

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 3 February 2010

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

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

MEMBERS ABSENT:

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

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

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE HENRY TANG YING-YEN, G.B.M., G.B.S., J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE STEPHEN LAM SUI-LUNG, G.B.S., J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

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

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

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

THE HONOURABLE MRS CARRIE LAM CHENG YUET-NGOR, J.P.
SECRETARY FOR DEVELOPMENT

THE HONOURABLE MRS RITA LAU NG WAI-LAN, J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

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

MS FLORENCE HUI HIU-FAI, J.P.
UNDER SECRETARY FOR HOME AFFAIRS

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): I would like to say a few words on quorum now.

Article 75 of the Basic Law provides that "the quorum for the meeting of the Legislative Council of the Hong Kong Special Administrative Region shall be not less than one half of all its members".

Since the resignation of five Members of the Legislative Council last week, there has been widespread concern about the meaning of the expression "all of its members" ("全體議員" in the Chinese authentic text) in the above provision.

As the President of the Legislative Council, I must preside over meetings in accordance with the Basic Law and the Rules of Procedure (RoP) of the Legislative Council. The rule on quorum, as set out in Rule 17(1) of the RoP, reads "the quorum of the Council and of a committee of the whole Council shall be not less than one half of all its Members including the President or Chairman". This is a supplemented reproduction of the quorum provision in Article 75 of the Basic Law.

I notice that the expression "全體議員" appears in Articles 49, 52, 67, 73, 75 and 159 of, and Annex I and Annex II to the Basic Law. If I were to give a meaning of "全體議員" for the purpose of ascertaining the number of Members required to form a quorum, the interpretation I am giving to it in the context of Article 75 may be regarded as also applicable to other provisions in which the expression "全體議員" is referred to, giving rise to unforeseeable implications on the application of these provisions.

In view of the complexity of the issues involved, I have to exercise great prudence in dealing with the interpretation of the expression "全體議員".

Based on this premise, my decision is that the most appropriate course of action I should now take is to act in accordance with Rule 17 of the RoP and fix the number of members forming a quorum at 30, which is a number "not less than one half of all its Members" whether the expression "all its Members" should be taken to mean 60 or less than 60. The decision would therefore not be in contravention of the relevant provisions of the Basic Law.

This decision of mine shall not prejudice any future interpretation of the expression "all its Members" ("全體議員"). I note that the Committee on Rules of Procedure will discuss in detail the issue relating to the meaning of "all its Members" ("全體議員"). Unless any amendments should be made to the provisions of the RoP on quorum, I will continue to use 30 Members as the quorum for meetings of the Council.

TABLING OF PAPERS

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

- No. 65 — Report by the Controller, Government Flying Service on the Administration of the Government Flying Service Welfare Fund and the audited financial statements for the year ended 31 March 2009 together with the Director of Audit's report
- No. 66 — Report by the Commissioner of Correctional Services of Hong Kong Incorporated on the Administration of the Correctional Services Department Welfare Fund for the year ended 31 March 2009
- No. 67 — Report of the Public Accounts Committee on the Reports of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2009 and the Results of Value for Money Audits (Report No. 53)
(February 2010 — P.A.C. Report No. 53)

Report No. 4/09-10 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Occupational Deafness (Compensation) (Amendment) Bill 2009

ADDRESSES

PRESIDENT (in Cantonese): Address. Dr Philip WONG will address the Council on the Public Accounts Committee's Report No. 53.

**Report of the Public Accounts Committee on the Reports of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2009 and the Results of Value for Money Audits (Report No. 53)
(February 2010 — P.A.C. Report No. 53)**

DR PHILIP WONG (in Cantonese): President, on behalf of the Public Accounts Committee (PAC), I table the PAC Report No. 53.

This Report corresponds with the Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2009 (the Audit Report) and his Report No. 53 on the results of value for money audits (the Director of Audit's Report).

The PAC Report contains three main parts:

- (a) the PAC's assessment of the actions taken by the Administration in response to our recommendations made in the PAC's previous Reports Nos. 50, 51 and 51A;
- (b) the PAC's observations on the Audit Report; and
- (c) the conclusions reached by the PAC after its examination of the Director of Audit's Report.

On the Director of Audit's Report, the PAC has, as in previous years, selected for detailed examination those chapters which, in our view, contained more serious allegations of irregularities or shortcomings. The Report tabled today covers the PAC's deliberations and conclusions on three of the four chapters selected. The PAC will hold another public hearing on the subject of "Control of western medicines". Therefore, we have decided to defer a full report on this subject.

I now succinctly report the conclusions made by the PAC.

In examining the chapter on corporate governance and administrative issues relating to the Hong Kong Productivity Council (HKPC), the PAC is gravely dismayed and alarmed at the HKPC's manifest lack of a compliance culture and prudence expected of a publicly-funded organization in the use of public funds, as well as its lax and ineffective internal controls, whether with regard to relevant statutory requirements under the Hong Kong Productivity Council Ordinance, regulations and procedures in its own Standard Practices or relevant government guidelines.

The PAC considers that while the HKPC has to be flexible and proactive in achieving its objectives and delivering its services, the need for compliance with rules and regulations, internal controls and proper documentation should not be compromised for the sake of expediency.

The PAC expresses alarm and strong resentment and finds it unacceptable that the HKPC has failed to take effective measures to ensure the proper management of fixed assets and laboratory equipment, as highlighted by many instances identified in the Director of Audit's Report.

Regarding human resource management, the PAC expresses serious dismay at the various irregularities noted in the HKPC's recruitment, selection and appointment process and finds it unacceptable that in administering the performance-pay scheme, the HKPC has failed to comply with the relevant statutory requirements and government guidelines and act prudently in its detailed implementation.

As for non-accountable cash allowance and the Executive Director's remuneration package, the PAC notes that the HKPC management and the Innovation and Technology Commission failed to make full and frank disclosure when seeking exceptional approval for departure from the requirements of the Standard Practices and when seeking approval for important personnel matters. The withholding of relevant information was likely to have misled the approving authorities in making their decisions. The PAC finds such a situation appalling and totally unacceptable.

Another chapter examined by the PAC is the "Office of the Privacy Commissioner for Personal Data" (PCPD). The PAC notes that whilst the

amounts of money involved in individual cases identified by the Audit Commission may not be very large, the inadequacies identified by the latter have revealed that the PCPD has not shown a standard of corporate governance and a corporate culture of prudent use of public funds expected of a publicly-funded organization.

As far as corporate governance is concerned, the PAC finds it unacceptable that the PCPD, as a publicly-funded organization, has not adequately emphasized the importance of institutionalizing an effective and formal corporate governance structure and system.

Regarding complaint management, the PAC notes the requirement under the Personal Data (Privacy) Ordinance that where the Privacy Commissioner for Personal Data refuses to carry out or continue an investigation, he shall serve a refusal notice on the complainant as soon as practicable but, in any case, not later than 45 days after receiving the complaint. However, in reality, such a requirement was not met in many cases. Despite being alerted as early as in 1998 to the difficulties caused by implementing the 45-day requirement, the Administration (particularly the Home Affairs Bureau which was responsible at the time) has allowed the problem of non-compliance on the part of the PCPD to persist for over a decade. Such non-compliance with the law could have undermined the credibility of the PCPD as a law-enforcement agency and indirectly that of the Administration. Besides, both the number and ages of outstanding cases aged beyond 180 days have increased since 2004. The PAC is dismayed at and seriously concerned about the various irregularities.

Furthermore, the PAC expresses dissatisfaction and finds it unacceptable that the procurement of an office car in the year 2003-2004 by the then Privacy Commissioner for Personal Data was in clear breach of the relevant requirements of the Memorandum of Administrative Arrangements.

Regarding the "Administration of the Sports Subvention Scheme" (SSS), the PAC considers the various problems identified by the Director of Audit in this chapter mainly attributable to there being inadequate correlation between the determination of the amounts of subvention to the National Sports Associations (NSAs) under the SSS and the NSAs' performance.

The PAC considers that the SSS should not be administered in such a way as to create an expectation on the part of a NSA that once subvention has been

granted to it, it will continue to receive subvention in the following year upon application irrespective of its performance.

The PAC is also concerned about the fact that the Leisure and Cultural Services Department (LCSD) has largely inherited the practices of the former Hong Kong Sports Development Board (HKSDB) in administering the SSS without critically reviewing whether and how the system has been able to achieve its objectives in promoting sports development in Hong Kong since it took over the responsibility for managing the grant of subvention to the NSAs from the HKSDB in April 2004. The LCSD has also been ineffective in monitoring the performance of the NSAs and has not actively reviewed how the effectiveness of its monitoring work can be improved.

President, the PAC notes that in recent years, the Director of Audit's Reports have revealed many common failings in publicly-funded non-governmental organizations, including their failure to comply with relevant statutory requirements, breach of their own rules and procedures and lax internal controls. All these have reflected that there is a lack of a corporate culture of compliance and prudence in the use of public funds, as well as inadequate emphasis on documentation in these organizations. Such phenomena also exist in the HKPC and the PCPD I have just mentioned.

I expect other publicly-funded non-governmental organizations, though not examined by the Director of Audit, to carefully study the reports of the PAC, from which they can draw experience to review their own situation and identify early the room for improvements, so as to develop a corporate culture of compliance and prudent use of public funds and establish an effective internal control mechanism and a comprehensive documentation system.

I would also like to take this opportunity to remind the heads of audited organizations that it has been agreed between the PAC and the Administration that during the period between the tabling of any Director of Audit's Report in this Council and public hearings, any public debate on the issues to be investigated by the PAC should be avoided by both sides. This will ensure that the PAC can carry out its work smoothly and in a fair manner. In fact, when the organizations concerned fail to abide by this agreement and make an early defence openly with regard to the contents of a Director of Audit's Report, such actions would likely arouse concern among the media and the public and their

concern is exactly one of the key factors that will be considered by the PAC in deciding which chapters should be selected as the subjects for public hearings.

In addition, I would like to point out that very often, witnesses claim at the public hearings of the PAC that some tasks could not be done properly due to inadequate resources. Nevertheless, the primary task of the PAC is to examine whether or not, with limited resources, government departments and publicly-funded organizations have done their work properly by optimizing the use of public money.

President, lastly, I wish to register my appreciation of the contributions made by members of the PAC and their active participation. Our gratitude also goes to the representatives of the Administration and other organizations who attended the hearings held by the PAC. We would also like to express our gratitude to the Director of Audit and his colleagues, as well as the staff of the Legislative Council Secretariat, for their unfailing support.

I so submit.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Equal Opportunities Commission

1. **MR FRED LI** (in Cantonese): *The Government announced on 13 January this year that the Chief Executive had accepted the recommendation of the Selection Board and appointed Mr LAM Woon-kwong, the former Director of Chief Executive's Office, as the Chairperson of the Equal Opportunities Commission (EOC) for a term of three years. Moreover, in August last year, the Committee on the Elimination of Racial Discrimination of the United Nations (the Committee) considered the report of the Hong Kong Special Administrative Region (SAR) in accordance with the International Convention on the Elimination of all Forms of Racial Discrimination, and recommended in its concluding observations that the SAR should adopt "an equality plan with a view to ensuring the effective implementation of the law and that the Equal Opportunities Commission be strengthened". In this connection, will the executive authorities inform this Council:*

- (a) *given that many civic society organizations consider that the Chairperson of EOC must have commitment, in-depth knowledge and ample experience in promoting equal opportunities, whether the authorities have assessed if Mr LAM has met these requirements; if the assessment result is in the affirmative, of the track record of Mr LAM's actual work experience in this regard; and whether the authorities have considered if he can co-operate effectively with the civic society which promotes equal opportunities;*
- (b) *whether they have assessed if the appointment of a former politically appointed principal official under the accountability system as the Chairperson of EOC will affect the image of EOC, which should be independent, fair and impartial, and if it will cause the public to lose confidence that EOC can handle complaints against the authorities concerned in a proactive and impartial manner; and*
- (c) *how the authorities interpret the Committee's recommendation that SAR should adopt "an equality plan with a view to ensuring the effective implementation of the law and that the Equal Opportunities Commission be strengthened", and what new measures they will take to respond to this recommendation?*

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

- (a) The new EOC Chairperson was recruited through an open recruitment exercise, after the Selection Board had considered all candidates carefully in accordance with various objective criteria and made a recommendation to the Chief Executive on the suitable candidate. The relevant criteria include relevant administration and management experience, commitment to equal opportunities, vision, integrity, leadership qualities, personality, track record in public and community service, and communication skills.

Mr LAM Woon-kwong has rich experience in public administration. He possesses excellent leadership, management and communication skills and has a clear vision. Mr LAM had been the Secretary for Home Affairs. He is familiar with the work of the EOC and shows strong commitment to the relevant work. In the various positions in which Mr LAM had worked, he had to communicate and co-operate

with different quarters of the community. Having considered all candidates in accordance with various objective criteria, the Selection Board considered Mr LAM to be the suitable candidate.

We believe that Mr LAM will bring with him a strong commitment to the EOC's work, and will lead the EOC to work with all sectors and strive to promote equal opportunities and eliminate discrimination in the community.

- (b) Mr LAM has been appointed as the Chairperson of the EOC because he is the suitable candidate. Even though he had been a politically appointed official previously, this does not affect the assessment of his suitability. We would like to emphasize that the Government attaches considerable importance to the independence of the EOC. There are established mechanisms and arrangements, including relevant legal provisions and the Memorandum for Administrative Arrangements, to ensure that the EOC is independent from the Government. We believe that Mr LAM will lead the EOC to carry out its statutory functions in an impartial manner.
- (c) In the Concluding Observations made by the Committee on the Elimination of Racial Discrimination of the United Nations in August last year in relation to the report of the SAR under the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee recommended, among others, "the adoption of an equality plan with a view to ensuring the effective implementation of the law and that the Equal Opportunities Commission be strengthened". We would like to emphasize that the Government is prohibited from practising racially discriminatory acts in the exercise of its functions under the Basic Law and the Hong Kong Bill of Rights Ordinance. The Race Discrimination Ordinance (RDO) also binds the Government in all the areas that it specified, such as employment, education and provision of services. Hong Kong has an extensive framework to deal with complaints against government departments. Any racially discriminatory act of the Government is also subject to the supervisory jurisdiction of the Judiciary. In addition, we are putting in place a set of Administrative Guidelines on Promotion of Racial Equality to provide guidance to concerned bureaux, departments and public authorities to promote racial equality and ensure equal access to

public services in key areas concerned. We are collecting the views of relevant organizations with a view to implementing the Guidelines and the checklist of measures as soon as possible.

