinite period of time. He must take Hong Kong as his only place of permanent residence. What is more, an applicant must take practical actions to make Hong Kong his only place of permanent residence.

President, if these requirements must be met, I wonder who among the FDHs will be eligible for making applications, because these requirements are very stringent indeed and it is not easy for an application to be approved successfully. But regrettably, other colleagues have neither clearly set out these conditions nor explained these principles in detail. Particularly, even our SAR Government has not properly given an explanation to society. Actually, there is one very important point. As Members all know, what does the SAR Government have the duty to do? As I said earlier, its duty is to draw up policies on approving citizenship applications from foreigners. This is the key. But much to our regret, the Secretary has never told us how this should be handled. More importantly, if the SAR Government found that most FDHs —

As many Members have said earlier, if, after conducting a survey, it is found that many FDHs wish to apply for permanent resident status in Hong Kong, should the SAR Government adopt measures in advance to impose restrictions, rather than looking for solutions only when problems have emerged, as if it has just waken up from a dream? I think this is the problem before us today. Is the SAR Government telling us today that it has never realized that there is this problem and that this problem would not have come to its attention had this case not been brought to Court? If that is the case, President, the Government has been obviously derelict in its duty, and the Secretary has also been derelict in his duty. This is so regrettable. When did the Secretary find out that the problem had become so serious? I think the Secretary must really give a clear explanation. If he has long found out this problem, why has the SAR Government consistently failed to take any action? If he found it out only these days, who should bear the responsibility for such belated awareness? So, I think this case now can nevertheless serve as a reminder to us that on many issues, our SAR Government has failed to get its job done and failed to address these problems properly, because as clearly pointed out in the judgment, the Government can play a gate-keeping role and formulate policies on these issues, and take a more stringent attitude in performing the gate-keeping work. But, regrettably, the Government has still failed to deliver to date. So, today, I think (*The buzzer sounded*) In this incident, what we should discuss is how the Government should face and tackle the problem.

PRESIDENT (in Cantonese): Mr LEUNG, your time is up.

MR ALBERT HO (in Cantonese): President, in fact, Members all know that today's debate involves issues at two levels. The first level is the subject matter in question, that is, the constitutionality and legality in the issue of whether FDHs are entitled to the ROA in Hong Kong. As the President and many Members have said, this issue is now pending appeal, so there is no need for us to delve into the original intent of the Basic Law or voice views on the constitutionality and legal basis of this issue. We only have to wait for the most authoritative organ to make a ruling. To discuss this in depth will only prejudice the judicial proceeding.

However, I must point out that on the issues at this level, I feel very discontented because many Members who have spoken have made use of the tremendous or potentially tremendous social consequences to launch attacks at some of the litigants, and they even hold that these litigants have abused the judicial procedure. They then went further by tarnishing the lawyers and barristers representing these litigants and even the Legal Aid Department. All these are totally undesirable. Doing so is tantamount to attacking the whole judicial system and showing contempt for the rule of law. It even amounts to total disregard and contempt for the principle of "everyone being equal before the law" and everyone being entitled to the equal protection of the law. I find such an attitude most regrettable.

Worse still, some people even took the opportunity of discussing this incident to voice comments targeting at the Civic Party. I think that clearly, doing so is politically motivated. Why is it necessary to resort to such unfair tactics? When certain members of a political party take part in litigation in their capacity as lawyers, why do some people describe all the outcomes of the litigation as the ends that this political party wants to achieve or political consequences that it has to bear? This is totally illogical. This is the first level.

The second level, as we all know, is that the ROA issue involves the question of whether or not the people in a certain job category are entitled to certain rights in Hong Kong on account of their work. Leaving the Basic Law aside, generally speaking, these rights do not involve basic human rights, nor do they involve any discrimination against any ethnic group, and still less is there any humanitarian consideration. The determination of these rights is a matter of the formulation of the population policy or immigration policy.

Generally speaking, if a place enjoys full or a high degree of autonomy, it should have the power to formulate such policies comprehensively. Therefore, from this angle, I think we should discuss what direction should be taken in the formulation of such policies. If we want to secure the right of Hong Kong to formulate these policies and we know how the consensus in Hong Kong society was like when these policies were formulated back then, or if the majority of people, including employers and employees, all think that these people coming to Hong Kong to work are not necessarily entitled to the ROA, then no matter for how many years they have worked here, it will not make them meet the requirements of ordinarily resident in Hong Kong, and hence we have to stipulate

very clearly that they will not become new migrants on account of their work. I think this point is very important. If this was indeed the expectation of society and as a result, a scheme and the relevant legislation were formulated but now, an unexpected consequence has arisen all of a sudden due to a case of judicial review, we have to deal with this matter by clarifying whether or not our policy is geared in this direction.

Of course, one possibility is that since the Basic Law is written in this way, we have no choice because the Basic Law is a piece of legislation with higher status, so one course of action open to us is: If we want to preserve our power of formulating such policies, we may have to examine if corresponding amendments have to be made to the Basic Law, so that the powers vested in us are respected. This is one of the issues that we have to consider. Today, the Democratic Party believes that in terms of policy, we do not agree that FDHs can meet the requirement of ordinarily resident in Hong Kong on account of having worked here for seven years, and are thus entitled to applying for the ROA and can even expect to become a permanent Hong Kong resident. Because that would involve a major change in policy, so more discussions in society are needed and more figures have to be provided to determine how great the impact on society will be. I do not consider it proper to immediately believe that the ruling of the Court means that our policy should change accordingly. As regards the implications on society, more figures are needed and more discussions should also be held in the future, rather than just citing some figures off hand, thus causing unnecessary speculations and panic which in my view are totally unwarranted.

In sum, although some hurdles still exist and no matter if there are three or four of them, the issue that I am more concerned about is: Do we have to confer all the powers on the Director of Immigration? Or should we decide how the Director of Immigration should exercise his discretionary power and how great a discretionary power he has by means of legislation or the formulation of certain policies that are complemented by laws, so that we can carry out planning proactively? If a large group of people come to Hong Kong, do we expect them to be able to stay here and become migrants, or how many of them can become migrants? It is a more proper course of action.

Therefore, in sum, we in the Democratic Party will propose an amendment through Mr James TO. We cannot support Mr WONG Kwok-hing's motion because he has tried to explain the legislative intent of the Basic Law. This

should be left to the Court. As regards Mr Alan LEONG's amendment, we cannot support it either as we cannot give expression to our position and views on the policy through his amendment. For this reason, we in the Democratic Party will only support our own amendment and abstain on the other amendments.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr WONG Ting-kwong, you may now speak on the amendments.

MR WONG TING-KWONG (in Cantonese): President, the DAB believes that

(Ms Audrey EU raised her hand to indicate her wish to speak)

MS AUDREY EU (in Cantonese): President, there are two "blind spots" in today's various amendments and the speeches of many Honourable colleagues. Concerning the first "blind spot", all FDHs are regarded as belonging to the same class when the issue of whether or not they should enjoy the ROA in Hong Kong is discussed. Another "blind spot" lies in the worry that Hong Kong will face an influx of immigrants in the short term if FDHs can enjoy the ROA, resulting in a serious problem. However, I would like to point out that these two "blind spots" are basically erroneous.

I recall the "crying wolf" scenario. I would like to tell you that people will be hooked when they hear someone crying "wolf" for the first time. They will be cheated for the second time if the same trick is played on them again. They will be deceived twice before realizing that this is a fraud when the same trick is played for the third time. The first time of "crying wolf" was in 1999 after a ROA case had been decided in the Court of Final Appeal. The then Secretary for Security, Mrs Regina IP, told us that there would be an influx of

1.67 million people into Hong Kong. However, after checking the situation in the past decade, we will find that the 150 daily quota for one-way permit holders for entry into Hong Kong is not fully utilized. In fact, we now realize that the remark of the then Secretary for Security, Mrs Regina IP, that there would be 1.6 million people coming to Hong Kong is a "crying wolf" scenario. However, the story was believed by many people at that time and consequently, the Standing Committee of the National People's Congress was requested to make an interpretation of the Basic Law.