As regards the EOC, we have provided extra resources to it for the implementation of the RDO. These include a special subvention of \$7 million for making preparatory arrangements such as conducting public education, publicity and promotion, and an additional subvention of \$5 million in the 2009-2010 financial year for recruiting additional staff and organizing community activities to implement the RDO and promote racial equality. We will continue to provide sufficient resources to the EOC to carry out its duties as necessary.

MR FRED LI (in Cantonese): *President, I wonder if the Secretary has forgotten that scandals involving the EOC have broken one after another, which seriously undermined its credibility. At present, the Government's Selection Board only comprises incumbent and former Executive Council Members and a few Bureau Directors, and it sees no involvement of any EOC members, non-governmental organizations (NGOs) or even the Legislative Council, and now a former senior government official is appointed. Can the Government explain how the Chairperson so appointed can command the trust and co-operation of the civil society and NGOs — as the EOC needs to co-operate fully with NGOs and establish its credibility?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, Mr Fred LI's question covers two areas and the first one is about the recruitment procedure. Actually, since the appointment of Prof Fanny CHEUNG as the first EOC Chairperson, the Government has not carried out any open recruitment exercise, and the former chairpersons were directly appointed by the Government. The current open recruitment exercise for appointment to the office of Chairperson is transparent and open. Secondly, the three non-official EOC members, namely Dr LEUNG, Prof Anthony CHEUNG and Mr Bernard CHAN, have rich experience in the work of social service agencies serving the public in various respects, and we have entirely based on the objective criteria published in the advertisement in assessing the suitability of various candidates and applicants.

Moreover, when we recommended the appointment, we had taken into account the fact that Mr LAM Woon-kwong had extensive contacts with people from various sectors in the civil society when he held different positions in the past. We believe that, after he has become the Chairperson of the EOC, he will continue to work hard to maintain liaison with NGOs and the relevant organizations and do well at the job.

MRS SOPHIE LEUNG (in Cantonese): *I am pleased to find that, at least, a person with rich experience in administration and is willing to make commitments has now been appointed to such an important position. My supplementary question is: As the Government adopts the same appointment system for all members of the EOC, what will it do in respect of the appointment of EOC members in the future to enable this EOC Chairperson with rich experience in administration to perform his duties with high proficiency and secure better co-operation within the EOC? Of course, EOC members may have different opinions or international outlooks, but they should also seek common ground while reserving differences with a view to establishing a more impartial and credible EOC for Hong Kong.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, we will take a number of factors into consideration before we make recommendations to the Chief Executive on the appointment of ECO members. First, we hope that EOC members can reflect the work experience of various sectors in the community. Since the scope of work of the ECO is associated with a few ordinances and it needs to serve many different groups, the experience and background of EOC members must be extensive, which is a very important point. Second, as all of us have recently seen, when we appoint members in each term, we will consider if there are suitable candidates among Legislative Council Members. Third, we strongly emphasize that EOC members who accepted the appointment are committed to community service. So, regardless of the composition of the EOC at present, in the past or in the future, we believe its members must have backgrounds of depth. We are also confident that its members would be able to put in concerted efforts to co-operate with the newly appointed Chairperson, serve the public and act according to the law.

MS CYD HO (in Cantonese): *When an unsuitable candidate appointed by the Government becomes a laughing stalk, an organization which originally was of high credibility and trusted by the public would lose all of its credibility. President, it is mentioned in part (c) of the main reply that the Government is putting in place administrative measures for the implementation of an equality plan. Nevertheless, these administrative guidelines and measures are formulated in an executive-led manner, and many NGOs consider these guidelines and measures inadequate. President, may I ask the Secretary what is the role played by the newly appointed EOC Chairperson in monitoring the Government's implementation of these administrative guidelines and the equality plan? Can he merely seek verification impartially? Or, can he fully represent the disadvantaged and reflect their needs and views? Will the views expressed by them be accepted by the authorities?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the Government, the EOC and the EOC Chairperson all act according to the law. Members may see that the RDO covers a new policy area and in accordance with this Ordinance we must ensure the provision of suitable services to the ethnic minorities in our society and their protection under the law. Hence, if any cases are referred to the EOC for handling, the Government will certainly respect the follow-up actions taken and decisions made by the EOC.

PRESIDENT (in Cantonese): Ms HO, which part of your supplementary question has not been answered?

MS CYD HO (in Cantonese): *In fact, I asked the Secretary what role is played by the newly appointed Chairperson of the EOC in respect of the formulation of administrative guidelines for the implementation of the equality plan. Will he act within this framework or fully reflect the views of the disadvantaged? Will the views expressed by him be accepted by the Government?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, in the course of formulating the administrative guidelines, besides attending Legislative Council meetings to listen to Members' views, we

have also consulted the EOC. In the future, apart from the RDO, various Policy Bureaux and departments will very actively provide further services to the ethnic minorities above and beyond the scope of the provisions of this Ordinance, including education, employees' vocational training and employment. If individual members of ethnic minorities have any views on our administrative guidelines, the Government will listen. And if there are any views about the EOC, I believe the EOC will, in the light of these views, realistically reflect them to the authorities.

MS EMILY LAU (in Cantonese): *President, according to the Secretary, the EOC Chairperson is appointed through an open recruitment exercise for the first time in view of the many blunders in the past. President, a very miserable thing in Hong Kong is that the relevant term of office is not specified. On the one hand, it is stated that the term of office is five years, and on the other, the Chairperson leaves office a year or so later. For this reason, an open recruitment exercise is carried out this time.*

The Secretary has not told us how many applicants there were. It seems that there were more than 40 applicants, and 40-odd additional applicants were later invited. As a result, there were a total of 90 to 100 applicants. Yet, a retired senior official was selected after a meticulous process. What does that mean? Is it because nobody else in Hong Kong has a good understanding of anti-discrimination issues and equal opportunities that it is necessary for a retired senior official without the relevant experience to take up the position? Has this exposed that talents are unwilling to work for the Government? Or, does the Government only trust retired senior officials after all?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the appointment process is very much objective. The relevant criteria include relevant administration and management experience, commitment to equal opportunities, vision, leadership qualities and integrity. The same criteria apply to all candidates and applicants who participated in the interviews equally. Hence, we have decided to recommend the appointment of Mr LAM Woon-kwong entirely on the basis of this set of objective criteria on this occasion.

MS EMILY LAU (in Cantonese): *President, I am asking if all of the 7 million Hong Kong people lack the relevant experience so that a retired senior official has to be appointed. In that case, do we have too few talents? Or does the SAR Government not trust other people? Or, are talents unwilling to work for the Government?*

PRESIDENT (in Cantonese): Ms Emily LAU, this is not a real question; in my opinion

MS EMILY LAU (in Cantonese): *President, what is a real question? When have you told us about that?*

PRESIDENT (in Cantonese): You have just asked a rhetorical question rather than a real question. Please repeat the part of your question that you think the Secretary has not answered.

MS EMILY LAU (in Cantonese): *Firstly, he has not told us if 100 people have actually applied, that is, if he has got the relevant information*

PRESIDENT (in Cantonese): What is your follow-up question?

MS EMILY LAU (in Cantonese): *The reason for the authorities having meticulously selected a retired senior official as the Chairperson is he will influence the independence of the EOC. Actually, the authorities should only have selected him when there are no other alternatives. Are there no other applicants in Hong Kong with rich experience in this area? Or, do the authorities not trust people who have the ability to think on their own such that a retired senior official should be appointed to the position? President, this is a very explicit and substantive question.*

PRESIDENT (in Cantonese): The Secretary has already stated in his reply the criteria adopted for selecting the suitable candidate. Let me see if the Secretary has anything to add.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I would like to add some remarks about two aspects. First, during the appointment process, we really received 44 applications and the headhunters invited 47 candidates to join our selection exercise. We decided to interview more than 10 applicants after we had carefully considered the employment history and experience of these 90-odd applicants.

Second, I can give Ms Emily LAU a categorical answer, that is, Hong Kong certainly has a lot of talents, but we recommended that Mr LAM Woon-kwong be appointed after we had assessed if Mr LAM met the objective criteria through an open recruitment exercise. All Selection Board members unanimously agreed that the assessment was objective and that a recommendation could be jointly made to the Chief Executive.

MRS REGINA IP (in Cantonese): *President, I believe Secretary Stephen LAM will also agree that the disadvantaged groups including women and ethnic minorities badly need the assistance of the EOC. However, President, I know you may not agree that women are necessarily disadvantaged. Also, as Secretary Stephen LAM has mentioned, the EOC has two former Chairpersons who are female, including Prof Fanny CHEUNG and Ms Anna WU; yet, they have high academic qualifications and incomes.*

May I ask the Secretary how many EOC members are really disadvantaged, that is, women and ethnic minorities with lower academic qualifications and incomes? In appointing members of the public to the EOC or employing staff in the future, will it consider appointing more women or ethnic minorities who really need help and understand the needs of the disadvantaged groups?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I certainly do not agree that women belong to a minority

group that needs protection. Please look at Ms Emily LAU who just asked a supplementary question and Mrs Regina IP who raised a question after her; they have a lot of strong points among our 60 Members.

Regarding former EOC Chairpersons, apart from the two Chairpersons just mentioned by Mrs Regina IP, Mrs Patricia CHU has also held the post for a year or so. In appointing EOC members, we will make our best efforts to follow the Government's guidelines and strive to ensure that the EOC will have one fourth of its members being women. As to staff employment by the EOC, actually, only the appointment to the highest position of the Chairperson is arranged by the Government, and the employment of other staff is carried out by the EOC on its own. I believe the Government and the EOC will make impartial consideration insofar as staff employment is concerned. Assessments will be made of male and female applicants in accordance with objective criteria.

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

MRS REGINA IP (in Cantonese): *President, the Secretary has not answered the part about ethnic minorities.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add in respect of ethnic minorities?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, there are ethnic minority members in the EOC and the EOC has a task group to address and protect ethnic minority interests; they have also considered including ethnic minorities members.

PRESIDENT (in Cantonese): We have spent nearly 22 minutes on this question. Second question.

Removal of Visitors Without Valid Travel Documents

2. **MR JAMES TO** (in Cantonese): *President, according to recent media reports, Mr ZHOU Yongjun, a leader of the June 4th democracy movement, was arrested and detained by the Hong Kong Police Force upon arrival in Hong Kong from the United States via Macao in September 2008. He was then removed by the authorities to the Mainland where he was detained. Recently, he was convicted by a Mainland court of the offence of "financial fraud" and was sentenced to nine years' imprisonment. The reports cited the Government's response that visitors who did not possess valid travel documents and were refused entry would usually be repatriated to their places of origin and, before removal, the person concerned had the right to indicate the destination to which he wished to be removed or to lodge an appeal against the removal. In this connection, will the Government inform this Council:*

- (a) of the police's reasons for arresting and detaining Mr ZHOU Yongjun;*
- (b) of the Government's justifications and legal basis for removing Mr ZHOU Yongjun to the Mainland; before removing Mr ZHOU Yongjun, whether the authorities had allowed him to indicate the destination to which he wished to be removed, or to lodge an appeal against his removal; and*
- (c) whether Mr ZHOU Yongjun was removed to the Mainland at the request of the Mainland authorities; whether, in deciding to remove Mr ZHOU Yongjun to the Mainland, the authorities had considered that he might be subject to political prosecution because of his capacity as a leader of the June 4th democracy movement?*

SECRETARY FOR SECURITY (in Cantonese): President, in connection with the case in question mentioned by the Member of the Legislative Council, the Government of the Hong Kong Special Administrative Region (HKSAR) had, on various occasions, explained in detail the immigration control policy of the Immigration Department (ImmD) and the general repatriation arrangements. For details, please refer to my remarks during the Legislative Council's Motion of Thanks debate on the policy address 2009 last October and the topical discussions at the Panel on Security meeting held on 3 November.

Whereas I believe that the Member who raised the question is well aware of our stance, I shall reiterate that the HKSAR Government will not comment on individual cases nor disclose any personal data relating to the case in question. Without prejudice to this principle, I can only address the three parts of the question in policy context and explain the general arrangements:

- (a) The Hong Kong Police Force will only arrest and detain a person for the purpose of crime prevention or investigation, and on the basis of the powers conferred by the relevant laws.
- (b) The ImmD has the responsibility to uphold effective immigration control. The Department makes landing refusal decisions or repatriation arrangements in accordance with the laws of Hong Kong, prevailing policy and established procedures, and all information of the case available at the material time. In general, passengers who cannot produce authentic and valid travel documents will be refused permission to land. The ImmD will act in accordance with the Immigration Ordinance to verify and repatriate the persons to their places of origin. Before effecting repatriations, immigration officers will clearly inform the persons who have been refused landing the places they will be repatriated. The persons concerned can make requests regarding the destinations or lodge appeals against the repatriations.
- (c) The HKSAR Government abides by the rule of law and the "one country, two systems" principle. Law-enforcement agencies will not effect repatriations without legal basis arbitrarily and in contravention of the prevailing immigration policy and control measures. As pointed out in part (b) of the reply, the ImmD will, based on the circumstances of the cases and whether the persons concerned have made any requests, make the landing refusal decisions and arrange repatriations independently. There is no question of interventions from other authorities or political considerations. President, allow me to stress once again that during the courses of making the repatriation decisions and arrangements, the ImmD will clearly inform the persons who have been refused landing the places they will be repatriated. The persons concerned can object to the arrangements, make requests regarding the destinations or even lodge appeals.

MR JAMES TO (in Cantonese): *President, on the basis of the law, I would like to discuss with the Secretary the legality of the repatriation. President, if a person uses a forged document to seek entry, the identity shown on his document is obviously not genuine. According to the laws of Hong Kong, the Government should find out his genuine identity and make the repatriation decision in accordance with his genuine identity. This is the law. If his genuine identity is ZHOU Yongjun, should he be repatriated to the Mainland as ZHOU Yongjun? Had the Government acted in contravention of the normal procedures if it was not aware of the genuine identity of that person, who has now been confirmed to be ZHOU Yongjun, and had him repatriated?*

President, could it be the case that the Government was clearly aware that he was ZHOU Yongjun, but had chosen to collude with Mainland officials and repatriated ZHOU Yongjun to the Mainland under another identity? As far as we know, if a person uses a forged document to seek entry, we must not trust his claimed identity. Instead, we must find out his identity on our own and base our decision not purely on the claim made. On this basis, have the authorities found out the genuine identity of this person, who was later found to be ZHOU Yongjun, before making the decision to repatriate him under the law?