Similar remarks are heard again today. It is said that there will be a large influx of people into Hong Kong if FDHs are granted ROA. The number may reach 400 000, 300 000 or 100 000, if not 500 000 and Hong Kong will be unable to cope with it. However, such a view is simply erroneous because, regardless of whether a court case is lost or not, each applicant has to meet the requirements of the Basic Law and the Immigration Ordinance by submitting the required information and each case will be vetted on an individual basis. What I am saying is also a response to a remark of Ms Miriam LAU who in her speech queried whether the Civic Party was employing a "play double" tactic by supporting the rule of law while arguing that these FDHs should be eligible for applying for the ROA and the Government should serve as the gatekeeper.

This is not a "play double" tactic. In reality, according to the existing provisions of the Basic Law, persons not of Chinese nationality who have met the relevant criteria are entitled to the ROA in Hong Kong. The question as to whether a person not of Chinese nationality meets the criteria is subject to vetting by the ImmD on an individual basis. Regarding the cases which have been submitted to the Court for decision, it may be due to the fact that the applicants' personal particulars and situations fully meet the criteria and thus, are able to settle in Hong Kong. However, not all FDHs can fulfil such criteria, and not all FDHs will succeed in applying for entry into Hong Kong in a short period of time. So, I said that these two views are the "blind spots".

Quite a number of Honourable colleagues in their speeches today have quoted the information provided by the Government in response to Mr LAU Wong-fat's written question. The Government, in its response, pointed out that 90% of the applications for ROA in Hong Kong by persons not of Chinese nationality were successful in the past seven years. Hence, they claimed that on this basis, FDHs' applications would have a 90% chance of success. This is a

comparison of apples and oranges because the written response basically refers to persons not of Chinese nationality other than FDHs. They are quality migrants or professionals who can surely pass the "four hurdles" and their applications are mostly successful. They may be those people who are able to meet the criteria readily, as Mrs Regina IP has mentioned. However, as for FDHs, their personal particulars and qualities compare less favourably with those professionals, and their applications may not be successful. Therefore, in reality, employment opportunities, school places and hospital beds in Hong Kong will not be all snatched by these outsiders, as some people have claimed in their alarmist remarks.

Many people say that they support the rule of law, but they also want to discuss whether or not the FDH policy is appropriate. President, the Government, at the policy level, can certainly decide who can come to Hong Kong or what conditions be imposed on them when they are allowed to do so. However, if some people have already entered Hong Kong and lodged applications in accordance with the Basic Law — President, there is no classification under the Basic Law — Article 24(2)(4) of the Basic Law has only mentioned "persons not of Chinese nationality". It has not specified that bankers can apply for the ROA while construction workers cannot; or musicians can apply for the ROA while FDHs cannot. So, everybody can make applications. However, as to whether their applications are successful, it is still subject to the vetting and approval of the Government. And this is also the reason why we have sought clarification from the Government.

Finally, quite a number of Members mentioned in their speeches that some political parties, in particular the Civic Party, had a political agenda. President, what is our political agenda? Our political agenda is to lose in the election? Our political agenda is to lose votes or offend the voters? Certainly not, President. Are we so stupid that we do not know we have an election to run? Are we so stupid that we have not paid visits to the local communities? We have been doing our utmost in this regard from day to night every day, except that we have to stay here till midnight or beyond. Given that we have distributed leaflets in the local communities every day, how can we be not aware of the situation?

Nevertheless, the Civic Party understands that the rule of law is a core value which is more important. We maintain that this is an issue which should

be dealt with by the Court, even though we are being taken advantages of, being discredited and facing unfair criticisms. We therefore cannot support any amendment other than that by Mr Alan LEONG.

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

MR LAU KONG-WAH (in Cantonese): President, the motion proposed by the DAB today fully reflects grave public concern about this issue. From our observation, some Members who support FDHs' enjoyment of the ROA in Hong Kong, including Ms Audrey EU, are very anxious today because of their confrontation with the majority public. After listening to their arguments, albeit going round and round and being inconsistent, I find that there were no more than three arguments: Their first argument was about the theory of intervention, and they threatened the public and Members of this Council that the voices of opposition should be considered as intervention. Their second argument was about the theory of exaggeration, and the third about the hurdles.