PRESIDENT (in Cantonese): Mr James TO, you have altogether raised several questions just now. Would you please repeat your supplementary question clearly and concisely.

MR JAMES TO (in Cantonese): *President, what I mean is to find out the genuine identity of the person concerned is the Government's legal basis and obligation.*

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

MR JAMES TO (in Cantonese): *My supplementary question is whether or not the Government was aware that he was ZHOU Yongjun. If the answer is in the affirmative, was the person repatriated as ZHOU Yongjun? If the answer is in the negative, was the Government in dereliction of its duty?*

SECRETARY FOR SECURITY (in Cantonese): President, the ImmD will cross-examine a person using a forged document in the hope of ascertaining his identity to facilitate repatriation. However, as Members are aware, such persons will usually refuse to co-operate, for example, refusing to respond to questions concerning their identities, in the hope of concealing their genuine identities. Under such circumstances, immigration officers will exercise their professional judgment, based on the relevant information declared by the visitor, search his luggage, or even based on his appearance, language or other relevant information, verify the place from where he came and the place or country to which he can be repatriated. Sometimes, people using forged documents were reluctant to reveal their genuine identities, but still we were able to find out their places of origin. Under such circumstances, we would send them back to the places we believed he would be accepted. However, this does not mean that immigration officers are in dereliction of their duty should they fail to find out their genuine identities. I do not agree with such an accusation.

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

MR JAMES TO (in Cantonese): *President, he has not answered whether the person could still be repatriated even if his genuine identity had not been found out. Could the authorities repatriate the person concerned purely by virtue of the knowledge of his place of domicile? Could the authorities repatriate the person concerned even though his genuine identity was not ascertained?*

SECRETARY FOR SECURITY (in Cantonese): President, sometimes, a visitor might not be willing to reveal his genuine identity, but we could still find out where he came from. We would also conduct investigations to ascertain to what place he could be repatriated.

MR CHEUNG MAN-KWONG (in Cantonese): *President, the Government's reply implies that in the course of repatriation, ZHOU Yongjun was repatriated to the Mainland according to the law because he had not objected to the*

arrangement, lodged an appeal or made a request regarding the destination. However, it has now been proven that ZHOU Yongjun was repatriated to the Mainland under a wrong name and sent to a court in Sichuan for a suspected offence committed in Hong Kong and sentenced to nine years' imprisonment. In retrospect, does the Government agree that the repatriation was wrong and, as a result, ZHOU Yongjun was convicted and imprisoned wrongly in a wrong place? Will the Government rectify this mistake by requesting the Central Government to send ZHOU Yongjun back to Hong Kong for a new trial conducted in accordance with the law?

SECRETARY FOR SECURITY (in Cantonese): President, I have already said that I will not disclose the details of individual cases. However, as pointed out by me just now, the ImmD has all along been processing cases concerning the use of forged documents to seek entry into Hong Kong in accordance with the laws of Hong Kong and established procedures. We absolutely disagree with Mr CHEUNG Man-kwong that we have made a serious mistake in handling this incident.

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

MR CHEUNG MAN-KWONG (in Cantonese): *President, he has not answered whether he will request the Central Government to send ZHOU Yongjun back to Hong Kong for a trial conducted in accordance with the laws of Hong Kong if the name itself was wrong — this is a fact — and had resulted in a series of mistakes, including the repatriation, judgment and imprisonment. This is my supplementary question. Will he request the Central Government to do so?*

PRESIDENT (in Cantonese): As the Secretary has already indicated that he will not discuss the details of individual cases, your supplementary question is thus premised on a hypothetical basis. Let me see if the Secretary has anything to add.

SECRETARY FOR SECURITY (in Cantonese): President, as I mentioned just now, we abided by the law and acted in accordance with the prevailing policy and established procedures in handling the entire incident. As regards an incident handled by another jurisdiction, I am not in a position to comment on it here.

MR PAUL CHAN (in Cantonese): *President, my supplementary question concerns part (b) of the main reply. The Secretary said that "the ImmD will act in accordance with the Immigration Ordinance to verify and repatriate the persons to their places of origin." My question is: If a Mainland resident is in possession of a foreign passport or foreign right of abode, where will he be repatriated if the ImmD decides to have him repatriated?*

SECRETARY FOR SECURITY (in Cantonese): If a Mainland resident has already migrated to a foreign country and holds a foreign travel document, we will usually repatriate him to the place where his travel document was issued according to the travel document in his possession — of course, the document must be lawful. And before the repatriation, we will inform him of our intention to repatriate him to that place. He has the right to make a request to us or even lodge an appeal.

PRESIDENT (in Cantonese): Is your supplementary question not yet answered?

MR PAUL CHAN (in Cantonese): *So, under what circumstances is repatriation not*

PRESIDENT (in Cantonese): You can only repeat the part of your supplementary question you think the Secretary has not answered.

MR PAUL CHAN (in Cantonese): *He has already answered it.*

MR ALBERT HO (in Cantonese): *First of all, President, I declare that I am a voluntary legal representative of ZHOU Yongjun.*

My supplementary question is: For the time being, I will not comment on whether the authorities concerned had reasonable grounds to suspect or believe that ZHOU Yongjun should be repatriated to the Mainland. However, according to the record, we can see that the Mainland law-enforcement agency and even the Hong Kong Government were aware that the person concerned was ZHOU Yongjun and that he was suspected of committing certain criminal offences within Hong Kong's territory, and as a result, he faced prosecution, stood trial and was given a sentence on the Mainland. During the period, the Hong Kong Government would definitely be informed (this is my belief, not a hypothesis), and might even provide further information to assist in law enforcement.

Insofar as this case concerning ZHOU Yongjun or similar cases are concerned, the Hong Kong Government was aware that the person being repatriated had assumed the identity of another person and that he was originally residing somewhere else rather than that place. Not only was he not entering Hong Kong from the Mainland, he also had no intention to enter the Mainland. The Mainland was simply not his place of domicile. Hence, the authorities should have reasons to believe that a wrong repatriation was involved and that he would stand trial for a criminal offence occurred in Hong Kong territory. Under such circumstances, why did the Government or should it if the Secretary said he had not done so, what were the reasons? Why did the authorities not take action to request that the suspect — the person concerned in this case is ZHOU Yongjun — be repatriated back to Hong Kong to stand trial so that we can exercise our criminal jurisdiction rather than providing assistance to make him stand trial on the Mainland for an offence suspected to have occurred in Hong Kong territory?

SECRETARY FOR SECURITY (in Cantonese): President, I reiterate again that we will not comment on individual cases. However, I must refute here in response to an accusation made by Mr Albert HO just now, which is not consistent with the fact. He asked us why we still repatriated ZHOU Yongjun to the Mainland when we were already aware of his genuine identity in handling the case. This accusation is completely inconsistent with the fact.

Just now, Mr Albert HO also mentioned that he was the Hong Kong representative of the subject of the case. As Mr HO has taken the initiative in raising this question, I will say something about this if he has no objection. He has indeed written to the Security Bureau and the ImmD for provision of detailed information on the refusal of entry and repatriation in the relevant case. As personal privacy was involved, the ImmD, after consulting legal advice, received the authorization letter provided by Mr HO's law firm in December and made a reply in mid-December to provide the law firm with the information requested. There is a lot of information which I will not disclose here. However, as Mr HO was the lawyer of the subject concerned, we had indeed provided Mr HO with the relevant information. I do not understand why Mr HO would still make the accusation.

Let me repeat once again that, in the entire incident, the case was processed by the ImmD in accordance with the law, established procedures, and our long-standing repatriation policy and procedures. As regards the judicial proceedings to be faced by the person in another jurisdiction after repatriation, this is not what the HKSAR can handle and intervene. Therefore, we cannot, as suggested by Mr HO, make a request for ZHOU Yongjun to be sent back to Hong Kong.

PRESIDENT (in Cantonese): Is your supplementary question not yet answered?

MR ALBERT HO (in Cantonese): *He has not answered my supplementary question. My supplementary question is: When the Secretary found out afterwards that the person had been wrongly repatriated because of his mistaken identity — I presume the Secretary found this out only afterwards — is there any policy for the authorities concerned to request the Mainland to send that person back to Hong Kong because he was repatriated wrongly, especially when the Secretary knew that he was going to stand trial? I only wish to ask this question. As regards the Secretary's comment that all the information had been provided to me, I would like to add that a lot of information has still not reached me. We have sent a second letter requesting the information and have not yet received a reply so far.*

SECRETARY FOR SECURITY (in Cantonese): President, as I said earlier, the repatriation is absolutely lawful and reasonable. I do not think we made a wrong decision.

PRESIDENT (in Cantonese): Mr James TO, this is your second supplementary question.

MR JAMES TO (in Cantonese): *President, the Government's denial of the fact that it removed that person even though it knew that he was ZHOU Yongjun meant that the Government was in dereliction of its duty because it did not know that he was ZHOU Yongjun, but actually we knew that he was ZHOU Yongjun. What are the reasons for removing that person in such haste without ascertaining his genuine identity? According to the usual procedures, a person found to be using a forged document will be prosecuted. So, why was that person removed in such a hurry? Should the authorities' failure to ascertain his identity be regarded as an act of dereliction of duty? The Government cannot possibly deny the fact that it was in dereliction of duty because the person concerned was indeed ZHOU Yongjun, and yet the Government was unable to find out that he was ZHOU Yongjun*

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

SECRETARY FOR SECURITY (in Cantonese): President, Mr James TO has repeated his accusation that the ImmD was in dereliction of duty because of its failure to ascertain the genuine identity of the person concerned. Just now, I repeatedly many times that very often, people using forged documents would not put their original identity papers in their luggage in order to conceal their true identities — because they were reluctant to expose their true identities or even wished to conceal them. As a result, we were unable to find out their identity papers. Under such circumstances, the ImmD could hardly keep them at the airport and remove them after a one-month or two-month investigation because we did not wish to see them turned into "human balls". This explains why the ImmD attempted to find out the place of origin of the person concerned, even though his genuine identity had not yet been ascertained, to make sure that the place would accept him should he be repatriated. Under such circumstances, immigration officers would make use of their expertise to dig out such

information as his place of birth from him during the examination and then liaise with the place concerned to ascertain if it was his place of origin and if he would be accepted there. We would then remove him upon gathering the evidence.

As regards Mr James TO's question about why the person concerned was not prosecuted, any person who is in possession or using false or unlawfully obtained travel documents commits an offence. The ImmD will investigate and collect evidence, and prosecution will be instituted only when ample evidence is collected. Otherwise, the ImmD will remove the person concerned from Hong Kong expeditiously in accordance with the established policy.

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

MR JAMES TO (in Cantonese): *The Secretary has not answered these questions: Was the person concerned removed in a hurry? Did the authorities only care about removing the person in a hurry without carrying out an investigation or caring about ascertaining his identity as the authorities simply knew that his identity belonged to someone else?*

SECRETARY FOR SECURITY (in Cantonese): President, whether or not the removal was conducted in a hurry is a matter of personal opinion. I disagree that we have to wait for a couple of months to ensure that the removal was not conducted in a hurry. This case was dealt with by the ImmD according to its established policy.

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

Sale of Counterfeit Goods

3. **MR VINCENT FANG** (in Cantonese): *President, I have separately received requests for assistance from manufacturers, importers, wholesalers and retailers of various goods, who pointed out that the types and numbers of*

counterfeit goods sold on the market are on the increase. In this connection, will the Government inform this Council:

- (a) of the number of cases of counterfeit goods being seized by the Customs and Excise Department in the past three years, the types of counterfeited goods seized, the number of persons convicted, and the maximum penalty imposed on them;*
- (b) whether there are, apart from the Customs and Excise Department, other government departments which are responsible for investigating if the goods sold on the market are "No Fakes"; if so, of the circumstances under which such government departments will take enforcement actions; and*
- (c) whether the Government will step up measures to ensure that the goods sold on the market are "No Fakes"; whether the Government has any plan to commit more resources to enhance publicity that the goods sold in Hong Kong are genuine, so as to safeguard Hong Kong's reputation as a "Shoppers' Paradise"?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, the Government is committed to protecting brands, in the interest of safeguarding the rights of consumers and trade mark owners. We have adopted a multi-pronged approach in endeavouring to ensure that goods sold in the market are not fake, including law enforcement, publicity and public education, and co-operation with the trade mark owners.

Under the Trade Descriptions Ordinance, any person who imports, exports, sells or manufactures goods bearing forged trade marks commits an offence. The maximum penalty is a fine of HK\$500,000 and imprisonment for five years.

The Customs and Excise Department (C&ED) takes rigorous action against the sale, distribution, storage, manufacture, import and export of counterfeit goods. In discharging its enforcement responsibilities, the C&ED proactively patrols known black spots where counterfeit goods are sold, apart from acting on reports made by trade mark owners and the public.

In respect of publicity and public education, the Intellectual Property Department (IPD) spends about \$8 million annually on various publicity and public education activities to promote public awareness of and respect for intellectual property rights. The IPD collaborated with a number of retailer associations to launch the "No Fakes Pledge" Scheme in 1998, advocating honest and proper business practice including a pledge not to sell counterfeit goods. Different channels have been used to publicize the Scheme among tourists and consumers. The Consumer Council (CC) has also been launching related publicity and public education activities, disseminating information and messages pertaining to counterfeit goods and parallel imported products. To help them better understand Hong Kong's retail market, the CC has promulgated a "shop smart" website for tourists. The website provides readers with practical tips, including what tourists should watch out for when shopping, such as advice on the choice of shops; features differentiating counterfeits from genuine products; and parallel imported goods in circulation; information about the distributors of popular consumer items; relevant consumer protection laws and measures; and channels for making complaints.

In respect of co-operation with the industry, the C&ED fortified its collaboration with trade mark owners and other intellectual property rights stakeholders through the Intellectual Property Rights Protection Alliance established in 2004. Regular working meetings have since been held to map out effective strategies against infringing activities, as well as joint efforts in launching publicity and public education programmes. The Alliance helps enhance the industry's involvement in the fight against intellectual property rights infringement and in promoting public awareness of intellectual property rights. Riding on its close liaison with the industry, the C&ED gathers intelligence on infringing activities and offers reward schemes that encourage the public to help the C&ED detect and suppress illegal activities involving counterfeits.

With regard to parts (a) to (c) of the question, our reply is as follows:

- (a) In the past three years, the C&ED has acted on a total of 2 834 cases that are related to counterfeit goods. The counterfeit items seized include clothing, leather goods, watches and parts, pharmaceutical products, and electrical, electronic and computer products, and so on. Altogether 1 385 cases have been prosecuted in these three years, involving 1 696 persons. Among the 1 263 convicted cases, 1 398 persons were sentenced. The heaviest fine awarded amounts to

HK\$475,000 while the highest sentence is imprisonment for 24 months.

Relevant statistics showing the number of cases acted on; the number of persons arrested; the type, quantity and value of counterfeit goods seized; and the prosecution figures are tabulated in the Annex.

- (b) The C&ED is the principal enforcement agency for combating the sale of counterfeit goods. Other government departments, including the Hong Kong Police Force, the Department of Health, and the Food and Environmental Hygiene Department, also constantly co-operate with the C&ED in fighting counterfeiting activities. When the departments come across any suspected illicit activities that involve counterfeit goods, they will, at the first opportunity, notify the C&ED for action. They also conduct joint enforcement operations with the C&ED, where appropriate. Synergy has been brought about by such joint enforcement operations.
- (c) President, the multi-pronged approach that I mentioned at the beginning of my reply has been generally effective. The sale of counterfeit goods is by and large under control.

Through pursuing these flexible strategies and measures, the Government will continue to take actions that safeguard Hong Kong's reputation as a "Shoppers' Paradise" and enhance consumer confidence. We will review the situation from time to time, and redeploy or inject additional resources where necessary, with a view to maintaining the efficacy of our measures.

Annex

Cases involving counterfeit goods — Number of cases acted on
and persons arrested by the Customs and Excise Department

	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>Total</i>
Number of Cases	807	1 014	1 013	2 834
Number of Arrested persons	648	711	768	2 127

Quantity and value of counterfeit goods seized
by the Customs and Excise Department

	<i>Number of Items and Value</i>			
	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>Total</i>
Clothing	220 286	165 948	143 394	529 628
	\$12 million	\$11 million	\$11 million	\$34 million
Leather Goods	78 251	74 133	56 482	208 866
	\$10 million	\$14 million	\$7 million	\$31 million
Watches and Parts	106 962	636 072	79 607	822 641
	\$20 million	\$33 million	\$8 million	\$61 million
Pharmaceutical Products	457 392	71 185	71 417	599 994
	\$17 million	\$3 million	\$3 million	\$23 million
Electrical, Electronics and Computer Products	584 016	1 240 718	525 667	2 350 401
	\$32 million	\$49 million	\$31 million	\$112 million
Miscellaneous (including foodstuff, cosmetic, and so on)	436 893	361 603	266 679	1 065 175
	\$12.35 million	\$8 million	\$30.08 million	\$50.43 million
Total Value	\$103.35 million	\$118 million	\$90.08 million	\$311.43 million

Prosecution figures on cases involving counterfeit goods

	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>Total</i>
Number of prosecution cases	439	438	508	1 385
Number of persons prosecuted	537	542	617	1 696
Number of persons convicted	451	449	498	1 398

MR VINCENT FANG (in Cantonese): *President, I have asked the Government this question before: When the C&ED seized smuggled goods, such as counterfeit cigarettes, did the Government conduct tests to ascertain what harmful substances were contained in such goods? If yes, and the goods tested were informed as containing such substances as melamine, for example, that would not only be a case of sale of counterfeit goods but the sale of harmful substances, which constitutes a more serious offence. The Secretary for Food and Health replied at the time that no test would be conducted. In view of such a large quantity of counterfeit pharmaceutical products and cosmetics, will the Government conduct tests to find out what toxic substances are contained in such counterfeit goods? Given that public health would be quite adversely affected after taking these pharmaceutical products and applying them to the face, may I ask the Secretary whether further tests on these counterfeit products would be conducted when they are seized in future?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, all illicit goods seized by the C&ED — Mr Vincent FANG mentioned three types of goods and let me start with cigarettes. We have been trying hard to make the public understand why they must not buy contraband cigarettes or counterfeit cigarettes precisely because of the contents of these contrabands. Indeed, smoking is in itself hazardous to health but if they smoke counterfeit cigarettes, the impurities will pose even greater potential risks. For the time being, it is true that we have not put in place any specific and regular scheme to further conduct tests on counterfeit cigarettes or contraband cigarettes seized. However, such tests are conducted on food products because food can jeopardize public health direct and so, we have in place a scheme and mechanism to test and examine the substances contained in these food products.

As regards cosmetics, certainly, we can actually learn from various publicity channels that many cosmetics products inappropriately carry or contain mercury which is hazardous to health. So, we have put emphasis on our work in a number of areas continually. Combating smuggling activities or counterfeit goods is certainly very important, but it is also very important to enhance consumers' awareness through publicity and education.

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

MR VINCENT FANG (in Cantonese): *President, I would like to follow up*

PRESIDENT (in Cantonese): Mr Vincent FANG, if you wish to ask a follow-up question, please wait for a second turn.

DR JOSEPH LEE (in Cantonese): *President, the Secretary mentioned counterfeit cigarettes and counterfeit food products just now, but Mr Vincent FANG also mentioned counterfeit pharmaceutical products. In fact, we are most concerned about counterfeit pharmaceutical products because taking them would be fatal and might prolong the recovery of patients. I have received a case involving such a situation.*

The Secretary set out clearly in the Annex to the main reply that in respect of pharmaceutical products, the problem of counterfeits was obviously very serious during the past two to three years. As Members can see, the quantity and value of such products had almost doubled. I hope that the Secretary and the relevant departments have conducted tests on these counterfeit pharmaceutical products because in her reply to Mr Vincent FANG, she said that tests are conducted on contraband cigarettes and food products. When counterfeit pharmaceutical products and other goods have proliferated in the market, what specific measures will your department promptly take, in order to substantially reduce these figures in 2010 to protect public health? The main reply mentioned some black spots. Can a list of black spots specifically involved in the sale of counterfeit pharmaceutical products be provided, for instance?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, regarding the figures provided in the Annex for Members' information, they show that in 2009, for example, 71 417 items of pharmaceutical products were seized and defined as counterfeit goods. I would like to point out that these products were actually seized by the C&ED on their entry into Hong Kong and at places where they were stored and so, the quantity of such goods entering the market should be comparatively small. According to the information on hand, there were only a few thousand tablets. Certainly, even if just one tablet has entered the market is too many, for such pharmaceutical products do pose health hazards to the public. So, I reckon that the C&ED will continue to crack down on these counterfeit pharmaceutical products at several levels, including frequent patrols at these black spots, as mentioned in the main reply. In fact, the C&ED has in place a system of patrolling the black spots on a monthly basis, and ongoing efforts will be made in this respect. But more importantly, we hope to seize these products at source and at their storage, in order to prevent them from entering the market, and this is a key strategy of our combat efforts.

MR ANDREW LEUNG (in Cantonese): *The Secretary said that the C&ED is actually very rigorous in its enforcement actions. But at some tourist spots, such as Tsim Sha Tsui, we can see many hawkers selling counterfeit goods, and we also see some temporary shops touting counterfeit goods and even people touting counterfeit watches on the street. Has the Secretary conducted more discussions with the C&ED, with a view to stepping up enforcement? These are already happening now. Can the Secretary make greater efforts in this respect?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): I very much thank Mr Andrew LEUNG for this supplementary question. Actions are taken not only at popular tourist spots and particularly, during peak seasons and for instance, at this time when the Chinese New Year is fast approaching, the C&ED will make appropriate manpower deployment and adopt target-specific enforcement strategies. For instance, intensive focal raids will be conducted on stalls or warehouses and showrooms, and more manpower will be deployed on frequent patrols. Arrangements will also be made for vehicles of the C&ED to patrol these black spots and station there. This, I believe, can create a deterrent effect, causing syndicates engaging in the sale of counterfeit goods to restrain their operation and to become aware of the enforcement actions taken by the C&ED.

MRS SOPHIE LEUNG (in Cantonese): *President, I wish to ask the Secretary this question. In the main reply she mentioned that many measures had been taken, but why are there still many people openly selling counterfeit goods and many members of the public being keen on buying and owning counterfeit products? We can see on the street that many people carry handbags which very much resemble those of prestigious brands, and everyone fancies owning such goods. Has the Secretary considered working with the Education Bureau in launching joint educational activities to make the public understand that it is illegal to do so?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I thank the Honourable Member for stressing and promoting the awareness of protection of intellectual property rights. As a matter of fact, this is also what we are doing regularly every day. We will put across these very important messages through our enforcement actions and publicity in the media. Apart from the "No Fakes Pledge" Scheme launched jointly with shop operators — a self-disciplined scheme in which participation is voluntary — to promote that the goods sold are "No Fakes", efforts are actually made at many levels, including the Internet. We also have some Young Ambassadors to assist us in our general enforcement actions on the Internet. If we find activities involving the sale of counterfeit goods on the Internet or at auction websites and if we have the information on the trade mark owners, we will certainly take actions against these activities. So, continuous efforts will be

made in these areas. I believe the Education Bureau will also put across these messages to youngsters and students through Liberal Studies or regular extra-curricula activities.

MS MIRIAM LAU (in Cantonese): *President, part (c) of the main reply mentioned that the sale of counterfeit goods is by and large under control, but from the supplementary questions raised by two colleagues earlier, I think what the Secretary has said is a far cry from the reality. In fact, counterfeit goods still abound in the market. As far as we are aware, businesses in Hong Kong are thriving and in particular, the business practices employed by unscrupulous business operators are all the more multifarious. Normally, the C&ED will take action only after receiving complaints or reports, or as the Secretary has said, they patrol the black spots from time to time to produce a deterrent effect. However, many shops, especially those operating on the upper floors of a building or on a smaller scale, may not necessarily be located at the black spots concerned, and some are even small stalls where genuine goods are mixed with counterfeits as a way of doing business, thus making it difficult to differentiate the genuine from the fake ones, and in some cases, the goods are simply not exhibited and only a catalogue is provided for consumers to make choices and the transactions will then be conducted at another selected spot. I think the Government should already be aware of these practices. Regarding these "hidden" shops and their devious sales practices, does the C&ED actually have any measure to deal with them? Has any action been taken before to deal with or curb these practices?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, as Ms LAU has said, Hong Kong is a highly developed commercial city where a lot of goods is made available for consumers to choose and the sales and business practices are multifarious, and the C&ED must make flexible adjustments in their strategies. We understand that the C&ED will launch covert operations where necessary to combat these activities. However, I maintain that publicity is, after all, very important and we must continuously appeal to the public not to buy counterfeit goods, and we have also put in place very harsh punishment. As I mentioned in the main reply earlier on, the Court attaches great importance to the protection of intellectual property rights and so, harsh penalties will be meted out for deterrence.

DR LAM TAI-FAI (in Cantonese): *President, as Ms Miriam LAU has just said, unscrupulous business operators can actually sell counterfeit goods without having to exhibit the goods. In fact, the sale of counterfeit goods on the Internet is very rampant now and in order to thoroughly protect the trade marks and brands of enterprises, the Government certainly has to address squarely the source of supply so as to prevent counterfeit goods from proliferating in the market. Does the Government know or has it looked into and analysed whether the counterfeits were actually smuggled into Hong Kong from overseas or the Mainland, as well as the percentage of locally manufactured counterfeits, in order to find out what measures should be taken to combat counterfeits?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, according to the intelligence gathered by the C&ED and the past enforcement actions taken, the majority of counterfeit goods came from places outside Hong Kong and so, the law-enforcement work and strategies for combating counterfeit goods must focus on the source (control points). In this connection, the C&ED has adopted enforcement strategies at the airport and various control points.

In respect of the Internet, as I said earlier, it is certainly our wish that intellectual property rights can also be protected on the Internet. This is why we have implemented the "E-auctioning with Integrity" Scheme in collaboration with some trade associations and various brand name owners to tackle the problem through multi-faceted co-operation. When auctioning of counterfeit goods is known or suspected, the auctioneer (or the operator of the auction website) will be immediately notified and actions would be taken to delete the auction website. This is a consensus that has already been reached and a measure being implemented now. I think this is also an effective measure, and we will not overlook the sale of counterfeit goods on the Internet.

PRESIDENT (in Cantonese): We have spent over 21 minutes on this question. Fourth question.

Communication Between Government and Youth

4. **MR KAM NAI-WAI** (in Cantonese): *President, at the Question and Answer Session of this Council last month, the Chief Executive said that he would strengthen communication with young people. However, he did not go out of the Legislative Council Building immediately to talk to those young people who were on a fast in protest against the allocation of funds for constructing the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, as suggested by some Members of this Council, and said that he would look for an appropriate occasion to communicate with them. In this connection, will the Government inform this Council of:*

- (a) *whether it has assessed when the appropriate time is for Chief Executive and the Principal Officials under the accountability system to directly communicate with young people; if it has, of the results, as well as through what means and with which groups of young people they will communicate;*
- (b) *of the respective numbers of members of the Commission on Youth who were born before 1950, between 1950 and 1959, 1960 and 1969, 1970 and 1979, and in 1980 or after; of the criteria and standards for appointing these members by the Government; whether the Government has assessed the effectiveness of the work of the Commission in the past five years; if it has, of the results, including those issues of wide public concern on which the Commission had consulted young people, and the youth matters on which it had given its views to the Government; and*
- (c) *whether it has assessed the effectiveness of the activities which were organized in the past three years for the purpose of receiving the views of young people, such as youth forums, youth councils and youth summits; if it has, of the results and the issues on which the aspirations and wishes of young people had been heard, as well as the future plan to receive more widely and seriously the views of young people on government policies?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, my reply to the three-part question of the Honourable Member is as follows:

- (a) Young people are our future hope. The political accountability team of the HKSAR Government agrees that communication with young people should be strengthened. The Government has always listened to and received views from people of all social strata in the community, including those of young people, through different channels. This includes face-to-face direct communication and communication through representatives of public opinion and different intermediaries. While the Legislative Council is a statutory body of public opinion, we note that it reflects the views of different age groups. District Councils (DCs) also actively reflect public opinion, including the needs of the young generation, at the district level. DCs and a number of local organizations have played an important role in the anti-drug campaign for young people being launched by the Government. The Government would conduct public consultation in formulating major policy initiatives, and young people are welcome to express their views. The Government has established the Commission on Youth (COY) to advise the Government on youth development. The Government also takes note of the needs and feelings of young people through such channels as public media and the Internet. We are aware that the Internet has become so popular and widespread that it has changed not only the operation mode of the economy but also the method of communication of society and among people. Young people are accommodative to new things and adept at new technology. They prefer to express their views at social websites via the Internet platform. In this connection, while consulting young people with traditional methods, the Government is actively considering how to make better use of the Internet to communicate with them so as to better understand the issues that they come across in their growth and matters of their concern.
- (b) The COY comprises 28 non-official members, including student, social workers, academics and incumbents of youth groups. According to the information provided by them, their age distribution is as follows:

<i>Year</i>	<i>No. of members</i>
1950-1959	15
1960-1969	6
1970-1979	4
1980 or after	3

In the appointment of these members, the Government has upheld the principle of appointing individuals on their merits. Due consideration is given to a candidate's ability, expertise, experience, integrity and commitment to public service.