Insofar as the theory of intervention is concerned, Dr Margaret NG said that such arguments, if put forward, represent a show of disrespect for the Court or, worse still, pressure on the Court. Excuse me, the Judge has already made it very clear that any voices in the community will not affect his judgment. Given that the Judges has already said so, please do not insult his intelligence, for his judgment is made independently. If voices of opposition are considered as intervention of the Judiciary, why are the voices of support made by so many Members today not treated as intervention of the Judiciary? Is this not an application of double standards? Why can you make your voice heard but others are not allowed to act accordingly? Why can there be only voices of support, but not voices of opposition?

As regards the theory of exaggeration, President, while Mr Alan LEONG considered the issue to be false, Mr LEE Cheuk-yan said it was groundless. The public can hear it very clearly. Is this issue false? Or will it cause no consequences? We just have to think about this question: Has the Judge ruled against the Government? We need only ask this question: Is it true that 120 000 Filipino domestic helpers have stayed in Hong Kong for more than seven years? If the answers are in the affirmative, this is not a false and groundless issue.

Members making those remarks were either "telling lies with their eyes wide open" or turning a blind eye to the problem.

I find Mr LEE Cheuk-yan's remark that opposition to FDH's enjoyment of the ROA in Hong Kong had turned into an exclusion sentiment a very serious accusation and criticism. I also find such a serious accusation against Members of this Council and the wider community unacceptable. Actually, the public is very fair because it has already been stated clearly in contracts that FDHs can only take up employment in Hong Kong and cannot stay here. Members of the public know very well that FDHs, should they be granted the ROA in Hong Kong, will have a strong impact on Hong Kong. It is definitely not the case that they are excluding all FDHs. They are perfectly justified to think that FDHs should not be granted the ROA in Hong Kong. There is no doubt about this.

As regards the hurdles theory, President, although many Members have already mentioned this point, some colleagues are still focusing on it. Of course, the focus just now was on the written reply to Question No. 15, which was mentioned by both Mr TAM Yiu-chung and Ms Miriam LAU. Actually, the focus is not on whether FDHs are included in these figures — of course, FDHs can still not apply for the ROA. Therefore, they cannot be included in the figures. The point is, despite the presence of the "four hurdles", 90% of the people in this category were allowed to stay in Hong Kong over the past seven years. Under such circumstances, even if not all of them will apply for the ROA in Hong Kong, FDHs will still have an impact on Hong Kong, no matter whether 70%, 80% or 90% of them will make such applications. The issue is about their eligibility, not about their number.

Currently, 6 million members of the public are eligible to apply for a handout of \$6,000. Of course, not everyone will apply for it, but this is an issue of eligibility. What is more worrying is the claim made by the Civic Party, especially the one made by Dr Margaret NG. On the one hand, it is pointed out in the litigation that certain provisions in the Immigration Ordinance are inconsistent with the Basic Law but, and on the other, Dr Margaret NG has indicated her intention to make use of certain provisions in the Immigration Ordinance to impose hurdles. Actually, such an act of playing tricks with the Immigration Ordinance and the Basic Law is self-contradictory. I totally agree with Ms Miriam LAU that this claim is extremely shocking. This act of self-contradiction will only impress people that it is not trustworthy.

Mr Albert HO has appealed to us not to attack the Civic Party. This is certainly not an attack. We are merely giving a well-intentioned reminder or advice in the hope that the Civic Party can turn back. The so-called referendum was a waste of money. The Hong Kong-Zhuhai-Macao Bridge (proceedings) has also wasted \$6.5 billion. Now, it has come to supporting the FDHs' enjoyment of the ROA in Hong Kong. All these incidents are jeopardizing Hong Kong people's interest or public interest. When did the Civic Party turn into a political party harming everyone? It will not do the Civic Party any good to be an enemy of the people. I am only giving them a piece of advice in the hope that they can turn back. By the same token, I also hope to advise the Government not to listen to such advice as playing down the incident because the more the incident is played down, the bigger the crisis will grow. We must face this issue squarely and rise to this challenge properly. Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr WONG Ting-kwong, I believe you may now speak on the four amendments. You have five minutes.