The COY advises the Government on matters pertaining to youth. Other than the Home Affairs Bureau, representatives from the Education Bureau, the Labour and Welfare Bureau and the Security Bureau sit on the COY as ex-officio members to listen to the views on their respective policy areas. In formulating or reviewing youth-related policies, Policy Bureaux often consult the COY on the issues concerned. In the past few years, these issues include the one-stop portal for young people, a new Family Commission, the Community Investment and Inclusion Fund, and the review of the Control of Obscene and Indecent Articles Ordinance. The COY also relays to the Government views of young people and provide it with statistics on youth matters by carrying out studies and collating reference materials. The COY would promote the development of young people on a variety of fronts.

- (c) As I have replied in the first part, the Government understands the thinking of young people and receives their views through different channels. Organizing the Youth Summit is one of such approaches which offers young people with an opportunity to air their views on matters of their concern and provides a channel for direct dialogue with government officials. In 2006, the Youth Summit was held with the theme "When China Moves into the World — The Development and Commitment of Youths in Hong Kong" and there were discussions over areas of concern of young people, such as education, culture, technology and employment. In March this year, the COY, in collaboration with the Home Affairs Bureau, will hold the Youth Summit 2010 with the theme "Building the Future — Challenges and Opportunities for the Youth". There will also be a number of discussion topics for young people to express their views on matters of their concern, which include "Challenges Arising from Demographic Changes", "Environmental Protection and Sustainable Development", "Healthy Life, Healthy Mind" and "Versatility and Collaboration in Culture and Technology". Representatives of the relevant Policy Bureaux and departments will attend the summit to listen to the voices of young people and have exchanges with them.

MR KAM NAI-WAI (in Cantonese): *President, after reading part (b) of the main reply, we realized that more than half of the members are "post-50s" people. I wonder if the Secretary will later tell us whether the COY should be renamed as Commission on the Middle-aged. The COY basically cannot reflect the views of the youth because young members account for 10% only, or only 10% of the members are "post-80s" people. I would like to ask this question. The Chief Executive said at the Question and Answer Session that day that communication with the young people who protested against the construction of the Express Rail Link (XRL) would be conducted in a peaceful manner. But as we all know, the funding for the XRL has been approved. I do not know whether the Secretary has advised the Chief Executive to visit Choi Yuen Village and discuss with the youth the planning and policy in respect of the XRL and even the policy of compensation. I do not know whether the Secretary will accompany the Chief Executive in his visit to Choi Yuen Village so as to communicate with the youth. Even though you have mentioned various channels such as the Internet, I believe direct communication is most effective. Secretary, would you do so?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): *President, I believe the approval of funding by the Finance Committee of the Legislative Council is an indication of our society's mainstream view. Secretary Eva CHENG, who is in charge of this project, will maintain communication with interested parties from all quarters and listen to their views. As to the question of whether I have advised the Chief Executive to visit Choi Yuen Village for communication with interested parties again, I have not made such an advice.*

DR SAMSON TAM (in Cantonese): *President, in part (a) of the main reply, the Secretary said that the Government would take note of the needs and feelings of young people through such channels as the Internet. The Government can indeed understand the feelings of young people through the Internet. But interaction is more important and that is why we have this web 2.0 concept, an interaction model. May I ask the Secretary — as it has been my wish to push the Government to do this — whether the web 2.0 model for interaction with young people is co-ordinated by the Information Services Department or the Office of the Government Chief Information Officer, or it is undertaken by various head offices at bureau or department level so that we can open discussions with relevant departments?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, Internet technology has been developing rapidly and new modes of communication have continuously emerged. At present, a number of departments within the SAR Government are trying and exploring the ways to do this work. The Information Services Department certainly has its own website, with a team of staff doing online jobs. In particular, they will disseminate information that the SAR Government wishes to release through the Internet. In this process, various departments are involved, including the Home Affairs Bureau, for instance, which has provided an online public forum for communication with people from all walks of life. At the beginning, we concentrated on communication with the middle class, and recently, we have deliberately extended the level of communication to the young people. Another example is the consultation on the West Kowloon Cultural District Project which was also conducted online. Today, in the news reports, we can see that Secretary Eva CHENG would try to collect views of young people through Facebook. Currently, we do not have any centralized and unified method, but we are exploring and studying how to make further use of the Internet as a medium.

MR CHAN HAK-KAN (in Cantonese): *President, I am very glad to see that the Government has begun to adopt an equitable and accommodative attitude in listening to young people's voices. I have also noticed that the Financial Secretary has met with a group of young people who express their views in an ascetic way. However, the extent to which views are heeded is not enough as they also hope that their views can be absorbed into social policies. Legislative Council Members or DC members will tell the public how their views have been reflected in banners or work reports with such wordings as "successful in fighting for the so and so objective". May I ask the Secretary in what ways he will tell young people to what extent views on policies have been absorbed or how many of their views have been reflected in policies?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the Government will fully listen to views from all quarters when formulating policies. Thus, it is not easy for us to quantify the effect by saying that a certain policy is provided by people of a particular age group or formulated with their views having been taken on board. However, we have actually lots of policies or measures that meet the needs of young people and solve their particular problems.

For example, as I just said, the anti-drug campaign launched in the 18 districts is mainly targeted at young people of this age group. In addition, in both education and social welfare, we have provided lots of services particularly for young people, such as helping youngsters to seek employment and assisting graduates to find jobs, and so on, which are provided exclusively for young people.

MR WONG SING-CHI (in Cantonese): *President, first of all, I would like to make a clarification regarding the name of the Commission on the Middle-aged, as mentioned by Mr KAM Nai-wai. It should be "Commission for the Middle-aged to decide Affairs of Youth", meaning that a group of middle-aged people in the COY decide the affairs of young people. In fact, the whole issue boils down to one about how the Government can heed young people's voices, and how to enable young people to participate in Hong Kong affairs. Young people, when participating in Hong Kong affairs, do not merely hope that we adults tell them what to do or do something for them. It is not the case. Young people wish to participate in a direct way so that they can build Hong Kong society together with us. I would like to ask the Secretary this question. In his main reply, he mentioned that the Government has upheld the principle of appointing individuals on their merits. But I find that the same group of people are appointed by the Government and young people are few. In fact, can the Government set up a system allowing self-recommendation by young people so that they can submit their personal data to government departments recommending themselves for appointment to certain advisory bodies or committees? Can the Secretary introduce this measure as soon as possible?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, this is feasible. The Home Affairs Bureau has set up the Central Personality Index allowing the public to submit their personal data. Any young people who aspire to serving the public can submit their data to the Index. Advisory committees under certain departments will also check the information provided by the Home Affairs Bureau if they wish to seek and absorb outside views. They will invite individuals concerned to become members if they are considered suitable. But we also have to be realistic to say that young people have different aspirations even though some may be very enthusiastic in participating in social service. We have also noted that many have just joined the labour market and some are

still studying at school. To participate in public service, they have to spend a lot of time which is quite difficult. We have tried to invite some young people to participate in certain research, but they found it difficult to spare time to attend our meetings and discussions. Of course, I do not dismiss that some young people do have the time and potentials to participate in public affairs.

MR CHEUNG KWOK-CHE (in Cantonese): *President, I believe the Government can listen to young people's voices through many channels. As we all know, the Chief Executive, after attending the 2006 Youth Summit, decided to set up youth forums in the 18 districts and set out their charters. However, it is a pity that the Home Affairs Bureau has not vigorously promoted it or allocated resources for it in the past five years, resulting in the non-functioning of the preparatory committees of youth forums in many districts. May I ask the Secretary whether and when the work of youth forms in the 18 districts will be promoted afresh?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): I know that some people are fond of dwelling on some issues. But what we can see now is that the community is moving forward. What we are talking about is to pay more attention to getting in touch with young people, especially the new generation. So, we must adopt a relatively new way of thinking to get in touch with them. For example, as Dr TAM mentioned earlier, how the Internet can be better utilized. Some academics and experts have also advised that we must adopt a relatively new method of getting in touch with young people, which is the Internet, instead of just sitting together in the same venue as we do in the Legislative Council meetings or electing representatives to speak for them. Instead of doing that, each and every one of them wishes to voice his views and the Internet is certainly one option.

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

MR CHEUNG KWOK-CHE (in Cantonese): *No. In fact, I did not say the Internet is not good enough. However, as the authorities have adopted such a*

mode in the past few years, further promotion is considered OK. So, I asked the Secretary whether youth forums in the 18 districts would be promoted as a continued effort.

SECRETARY FOR HOME AFFAIRS (in Cantonese): This is not an established mode. It has actually been adopted in a relatively short period of time and before that we did not have it. We have tried to adopt such a mode in the past couple of years. According to the records of the youth forums' preparatory committees, a study conducted by them has recommended that it seems unnecessary to continue to hold such forums anymore.

MR LEE CHEUK-YAN (in Cantonese): *President, the Government's youth policy has reminded me of former Secretary David LAN's famous line: "Everything is under control". You can never enter into a dialogue with young people unless the situation is under control. If they are staging a demonstration or holding different views, you dare not meet them. My question is also related to the mode of control currently adopted by the Government. I can see that the theme of the upcoming Youth Summit 2010 is "Building the Future — Challenges and Opportunities for the Youth". However, I have been told by some young people that they also attended the pre-meeting, which is the preparatory meeting before the Summit. Although they had taken part in the preparatory meeting, they found that the Government had prepared a list of appointees when committee chairmen were to be appointed at the final stage. Under such a situation, how can the young people participate? The reality is that the Government has to control the meeting.*

May I ask the Secretary if he would feel secure only when he can control all the meetings? Even for these summits and pre-meetings (preparatory meetings) which are open to all youth centres through which participants can enroll freely, why are they not allowed to elect their own presiding chairmen? Why should they be appointed by you? Does the Secretary want to achieve harmony⁽¹⁾, putting everything under control? Do you feel that you are the most powerful "river crab" only when everything is under your control, do you not?

(1) The pronunciation of "harmony" in Putonghua resembles "河蟹" in Cantonese, meaning "river crab" and thus the phonetic pun and satire.

SECRETARY FOR HOME AFFAIRS (in Cantonese): I do not understand his supplementary question.

MR LEE CHEUK-YAN (in Cantonese): *I referred to the Summit*

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

MR LEE CHEUK-YAN (in Cantonese): *I just referred to the pre-meeting before the Summit. The chairmen of these preparatory committees were also appointed by the Government*

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

MR LEE CHEUK-YAN (in Cantonese): *..... participants were not allowed to choose and take part freely*

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

MR LEE CHEUK-YAN (in Cantonese): *No free participation, meaning that participants cannot take part freely. The Government has appointed all the committee chairmen. Do you agree? Do you admit this?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, our Youth Summit has given full play to the spirit of free participation by youths.

MR LEE CHEUK-YAN (in Cantonese): *Does he admit that all chairmen were appointed. How can this be called free participation?*

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, I think the Secretary for Home Affairs has answered your question. You may debate with him on other occasions if you are not satisfied. We have spent more than 21 minutes on this question. Fifth question.

Referendum Activities

5. **MS EMILY LAU** (in Cantonese): *President, on the 15th of last month, a spokesperson of the Hong Kong and Macao Affairs Office of the State Council said: "Recently, individual social groups in Hong Kong have announced that they would conduct a 'five geographical constituencies referendum campaign' under the theme of 'implementation of genuine universal suffrage and abolition of functional constituencies as soon as possible'. We express grave concern about this." The spokesperson also commented: "Conducting such so called 'referendum' in any form in the Hong Kong Special Administrative Region (HKSAR) in respect of its future constitutional development does not conform with the legal status of HKSAR. It is also a fundamental contravention of the Basic Law of HKSAR and the relevant decision of the Standing Committee of the National People's Congress (NPCSC)". In this connection, will the executive authorities inform this Council:*

- (a) *whether they have made enquiries with the Central Government and conducted any study locally on which provisions in the Basic Law the de facto referendum campaign promoted by the civic community has contravened; if they have, of the details;*
- (b) *given that the Basic Law does not prohibit civic referendum activities whereas the Central Government considers the aforesaid activity a contravention of the Basic Law, whether they have studied if activities not stipulated as legal under the Basic Law are all illegal; if such a study has been conducted, of the outcome; and of the criteria adopted by the authorities for determining whether an activity contravenes the Basic Law; and*
- (c) *what measures the SAR Government will take in response to the Central Government's comment that the aforesaid referendum activity has contravened the Basic Law?*

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

- (a) Under "one country, two systems", the HKSAR must comply with the provisions of the Basic Law. Conducting a so-called "referendum" on the issue of constitutional development is not consistent with the provisions relating to amendments to the electoral methods for the Chief Executive and the Legislative Council in the Basic Law and the interpretation and decision of the NPCSC.
- (b) The Basic Law does not provide for any "referendum" mechanism. As a local administrative region of the People's Republic of China, the HKSAR has no authority to determine or change its political structure on its own, or to create a "referendum" mechanism.
- (c) The Basic Law does not provide for any "referendum" mechanism. Conducting any form of so-called "referendum" in Hong Kong will have no legal basis or effect whatsoever, and will not be recognized by the HKSAR Government.

The HKSAR Government will only act in accordance with the procedures as stipulated in the Basic Law regarding amendments to the electoral methods for the Chief Executive and the Legislative Council for 2012, and secure consensus among the three parties concerned, that is, the proposals put forth by the HKSAR Government must obtain the support of a two-thirds majority of all Legislative Council Members, consent of the Chief Executive and endorsement of the NPCSC. The procedures for amending the two electoral methods for 2012 will not be affected by the results of the by-election following the resignations of the five Legislative Council Members.

MS EMILY LAU (in Cantonese): *President, the Secretary receives a monthly salary of more than \$200,000, but he is very lazy, because my question asked, as the world was outraged by the remarks made by the Central Government, whether he had made enquiries with the Central Government, and whether he had conducted any study, since these are all facts. Of course, now that he has*

given such an answer, which means that no enquiry has been made, that is why I said that he was lazy.

He said the Basic Law does not provide for any referendum mechanism. However, President, the Basic Law does not specify a referendum illegal, therefore I have asked, as the Central Government stated that it was a violation of the Basic Law without any reason, which provision has actually been violated. The Secretary has not made any enquiries or conducted any study. President, he only gave us a few lines in his reply, what is wrong with him? Given the way the Secretary handles things, yet the Government lets him take charge of constitutional affairs, I consider that outrageous.

The Secretary must answer these questions. Have you made any inquiries? Why have you not made inquiries? Why have you not conducted any study? In addition, if we are forbidden to do things not specified in the Basic Law, does it mean that we are not allowed to do anything at all? The Basic Law does not specify that you can have meals, then will you not eat at all?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I am very disappointed by the further response of Ms Emily LAU. I have already briefly mentioned the most important principles of the Basic Law so that Members may have a better understanding of the situation. Over the years, both the Central Government and the SAR Government have been acting according to the law and implementing the "one country, two systems" principle in Hong Kong in accordance with the Basic Law, with a view to promoting Hong Kong's democratization.

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

What I have tried to explain to Members today is that the consensus among the three parties concerned needed to deal with the procedure of constitutional development, that is, the support of a two-thirds majority of all Legislative Council Members, consent of the Chief Executive and endorsement of the NPCSC, which will not be affected by the results of the by-election subsequent to

the resignations. This is just part of the five-step mechanism that we must go through. Therefore, regardless of which political party or grouping, if it initiates the resignation and trigger the by-election, no part of the process will be affected. Both the Central Government and the HKSAR Government fully understand and fully agree with this process and the requirements.

MS EMILY LAU (in Cantonese): *Deputy President, he has not answered my supplementary question.*

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

MS EMILY LAU (in Cantonese): *Why did he not consult the Central Government? Did he conduct any study? Which provision of the Basic Law has been violated?*

DEPUTY PRESIDENT (in Cantonese): Ms Emily LAU, please sit down. Secretary, do you have anything to add?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, first, I have explained that both the Central Government and the HKSAR Government fully recognize and understand the amendments in respect of constitutional development under the Basic Law. Second, I have made clear our position, so I have nothing to add.

DR MARGARET NG (in Cantonese): *Deputy President, regardless of the NPCSC's interpretation or decision on the modification and reform of the political system of Hong Kong, the public opinion in Hong Kong should be duly taken into account. The strong demand of the people of Hong Kong is also part of our actual situation. Using the ballot box to truly reflect public opinion is the best method to decide whether or not to implement universal suffrage and abolish*

functional constituencies expeditiously, but you obstinately insist that it contravenes the law. It has not violated any laws of Hong Kong at all, but you insist that it is unlawful, so is this actually a means to suppress public opinions?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, first of all, when it comes to Hong Kong people's aspirations and expectations, the wish of the people of Hong Kong for early implementation of dual universal suffrage was fully reflected in the Green Paper on Constitutional Development published in 2007. At that time, a number of universities and institutions conducted their respective surveys, in which more than 50% of the respondents hoped to implement dual universal suffrage in 2012. However, at the same time, almost 60% of the respondents would accept the election of the Chief Executive by universal suffrage to be implemented in 2017 first, and such an arrangement was acceptable to them. At that time, this public opinion was fully conveyed to the Central Authorities in Beijing.

Today, we certainly have to take hold of public opinions in order to further promote the democratization of Hong Kong. Therefore, we will gather public opinions in the public consultation on the 2012 electoral methods for the Chief Executive and the Legislative Council.

Lastly, of course, different political parties and groupings and Members may tender their resignations according to the relevant ordinance governing the Legislative Council. However, in response to Dr Margaret NG's supplementary question, we have seen the recent public opinion that according to surveys conducted by a number of universities, more than half of the respondents were against the frivolous resignations, saying that it was a waste of public money.

DEPUTY PRESIDENT (in Cantonese): Dr Margaret NG, which part of your supplementary question has not been answered?

DR MARGARET NG (in Cantonese): *I asked the Secretary since public opinion is so important, then why the expression of public opinion through the ballot box was blocked up by the Government for allegedly violation the law.*

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, if one wants to express the views of Hong Kong people and different sectors through the ballot box, and to ensure that those views are reflected in the legislature, one had better participate in the Legislative Council election in September 2008 and that would have meant a representation of public opinions. Therefore, the constitutional and legal responsibility of different political parties and groupings and Members is to remain in the legislature and jointly examine the 2012 proposal, and they may support it, or object it, and that would be a manifestation of public opinions. It is unnecessary for them to retire halfway, as it is inconsistent with public opinions.

DR PRISCILLA LEUNG (in Cantonese): *Deputy President, I also understand very well Ms Emily LAU's question, which is actually a reflection of the reality, that is, how we look at the Basic Law. I think, over the past 20 years, we have not been speaking the same language. However, if we have been following up the drafting of the Basic Law over the past 20 years, we will understand very well that there is in fact a conclusion on the referendum issue, that is, China is a unitary regime, not a federation state.*

Therefore, a referendum institution is not written down in the Basic Law because it is a matter of the constitutional system. With regard to this issue, since I consider questions raised by Members are reasonable, may I ask the Secretary whether, if it is not provided for in Hong Kong laws, it can be put into practice? However, the Basic Law is not enacted by the Legislative Council of Hong Kong, and its interpretation is somewhat different from the laws of Hong Kong in general. The Basic Law and the laws of Hong Kong have actually manifested two different systems in terms of their nature in many aspects.

Secretary, in the past 20 years, or indeed over the past few months, it was even obvious that actually there were enormous differences and misconceptions in the perception and views on the Basic Law. Will the Government really address various questions raised by Members squarely in the context of this issue and explain what the essence of the Basic Law and its interpretation are, how it deals with even referendum or others things which are not mentioned.

However, it is very clear that referendum is a constitutional issue, and it is related to sovereignty.

Should the Government not directly address such voices which probably exist in the community? Secretary, I consider that only in that way can you answer her question directly.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I further reply to this supplementary question. Dr Priscilla LEUNG is also an expert on law; she hopes that this question can be made more unequivocal.

First, the HKSAR Government has expressly stated on many occasions that the Basic Law does not provide for any referendum mechanism; second, Hong Kong is only a Special Administrative Region established in accordance with the Chinese Constitution and the Basic Law, and we do not have a right to create the so-called referendum mechanism; third, because the Basic Law has laid down this set of ideas and requirements, the HKSAR Government will not accept the drafting of a referendum law proposed by any organization or individual in Hong Kong; and fourth, no matter in whatever form the so-called referendum is conducted, it has no legal effect under the laws of Hong Kong, and regardless of the outcome of these actions, it will not change the five-step mechanism provided for in the Basic Law. The procedure of forging a consensus among the three parties concerned which will eventually push forward the democratization of Hong Kong is something we must seize, operate and adhere to. It will be ineffective to resign and promote the so-called referendum on universal suffrage beyond this procedure.

DEPUTY PRESIDENT (in Cantonese): Dr Priscilla LEUNG, which part of your supplementary question has not been answered?

DR PRISCILLA LEUNG (in Cantonese): *Actually, I hope the Secretary can give a clearer answer*

DEPUTY PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered? Would you please point out the part which has not been answered?

DR PRISCILLA LEUNG (in Cantonese): *As the Secretary mentioned that he had never admitted referendum was a legitimate action, will the Secretary further explain it, because they raised the question that referendum promoted by the civil society is not been prohibited, in fact, a referendum cannot be categorized as a referendum promoted by the civil society or vice versa, the civil society can only conduct opinion polls*

DEPUTY PRESIDENT (in Cantonese): Dr Priscilla LEUNG, this is not part of the supplementary question you raised just now.

DR PRISCILLA LEUNG (in Cantonese): *Will the Secretary explain more clearly what can be done to boost the publicity work?*

DEPUTY PRESIDENT (in Cantonese): Dr Priscilla LEUNG, this is a new question, so please wait for another turn.

MR TAM YIU-CHUNG (in Cantonese): *Deputy President, HKSAR enjoys a "high degree of autonomy", which is the "high degree of autonomy" mentioned in Article 2 of the Basic Law, while this "high degree of autonomy" exercised by the HKSAR is authorized by the NPCSC in accordance with the provisions of the Basic Law. Therefore, insofar as constitutional development is concerned, it is regulated by several provisions in the Basic Law, while the NPCSC has also made a "Decision". But neither provisions of the Basic Law nor the "Decision" have specified the so-called referendum mechanism or institution. Therefore, I agree with the Secretary's response that it was not consistent with the Basic Law.*

In Hong Kong, there is no such thing as residual power, that is, it is untrue that one can do anything as long as it is not explicitly forbidden by the Basic Law. Because Article 20 of the Basic Law also mentions that the HKSAR may enjoy other powers granted to it by the National People's Congress, the NPCSC

or the Central People's Government, but under the circumstance that no other powers are granted, I consider that in this context, it is questionable for one to insist that a referendum is not unconstitutional or not illegal. What is the Secretary's view about this?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, we are very much concerned about these constitutional principles, and I will further respond to this supplementary.

First of all, as Mr TAM Yiu-chung said just now, the entire constitutional framework of Hong Kong and the establishment of "one country, two systems" are based on authorization of the HKSAR by the Central Government. Article 2 of the Basic Law provides that: The National People's Congress authorizes the Hong Kong Special Administrative Region to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of this Law. All of the 160 Articles in the Basic Law are premised on the Central Government authorizing the establishment of the HKSAR and the latter to exercise the public powers in all aspects.

Therefore, as regards the promotion of democratization in Hong Kong now, and the way in which we deal with the post-2012 electoral methods for all terms of the Legislative Council and the Chief executive in accordance with Annex I and Annex II of the Basic Law, the NPCSC's interpretation of the Basic Law and the NPCSC's "decision" are all based on this authorization framework. After Hong Kong's reunification in 1997 In fact, compared with the circumstances before 1997, Hong Kong people enjoy wider participation in constitutional development and the degree of democratization has also been augmented. Before 1997, for any change to the electoral system, the most important constitutional issues were decided in London, that is, amendments to the Letters Patent had to be made, whereas Hong Kong could only enact local legislation. However, this is not the case now; Hong Kong can see involvement at two levels of amendment and the legislative procedure. First of all, according to Annex I and Annex II of the Basic Law, in order to secure a consensus among the three parties concerned, that is, the proposals put forth by the HKSAR Government must obtain the support of a two-thirds majority of all Legislative Council Members and the consent of the Chief Executive, a consensus should be forged

within Hong Kong, at the HKSAR level prior to reporting the consensus to the NPCSC in Beijing for approval or for the record. The procedures, principles and provisions for this constitutional decision are very clear. If any political party or grouping, Member or group wishes to create another system and strive for some room beyond the ambit of the Basic Law, they will never succeed, as this is inconsistent with the constitutional principles.

MR LEE WING-TAT (in Cantonese): *Deputy President, Executive Council Member CHENG Yiu-tong has recently asked the Government to examine the possibility of prosecuting certain groups for advocating an uprising and liberation in an assembly. May I ask the Secretary, given that some magazines have used the term "cultural uprising," and the Coca-Cola Company once used "silent revolution" and other such expressions in the past, if the Administration is to examine this, whether it will examine the publication concerned and whether the Coca-Cola Company should also be prosecuted?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I think Mr LEE Wing-tat, having engaged in politics for many years, should also know the substitution of concept is unreasonable and will never succeed. First, now that this commercial company has made an advertisement, everybody knows what it is all about — that is, to encourage people to drink more Coca-Cola, but people do not drink much in recent years because of the fear of getting fat, and I even drink less Diet Coke these days. However, if a political party suddenly calls for an uprising in Hong Kong, Hong Kong people themselves also know what it is all about. We all treasure the smooth reunification of Hong Kong after 1997, and that the systems in all aspects vital to Hong Kong's success are well-preserved. Currently, Hong Kong engages co-operation with the Mainland in various aspects, there is new room for development, and we have the Individual Visit Scheme and the RMB service. On the political front, we can further democratize, we can elect the Chief Executive by universal suffrage in 2017, and we can elect the Legislative Council by universal suffrage in 2020. Of course, not all the 7 million people in Hong Kong consider that arrangement ideal, but 60% of them still consider that acceptable. Therefore, political parties calling for an uprising will not win public support for they have no constitutional basis, and they will not succeed.

DEPUTY PRESIDENT (in Cantonese): Mr LEE Wing-tat, which part of your supplementary question has not been answered?

MR LEE WING-TAT (in Cantonese): *Deputy President, the Secretary has not answered my supplementary question. I have not asked the Secretary to analyse the term uprising, and perhaps their intention of using the term uprising was to urge more people to vote, so should it be called a substitution of concept? What I am going to ask the Secretary is that if a Member of the Executive Council suggests that the Administration should prosecute these groups, will he consider prosecuting other companies and organizations which have used "uprising" and "revolution" in their jingles? This is the point I wish to ask.*

DEPUTY PRESIDENT (in Cantonese): The Secretary has actually answered it. Let me see if he has anything to add.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, as Mr LEE Wing-tat is a veteran politician, so I answered his supplementary question in the political context just now. If he wants to pursue the issue in the legal context as to whether or not any individual or group should be prosecuted, or whether a decision of prosecution should be made in every relevant case, it is up to the Secretary for Justice to make his independent decision under the Basic Law.