MR WONG TING-KWONG (in Cantonese): President, the DAB holds that it is stated clearly in the Basic Law, the Opinions adopted in 1996 by the Preparatory Committee for the Hong Kong Special Administrative Region and the Immigration Ordinance that foreign workers do not meet the requirement in Article 24(2)(4) of the Basic Law for the purpose of obtaining permanent resident status in Hong Kong. Hence, even if FDHs have worked in Hong Kong for not less than seven years, they can still not meet the definition of "ordinarily resident", hence should not be granted the ROA. This is the main reason for the DAB to propose this motion. We will only consider supporting amendments which categorically oppose FDHs' enjoyment of the ROA in Hong Kong.

As Mr WONG Kwok-hing's proposed amendment sees eye to eye with us, we will definitely support his amendment.

As for Mr James TO's amendment, although it similarly opposes FDHs' enjoyment of the ROA in Hong Kong, he proposes that the Basic Law be amended so as to resolve the controversy. We consider that it is unnecessary and groundless to do so. For the purpose of understanding Article 24 of the Basic Law, Article 154(2) of the Basic Law must be taken into joint consideration. And according to this Article, the ImmD is empowered to formulate immigration policies. The requirements of the Basic Law are clear, and there is no problem with the Basic Law. Therefore, it is unnecessary and unjustifiable to amend the Basic Law. Hence, we can only abstain on Mr James TO's amendment.

In our opinion, Members of this Council should accurately reflect the public opinion. It is extremely clear that the public opinion opposes FDHs' enjoyment of the ROA in Hong Kong. Given that Mr Paul TSE's amendment seeks to delete the reference to "opposing FDHs' enjoyment of the right of abode in Hong Kong", we can only oppose rather than support his amendment.

I would like to highlight Mr Alan LEONG's amendment. We oppose his amendment for four reasons. First of all, we resolutely oppose deleting the reference to "opposing FDHs' enjoyment of the right of abode in Hong Kong", on the ground that it is against the public opinion to do so. Second, his amendment calls on the Legislative Council to, under the spirit of respecting and abiding by the ruling of the Court, accept FDHs' enjoyment of the ROA in Hong Kong, which is unacceptable to us, too. Although we share the view that the community should respect the ruling of the Court, the Legislative Council should support the Government lodging an appeal should the ruling be found to be at fault and unacceptable to the public. This is also a manifestation of the rule of law. Third, the criteria and mechanism for the ImmD to approve ROA applications are also clear. Mr Alan LEONG's so-called "four hurdles" merely serve to confuse the public. Anyone who has read the remarks made by Mr LEONG and his other fellow party members, who are also barristers, which claim that the "four hurdles" are unconstitutional, would come to understand that the Civic Party itself does not approve of the gate-keeping function of the "four hurdles", so to speak. Lastly, FDHs' enjoyment of the ROA in Hong Kong will definitely have far-reaching implications on Hong Kong's economy, employment and various social policies, which is precisely the public's concern. Yet, Mr LEONG's amendment proposes to delete the relevant issues without touching the

public's genuine concern. Therefore, we resolutely oppose Mr Alan LEONG's amendment. Thank you, President.

SECRETARY FOR SECURITY (in Cantonese): President, I have listened to the views of all Members. I explained very clearly the Government's response to the judicial review on the ROA in Hong Kong of FDHs in both my opening statement and my reply to a Member's oral question yesterday morning. Now, I only wish to respond to one point raised by Mr Alan LEONG.

In his speech, Mr Alan LEONG said that the heated ROA issue is a farce created by the Government and the pro-establishment camp. I consider such an accusation totally unfounded. Mr Alan LEONG may want to divert people's attention so that they will point the finger at the Government.

President, given that the proceedings are still underway, it is not appropriate for the Government to discuss with the Legislative Council the litigation, including the legal viewpoint which may be involved, or any relevant information and strategies at the present stage. Furthermore, it is not appropriate for us to speculate on the Court's ruling on the interim relief and appeal lodged by the Government.