MR WONG KWOK-HING (in Cantonese): *Deputy President, the Civic Party and the League of Social Democrats launched the "Five Constituencies Referendum, uprising of the people" campaign last Wednesday and called for the liberation of Hong Kong. As to this farce, I strongly criticized them when I walked out in protest last week for being: a waste of public money, shameful by-elections, incitation of a referendum, despicable Hong Kong independence movement. As a Member of the legislature, I have said that if the Government were to conduct a so-called by-election in accordance with law and seek funding approval from the Legislative Council, I will definitely vote against it. Therefore, I have a question for the Secretary on this occasion. Now, the two parties have placed large advertisements in newspapers and called for "Five*

Constituencies Referendum, uprising of the people", which is misleading the public, and the leaflets they distributed also contained a variety of misleading statements. In your capacity as the Secretary for Constitutional and Mainland Affairs Bureau, how will you carry out an elimination, eradication of this kind of "independence movement", so that the public's concepts will not be misled by these erroneous remarks to believe that a referendum can be carried out in Hong Kong, as such a de facto referendum will disrupt peace in Hong Kong?

Secretary, what have you done? With regard to part (c) of the main question raised by Ms Emily LAU, it seems that I have not heard any specific reply by you. What counter-measures have you adopted? It appears the Government has only said that it will not recognize such proposals and it will ignore what they will do, however, is that all? For that reason, may I ask the Secretary how you will carry out the elimination, eradication of this kind of "independence movement"?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, with regard to this supplementary question, I would respond in two aspects. First, the principle, stance and constitutional positions of the Central Government and the SAR government have been fully stated to the community. On the other hand, I trust Hong Kong are discerning and they will not accept lies. However, this by-election itself is unnecessary, and all political parties and groupings and Members may well choose to stay in the legislature and cast their votes on the proposal to be put forward in 2012, and they may support or object it. Why does the SAR Government repeatedly stress the need to hold this by-election if we are to act according to law? Because we have to ensure that the people of Hong Kong will have adequate representation in accordance with the Legislative Council Ordinance, that the public should not lose their representation in this Council just because five Members from the two parties hastily retired halfway through their term.

DEPUTY PRESIDENT (in Cantonese): We have already spent more than

MR WONG KWOK-HING (in Cantonese): *Deputy President*

DEPUTY PRESIDENT (in Cantonese): Mr WONG Kwok-hing, which part of your supplementary question has not been answered?

MR WONG KWOK-HING (in Cantonese): *It is obvious that the Secretary has not answered how a detoxication and sanitization will be carried out. Therefore, I hope the Secretary will not evade this question, because the two parties are using the by-election to rip off the people in the name of the so-called referendum*

DEPUTY PRESIDENT (in Cantonese): Mr WONG, please do not deliver a speech.

MR WONG KWOK-HING (in Cantonese): *..... to take advantage of the people.*

DEPUTY PRESIDENT (in Cantonese): You cannot deliver a speech. Secretary, do you have anything to add? The Member has asked about the solution of eliminating and eradicating the independence movement?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, the most effective prescription is the Basic Law, if everyone acts in accordance with the Basic Law, then everything should conform with the constitutional principles. *(Laughter)*

DEPUTY PRESIDENT (in Cantonese): The Council has already spent more than 23 minutes on this question. We will now proceed to the last oral question.

Juvenile Crimes

6. **MR LAU KONG-WAH** (in Cantonese): *Deputy President, I almost forgot to ask the question. It has been reported that a number of criminal cases involving young people which occurred recently are related to triad gangs. In this connection, will the Government inform this Council:*

- (a) *of the number of young people aged below 18 who were convicted of criminal offences in each of the past three years, with a breakdown by the category of the offence; among them, the respective proportions of young people who were attending and had dropped out of schools at the time when they committed the crimes, as well as the proportion of those involved in crimes related to triad gangs;*
- (b) *given that there are at present only 85 liaison officers under the School Liaison Officer Scheme, which was implemented by the police to prevent primary and secondary school students from committing crimes, and each officer has to be responsible for following up 14 schools on average, whether the authorities had, in the past three years, assessed the effectiveness of the Scheme; if they had, of the outcome; whether the police will consider enhancing manpower to the extent that one liaison officer will be responsible for one school only; if they will not, of the reasons for that; and*
- (c) *whether the Government will consider amending the law to raise the relevant penalties so as to deter and combat juvenile crimes?*

SECRETARY FOR SECURITY (in Cantonese): Deputy President,

- (a) In 2007, 2008 and 2009, the total number of arrested young persons aged below 18 were 6 875, 6 303 and 6 049 respectively. Of those arrested, 77.1%, 75.1% and 75.8% were students. In the past three years, 327, 276 and 237 young persons aged below 18 were arrested for unlawful society offences, which are commonly known as triad society offences. The major types of offences committed by young persons were shop theft, and other offences including miscellaneous thefts, wounding and serious assault, and so on.

The police usually use the number of arrests to compare the types of crime committed by young people and such trends. We rarely use the number of convictions for such purposes because most young offenders are either first-time offenders or their offences are usually relatively minor in nature, such as shop theft, and hence, many arrested young persons would not be referred to the Court for conviction. They are either cautioned under the Police

Superintendent's Discretion Scheme (PSDS) or ordered by the Court to bind over to keep the peace, which provide them with rehabilitation opportunities under circumstances which are appropriate and permitted by law. Therefore, there is a significant difference between the number of arrests and the number of convictions, with the latter being regarded as on the low side sometimes. Nevertheless, the police have provided the conviction figures recorded in the past three years as requested by the Member, and they are set out in the Annex which is attached to the main reply that I have submitted.

- (b) The police are experienced in implementing the Police School Liaison Programme (PSLP) under which dedicated School Liaison Officers (SLOs) are assigned to handle school liaison work. The primary objective of the PSLP is, through establishing good relationship with the school community including students, teachers and parents, to enhance students' understanding of the role of and assistance offered by the police as well as the importance to respect law and order. Apart from preventing students from committing crimes, the PSLP also seeks to early identify and provide counselling services to youths at risk at an early stage through communication with students and relevant parties. In 2008-2009, to better support anti-drug and crime prevention efforts in schools, additional resources were allocated to create 27 SLOs, which brings the total number of SLOs to 85 with an increase of almost 50%.

The SLOs of the police will take into account the needs of individual schools and adopt an appropriate approach to assist teachers and social workers in their endeavour to instil in students a sense of responsibility, moral values and personal discipline. Their primary roles are to give professional advice to schools when unruly behaviour of students is detected. If such behaviour does not involve criminal offences, SLOs may, with consent given by school authorities and parents, refer the cases to suitable agencies such as the Social Welfare Department (SWD) for follow-up. To prevent students from going astray, SLOs also give talks to students to disseminate the anti-crime message on crime-related topics including drugs, triad and different types of criminal offences.

In consultation with schools, parents, social workers and other stakeholders, the police have kept the PSLP under review. Feedback from the various parties has been very positive. We consider that the existing arrangements are effective, and should continue to be implemented. The police will review from time to time the need to increase the manpower for the PSLP according to practical experiences. Meanwhile, SLOs are not the only professionals in schools who can provide assistance to students. In fact, school authorities, parents, school social workers and other professionals also play an important role in this respect.

- (c) Anyone who commits a criminal offence would be treated equally by the police, and would be followed up and prosecuted according to relevant criminal law provisions. We will not increase the penalty for young people and ask them to bear a heavier criminal liability because of their young age. In fact, to combat juvenile crimes, especially for those first-time offenders, the community has reached a general consensus that we should, having regard to individual circumstances, encourage them to turn back to the right track through offering them rehabilitation opportunities and treating them with active measures such as caution, arrangement to keep the peace and counselling services. We should guide young people to learn the lesson, obey the law and have proper values.

Generally speaking, the police can caution young persons under the PSDS if they commit minor offences and have expressed contrition. In addition, for appropriate cases, the police and the Department of Justice (DoJ) can also apply to the Court to offer young offenders the arrangement of bind over to keep the peace in place of conviction, thus avoiding the carrying of conviction records by young persons easily.

However, for those young persons who have committed serious crimes such as murder, serious assault and serious narcotics offences, or repeated offenders, the police will for sure, having regard to circumstances of individual cases, prosecute the offenders in accordance with the law after seeking advice from the DoJ.

Table 1: Conviction figures of young persons below the age of 18

<i>Offence</i>	<i>Number of convicted young persons below the age of 18</i>		
	<i>2007</i>	<i>2008</i>	<i>2009 (January to September)</i>
Shop theft	128	166	131
Other miscellaneous theft	290	281	179
Wounding and serious assault	265	286	183
Robbery	136	86	45
Unlawful society offences	98	65	41
Major drug offences	196	306	241
Other offences ^(Note)	477	483	287
Total number of persons convicted	1 590	1 673	1 107

Note:

Other offences include arson, intimidation, burglary, criminal damage, murder and manslaughter, disorder/fight in public place, indecent assault, possession of offensive weapon, unlawful sexual intercourse, and so on.

MR LAU KONG-WAH (in Cantonese): *Deputy President, I wish to ask a follow-up in relation to the Annex which sets out the number of young offenders convicted in the past few years. The Annex has indeed listed many offences but I am particularly concerned about serious narcotics offences because the relevant figures have seen great movements in the past few years. May I ask what types of major drug offences the convicted cases involved and how long the prison terms were? Does the Secretary consider the penalties sufficient to deter these serious narcotics offences from proliferating?*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, serious narcotics offences generally involve possession of drugs; apart from drug abuse, there is also possession of drugs. Nowadays, the drugs abused by young people in general are psychotropic substances. In the past, cases involving harmful psychotropic substances were indicted in accordance with the Dangerous Drugs

Ordinance and would theoretically attract heavy prison terms. Since a few years ago, however, court sentences on cases such as ketamine abuse or possession have become more lenient and generally lighter than those on such offences as possession of heroin. But in the past few years, we have made on-going efforts to reflect the situation to the Court and made applications for judicial review on a few cases to the Court of Appeal. The sentences now for the offence of possession of harmful psychotropic substances are heavier, often in terms of years rather than one to two weeks or one to two months as was the case in the past.

We hold that the present legislation has sufficient deterrent effect, but to combat youth drug problem, we cannot rely on arrest and prosecution alone. Thus, we have a full plan in place and the Chief Executive also chaired an inter-bureau and inter-departmental core group last year to examine how best this problem can be tackled. We will tackle the youth drug problem on all fronts including education, prevention, rehabilitation services and law enforcement.

MR TAM YIU-CHUNG (in Cantonese): *I wish to ask the Secretary a question. The police say that they accord great importance to the problem of triad infiltration in school, but the public rarely see related targeted actions taken by the police. For instance, in the past four years, only two large-scale anti-triad actions were taken at schools on Hong Kong Island, and the police seldom took targeted actions against triad infiltration in school. This gives the public an impression of the police not according enough importance or commitment to tackling this problem. May I ask the Secretary whether he can inform us of the number of targeted actions taken against triad infiltration in school in various police districts in the past, and whether he has any information on the number of students arrested?*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, SLOs of the police regularly liaise with the Anti-triad Unit (ATU) in their district, and work with the ATU to organize school liaison programmes and activities, talks and seminars on triad problems to teachers and students. The ATUs in different districts and front-line police officers will conduct anti-crime patrols in places frequented by youngsters and take law-enforcement actions where necessary, so as to minimize the chances of students being influenced by unruly elements. According to information given by the police, there is no evidence of any

organized triad infiltration or recruitment in school. Nonetheless, the police have been working closely with organizations from different disciplines, such as schools, parents, teachers' federations, youth groups, the Education Department and the Education Bureau, to jointly take forward publicity and education programmes of anti-crime and anti-triad themes.

Mr TAM enquired about the number of relevant actions taken in different police districts just now, Deputy President, please allow me to provide the figures in writing. (Appendix I)

MR IP KWOK-HIM (in Cantonese): *The Secretary mentioned just now that there is no figure or information showing signs of massive infiltration of triad gangs in school. But I learnt from some information that in an anti-narcotics operation conducted in early January, the police had cracked two syndicates in outlying islands and Sham Shui Po which made use of young people for drug trafficking. The syndicates used students as cover-up for drug packaging and distribution. They thought that students, if convicted, would be given lighter sentences. From this we can see that triads wish to make use of students to commit this kind of crimes.*

May I ask the Secretary whether he has any figures or statistics on the number of triads in schools, and how parents could tell whether their children have been coerced into joining triad societies?

SECRETARY FOR SECURITY (in Cantonese): Deputy President, we have not tried to hide the fact that some young people are involved in serious narcotics offences. In fact, the conviction figures of young persons who have committed major drug offences are listed in the Annex to my main reply circulated to Members. And compared with the figure in 2007, the figure in 2008 has surged by almost 50%. Fortunately, after vigorous efforts taken by the Government to crack down on youth drug abuse and drug trafficking, the growth in the relevant figure in 2009 has been curbed. Among these young persons, some were really being used by others, while others were drug addicts or traffickers themselves. These are the reasons leading to the serious narcotics offences.

Regarding Mr IP Kwok-him's question about how parents can tell whether their children are involved in drug trafficking, the Narcotics Division has

produced in the past few years some resource kits for parents to teach them how to differentiate if their children are involved in drugs and how to seek help.

Regarding efforts to combat the youth drug problem, in addition to law-enforcement actions taken by the police, we hope that other parties in society, including school teachers and parents, can work with us in a concerted manner because they are the ones who spend the most time with them. In this regard, some resource kits are also produced for schools and parents.

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

MR IP KWOK-HIM (in Cantonese): *The Secretary has misunderstood my question just now. My supplementary question asked how parents could tell if their children have been coerced into joining triad societies, not how they can tell if their children have abused drugs.*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, concerning this question, parents indeed have to care more about their children. If their children always hang around outside at night, parents should pay more attention to them and talk with their school teachers, or seek help from professional social workers where necessary.

MR PAUL TSE (in Cantonese): *Deputy President, the thrust of the main question is about juvenile crimes, triad society, and so on. But the focus just now seemed to have centred on drug offences, theft and wounding. I am more concerned about public safety and impingement on police authority.*

Deputy President, it was reported yesterday that triad language was used in a meeting hosted by the political party of an ex-Member, saying that they had to find means to "agitate" the young people. They wanted to "agitate" the people of Hong Kong and go to places frequented by young people to recruit them or organize them for a certain purpose. The plan also involved spamming other websites and sabotaging other organizations. I am very worried about this. In fact, I am deeply concerned not only about the drug problem or wounding which is now under discussion, but also about whether people of triad

background are using certain positions, power or resources to conduct organized activities which deliberately seek to disrupt the order of Hong Kong and intentionally challenge the police's authority. Let me quote the Scout Promise as an example, that is, we shall do our best

DEPUTY PRESIDENT (in Cantonese): Mr Paul TSE, please come to your supplementary question direct.