President, I so submit.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, you may move your amendment to the motion.

MR WONG KWOK-HING (in Cantonese): President, I move that Mr WONG Ting-kwong's motion be amended.

Mr WONG Kwok-hing moved the following amendment: (Translation)

"To delete "as the" after "That," and substitute with "although currently hundreds of thousands of foreign domestic helpers ('FDHs') are working in Hong Kong, FDHs"; to delete "by foreign domestic helpers ('FDHs)'"

after "the right of abode in Hong Kong" and substitute with "contravenes the legislative intent of the Basic Law, and"; and to delete ", thus giving rise to" after "far-reaching consequences" and substitute with "; in order to protect local employees' right to priority employment and reduce".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Kwok-hing to Mr WONG Ting-kwong'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 James TO rose to claim a division.

PRESIDENT (in Cantonese): Mr James TO 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:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che abstained.

Geographical Constituencies:

Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted for the amendment.

Mr LEUNG Kwok-hung and Mr WONG Yuk-man voted against the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG and Miss Tanya CHAN abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, 16 were in favour of the amendment and four abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, eight were in favour of the amendment, two 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.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Opposing foreign domestic helpers' enjoyment of the right of abode in Hong Kong" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been sung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU 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 "Opposing foreign domestic helpers' enjoyment of the right of abode in Hong Kong" 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 Alan LEONG, you may move your amendment.

MR ALAN LEONG (in Cantonese): President, I move that Mr WONG Ting-kwong's motion be amended.

Mr Alan LEONG moved the following amendment: (Translation)

"To delete "as the enjoyment of" after "That," and substitute with "under the rule of law, regarding whether foreign domestic helpers ('FDHs') should enjoy"; to delete "by foreign domestic helpers ('FDHs') will impose a heavy burden on Hong Kong's economy, employment market, education, healthcare, housing and welfare, etc., and have far-reaching consequences, thus giving rise to widespread public concern," after "the right of abode in Hong Kong" and substitute with "under the existing system, the community must respect and abide by the ruling of the Court;"; to delete "opposes FDHs' enjoyment of" after "this Council" and substitute with "considers that FDHs do not automatically enjoy"; and to add ", and urges the Government to expeditiously clarify the Immigration Department's criteria and mechanism for approving applications for the right of abode in Hong Kong by persons not of Chinese nationality, so as to allay widespread public concern" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Alan LEONG to Mr WONG Ting-kwong'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 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): I have seriously underestimated Members' enthusiasm in making speeches. The meeting has been running past midnight for almost an hour.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Mr IP Kwok-him, have you cast your vote?

(Mr IP Kwok-him pressed the button to vote)

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted against the amendment.

Mr CHEUNG Man-kwong, Ms LI Fung-ying, Dr Joseph LEE and Mr Paul CHAN abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Audrey EU, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN and Mr WONG Yuk-man voted for the amendment.

Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted against the amendment.

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr LEE Wing-tat, Mr KAM Nai-wai and Mr WONG Sing-chi abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, two were in favour of the amendment, 14 against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, eight were in favour of the amendment, nine against it and seven 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 James TO, you may move your amendment.

MR JAMES TO (in Cantonese): President, I move that Mr WONG Ting-kwong's motion be amended.

Mr James TO moved the following amendment: (Translation)

"To delete ", as the enjoyment" after "That" and substitute with "this Council urges various sectors to respect the rule of law and safeguard

people's right to litigation; and given that the enjoyment or otherwise"; to delete "will impose a heavy burden on" after "(FDHs)" and substitute with "involves Hong Kong's population and immigration policies, this Council considers that the SAR Government has the right to formulate relevant policies and planning on its own in response to social circumstances, so as to cater for the future needs of"; to delete ", and have far-reaching consequences, thus giving rise to widespread public concern," after "welfares, etc." and substitute with ";"; and to add ", and if necessary, the SAR Government should make a request to the Central Government for an amendment of the Basic Law, so as to resolve the controversy" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TO to Mr WONG Ting-kwong'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 James TO rose to claim a division.

PRESIDENT (in Cantonese): Mr James TO 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 CHEUNG Man-kwong, Ms LI Fung-ying, Dr Joseph LEE and Mr Paul CHAN voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU and Mr Paul TSE voted against the amendment.

Dr Margaret NG, Mr WONG Yung-kan, Mr WONG Ting-kwong, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Frederick FUNG, Mr LEE Wing-tat, Mr KAM Nai-wai and Mr WONG Sing-chi voted for the amendment.

Dr Priscilla LEUNG and Mr LEUNG Kwok-hung voted against the amendment.

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Mr TAM Yiu-chung, Ms Audrey EU, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr Alan LEONG and Miss Tanya CHAN abstained.

THE PRESIDENT, Mr Jasper TSANG, and Mr WONG Yuk-man did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, four were in favour of the amendment, eight against it and eight abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, eight were in favour of the amendment, two against it and 13 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 Paul TSE, you may move your amendment.

MR PAUL TSE (in Cantonese): President, I move that Mr WONG Ting-kwong's motion be amended.

Mr Paul TSE moved the following amendment: (Translation)

"To add "bring about significant changes to and" after "('FDHs') will"; to add "population structure," after "Hong Kong's"; to delete "opposes" after "this Council" and substitute with "urges that the Government should, apart from the economic and social burden perspectives, explore and formulate an ultimate and most effective solution from the perspective of the impact of"; and to add "on our country's population policy and structure and even sovereignty to avoid FDHs obtaining the right of abode in Hong Kong in contravention of the policy and legislative intent due to inadequacies in the existing legislation" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Paul TSE to Mr WONG Ting-kwong'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 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:

Ms LI Fung-ying, Mr Paul CHAN and Mr Paul TSE voted for the amendment.

Mr WONG Yung-kan, Mr WONG Ting-kwong, Mr IP Wai-ming and Mr IP Kwok-him voted against the amendment.

Dr Raymond HO, Dr Margaret NG, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Ms Miriam LAU, Mr Tommy CHEUNG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU, Mr CHAN Kin-por and Mr CHEUNG Kwok-che abstained.

Geographical Constituencies:

Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr LEUNG Kwok-hung and Mr WONG Yuk-man voted against the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr Alan LEONG and Miss Tanya CHAN abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, three were in favour of the amendment, four against it and 12 abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 10 were against the amendment 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 WONG Ting-kwong, you may now reply and you have seven minutes 38 seconds.

MR WONG TING-KWONG (in Cantonese): President, pulling a page from Secretary Ambrose LEE's book, I will try to be brief.

In today's debate, I am very surprised by some Members' speeches. Many Members of the Civic Party said they agreed that FDHs should be entitled to the ROA, subject to the "four hurdles". This is like a team of football players who refuse to enter the pitch, leaving the goalkeeper as the only player charged with directly preventing the opposing team from scoring. The goalkeeper helplessly intercepts as many shots as he can. The consequences must be dire.

Also, I am very surprised by Mr LEE Cheuk-yan's speech. As quite a number of Members who support that FDHs be entitled to the ROA said that the issue has led to a heated debate, then why did he say that it was a false issue and we were stirring up an unnecessary controversy? I am very surprised by his remark that we are stirring up an unnecessary controversy despite such a strong response from society. In my opinion, his remark that 1.3 billion Chinese

people will swarm into Hong Kong will exactly stir up an unnecessary controversy. *(Laughter)* President, I shall stop here. Thank you. *(Laughter)*

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr WONG Ting-kwong be passed.

PRESIDENT (in Cantonese): 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 James TO rose to claim a division.

PRESIDENT (in Cantonese): Mr James TO 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 Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted for the motion.

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che abstained.

Geographical Constituencies:

Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted for the motion.

Mr LEUNG Kwok-hung and Mr WONG Yuk-man voted against the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG and Miss Tanya CHAN abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, 16 were in favour of the motion and four abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, eight were in favour of the motion, two 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 motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): It is now 1 am in the morning. I now adjourn the Council until 11 am on Wednesday, 26 October 2011.

Adjourned accordingly at One o'clock on the morning of 20 October 2011.