MR PAUL TSE (in Cantonese): *Take the Scout as an example; they will do their best to discharge their duty towards their country and society, to help other people and to keep the Scout Law. But some people seem to do their best to ruin their country and society, to instigate other people and to violate the law*

DEPUTY PRESIDENT (in Cantonese): Mr TSE, please put your supplementary question direct.

MR PAUL TSE (in Cantonese): *May I ask whether the Secretary has noticed this problem and what strategies he has in mind? I hope the Secretary would not simply use the Basic Law as the perfect solution but really come up with a strategy.*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, regarding Mr TSE's question just now, a small number of young people now may be more radical and they would challenge the law-enforcement authority, that is, the police. Mr Paul TSE also mentioned that some Members of the Legislative Council or politicians have used the passion of young people to disrupt the order of society. Hong Kong is an open and pluralistic society. We understand that some people or youngsters are more radical in their actions. Everyone says that young people are the pillars of our society in the future. Thus, we would give them the opportunity to express their views by all means. But we do not wish to see them express their views through unlawful actions or illegal means. If politicians or other people abet someone in committing crimes, they have broken the law themselves.

MR WONG SING-CHI (in Cantonese): *Deputy President, the Secretary mentioned just now that youth offenders would be penalized and many Members further asked whether he would consider increasing the penalties or what solution he had to tackle the problem. First of all, I wish to declare that I have assisted my brother, Dr Dennis WONG of the City University of Hong Kong, to work in conjunction with the Hong Kong Police Force (HKPF) to tackle juvenile crimes through Restorative Justice and Restorative Mediation. I have also worked with the police (North District) to address the issue of young offenders who have committed minor offences through holding Family Conferences, and this indeed can help them to rejoin society.*

I do not know if these programmes are still running because I have stopped taking part in or providing assistance to these programmes. May I ask the Secretary whether the authorities have continued to use these relatively new and effective methods to tackle minor juvenile crimes? Has the Secretary carried out any research or followed-up work in this regard?

SECRETARY FOR SECURITY (in Cantonese): Deputy President, regarding the issue of juvenile crimes, the main duty of the police is to maintain law and order. As I mentioned in the main reply just now, the reason for a significant difference between the number of arrested young offenders and the number of convicted young offenders (with only 300-odd young offenders convicted out of the 6 000-odd arrests) is that we wish to give young offenders who have committed minor offences and expressed contrition a chance to turn over a new leaf.

Regarding the methods mentioned by Mr WONG just now, the police have all along been working with NGOs and social workers. We often refer cases to them and we have not ceased this practice. Some unruly young people are sometimes referred to the Education Bureau instead of social workers for follow-up because they will be offered assistance in finding schools so that they can continue with their studies. The SWD will, subject to individual circumstances, accept referrals of juveniles cautioned under the PSDS and introduce them to the Family Conference Scheme. The Scheme offers a joint assessment by different professionals on the needs of the young person, after which a year-long follow-up plan will be tailored for the client.

The Scheme did not start today and has been in operation since October 2003. To date, the police is still one of the participating parties. Certainly, we have more than one plan in place and the different district police stations are working with the relevant stakeholders, social workers or professional bodies. If these young people are willing to turn over a new leaf, and the offences they have committed are minor and they have expressed contrition, we very often would not institute prosecution against them, but refer the cases to relevant organizations for follow-up after cautioning them under the PSDS.

DEPUTY PRESIDENT (in Cantonese): We have spent more than 23 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Terms of Employment of Staff who are Employed by Government to Work for less than 18 hours per Week

7. **DR PAN PEY-CHYOU** (in Chinese): *President, some organizations have relayed to me earlier that the Government currently employs a group of staff who work for less than 18 hours per week, and their terms of employment in the aspects of salary, benefits, holidays and number of working days, and so on, are worse than those for non-civil service contract (NCSC) staff. Regarding the terms of employment of the aforesaid staff, will the Government inform this Council:*

- (a) of the current number of the aforesaid staff employed by the Government, with a breakdown by government department and post;*
- (b) among the staff mentioned in part (a):*
 - (i) of the number of those continuously employed on contract terms, with a breakdown by year of continuous service (that is, less than one year, and groups of three years each thereafter up to seven years or above); and*

- (ii) *of the number of those employed on an hourly rate basis, with a breakdown by hourly rate (that is, less than \$18, and groups of five dollars each thereafter up to \$33 or above); and*
- (c) *whether the Government has, apart from the Mandatory Provident Fund Scheme, provided any employee benefit to the aforesaid staff at present; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): President, at present, as civil servants are subject to conditioned hours of work, Permanent Secretaries and Heads of Departments (hereafter shortened as "HoDs") may employ part-time staff under the NCSC Staff Scheme to attend to irregular or ad hoc service needs which can be met by engaging staff working for less than the conditioned hours of work (including those working for less than 18 hours per week). Such an arrangement allows more flexibility in the operation of bureaux/departments (B/Ds) and enables them to respond more promptly to changing service needs.

B/Ds currently employ NCSC staff who work for less than 18 hours per week (hereafter shortened as "part-time NCSC staff") mainly to meet service needs which entail irregular work pattern and/or work hours. While part-time NCSC staff are employed under a "fixed term contract", B/Ds will only call upon their services as and when the need arises.

NCSC staff are employed with an all-inclusive pay package which does not offer any fringe benefits. HoDs may determine the employment package for their NCSC staff having regard to the job nature, condition of the employment market, as well as their management and operational considerations. The terms and conditions of service for NCSC staff are overall speaking no less favourable than those provided for under the Employment Ordinance (EO) (Cap. 57) and no more favourable than those applicable to civil servants in comparable civil service ranks or with comparable levels of responsibilities where they exist.

With the above brief explanation on the situation of part-time NCSC staff, my reply to the specific questions is set out below:

- (a) As at 31 December 2009, there were a total of 7 550 part-time NCSC staff who had contractual relationship with various B/Ds. The breakdown of these staff by B/Ds is at Annex. The Civil Service Bureau does not keep statistics of these staff positions.

The majority of these staff (6 271 or around 83%) were employed by the Leisure and Cultural Services Department to provide services to the public at the cultural and leisure venues. They were mostly part-time instructors/coaches for recreational and sports courses, ushers at cultural venues and camp counsellors overseeing the conduct of activities at camp sites.

- (b) (i) As explained at the beginning of my reply, part-time NCSC staff are engaged mainly to meet service needs which entail irregular work pattern and/or work hours. During the contract period, they will be called upon only when service needs arise and B/Ds will liaise and agree with them on the number of working hours required for the concerned services. Thus, the services provided by part-time NCSC staff are not continuous in nature.
- (ii) As at 31 December 2009, the average hourly rate of all part-time NCSC staff who had contractual relationship with B/Ds was \$33 or above.
- (c) Currently, all employees covered by the EO, irrespective of their period of employment and number of working hours per week, are entitled to certain employees' rights and benefits such as payment of wages, restriction on deductions from wages, statutory holidays, protection against unreasonable and unlawful dismissal, and so on. While the EO is not binding on the Government, as explained at the beginning of my reply, the Government, as a good employer, adheres to the guiding principle that the terms of employment of NCSC staff are overall speaking no less favourable than those provided for under the EO.

Also, government employees, including NCSC staff, irrespective of their period of employment and number of working hours per week, are covered by the Employees' Compensation Ordinance (Cap. 282). Part-time NCSC staff are thus already protected by the relevant laws, including provisions in relation to paid sick leave for injury on duty and compensation for death caused by accident arising out of and in the course of the employment.

Annex

Number of Part-time NCSC staff having Contractual Relationship with B/Ds
(as at 31 December 2009)

<i>B/Ds</i>	<i>No. of part-time NCSC staff having contractual relationship with B/Ds</i>
Administration Wing	3
Agriculture, Fisheries and Conservation Department	108
Architectural Services Department	2
Civil Aviation Department	38
Constitutional and Mainland Affairs Bureau	2
Civil Service Bureau	6
Correctional Services Department	33
Development Bureau	2
Department of Health	251
Education Bureau	105
Efficiency Unit	109
Environmental Protection Department	60
Food and Environmental Hygiene Department	1
Fire Services Department	61
Government Flying Service	2
Government Laboratory	1
Home Affairs Department	82
Inland Revenue Department	7
Innovation and Technology Commission	1
Judiciary	6
Leisure and Cultural Services Department	6 271
Labour and Welfare Bureau	1
Marine Department	3
Radio Television Hong Kong	198
Social Welfare Department	197
Total:	7 550

Regulation of Private Residential Care Homes for Elderly

8. **MR ABRAHAM SHEK** (in Chinese): *President, according to the findings of a survey conducted earlier on residential care homes for the elderly (RCHEs) by an elderly association, 90% of the elderly and over 90% of their family members responding to the survey are in favour of introducing a professional grading system on the performance of private RCHEs, so as to enhance the transparency of RCHEs in the market. Under the existing arrangement of the Comprehensive Social Security Assistance (CSSA) Scheme, CSSA payments for elderly recipients staying in RCHEs will be deducted if they receive contributions from their family members to meet part of the home fees. The findings of the survey also reveal that elderly people consider that the authorities need to review the arrangement so that more elderly people can afford to stay in private RCHEs, and then the quality of such institutions can be upgraded comprehensively. In this connection, will the Government inform this Council:*

- (a) whether it will introduce a professional grading system on the performance of private RCHEs to enhance their transparency, so as to facilitate the public in choosing elderly services; if so, of the details; if not, the reasons for that;*
- (b) whether it will review the aforesaid arrangement of the CSSA Scheme so that elderly recipients staying in private RCHEs will be allowed to receive financial support from their family members to cover part of the home fees without their CSSA payments having to be deducted; if so, of the details; if not, the reasons for that;*
- (c) whether inspections of RCHEs have been stepped up after the elder abuse incident in a private RCHE in Sheung Shui, so as to prevent the recurrence of such incidents; if so, of the details; if not, the reasons for that; and*
- (d) of the number of elder abuse cases uncovered during inspections of private RCHEs by the Social Welfare Department (SWD) in the past three years, as well as the follow-up actions taken by the SWD and the results of such actions?*

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

- (a) The Government has been encouraging providers of elderly services (including RCHEs) to participate in quality accreditation or assessment programmes with a view to enhancing their institutional management and service quality. At present, there are a number of independent quality accreditation or assessment programmes in the market, some of which are tailor-made for providers of elderly service, such as the Project on Accreditation System for Residential Care Services for the Elders in Hong Kong implemented by the Hong Kong Association of Gerontology and the Quality Elderly Service Scheme implemented jointly by the Hong Kong Health Care Federation and the Hong Kong Productivity Council. Elderly service providers can participate in these programmes on a voluntary basis. In order to further encourage RCHEs to participate in accreditation or assessment programmes, the SWD has, in the latest round of the Enhanced Bought Place Scheme (EBPS) purchase exercise, awarded additional scores to RCHEs which have passed accreditation or assessment. Besides, in order to enhance the transparency of information on RCHE and facilitate the public in choosing residential care services, information on all licensed RCHEs (including the name, address, type and number of places, licence period and licensing conditions, and so on), a list of RCHEs participating in the EBPS, a directory of services offered by different RCHEs, information on RCHEs that were successfully prosecuted and letters issued by the SWD to RCHEs providing guidelines on drug management and fee-charging of RCHEs, have been uploaded to the website of the SWD for public reference.
- (b) The purpose of the CSSA Scheme is to help families (including elders) with financial difficulties to meet their basic needs. It is a non-contributory social security scheme funded entirely by general revenue involving a large amount of public funds. Due care must therefore be exercised when assessing applications to ensure that this safety net is sustainable. As such, in determining the eligibility of elderly applicants for CSSA and the amount of CSSA payable to them, the Government has to take into account the overall resources and needs of the elders concerned, to ensure that CSSA payments are

used to assist those with genuine financial difficulties. In accordance with this principle, regardless of whether or not an elderly recipient is staying in a private RCHE, the Government has to take into account the resources provided by family members to the elder when deciding the amount of CSSA payable to him/her.

- (c) All RCHEs must be licensed and are regulated by the SWD. In accordance with the existing legislation, the Licensing Office of the Residential Care Homes for the Elderly (LORCHE) of the SWD inspects RCHEs from time to time and adjusts the frequency of inspection based on the risk level of individual RCHEs. The LORCHE will step up its inspection efforts on RCHEs that have been found non-compliant or have poor track records (including the RCHE where the elder abuse incident mentioned in the question took place) to closely monitor their service performance.

To prevent the recurrence of elder abuse incidents in RCHEs, the SWD has issued letters to all RCHEs reminding them to investigate any suspected elder abuse incidents as soon as possible in accordance with the "Procedural Guidelines for Handling Elder Abuse Cases" and refer the cases to social workers for professional assessment and formulation of follow-up measures for the elders. The LORCHE has also urged all RCHEs to pay attention to the professional ethics of their staff and encourage their staff to attend training programmes with a view to enhancing their care knowledge and skills. Besides, the LORCHE has again reminded RCHEs to display in prominent places notices on the channels for reporting/complaints, making it easier for staff, elderly residents and their family members, as well as other people to report any suspected elder abuse incidents through these channels.

- (d) In the past three years, the SWD uncovered one elder abuse case during its inspections of RCHEs. In that case, an inspector of the LORCHE found that a staff member of the RCHE concerned had applied physical restraint inappropriately, causing bodily harm to an elderly resident. The LORCHE immediately intervened, arranged for the elder to seek medical consultation in a hospital and also convened a "multidisciplinary case conference" so that the professionals concerned (including the doctor, police officer,

occupational therapist and social worker, and so on) could formulate a welfare plan for the elder. Besides, the LORCHE also issued a warning letter to the RCHE, urging it to better manage its staff in using physical restraint. During the follow-up inspection, the LORCHE found that the RCHE had made improvement accordingly and that the services provided also complied with licensing requirements.

Monitoring of Improvement Works Carried out in Premises Under Hospital Authority

9. **MR ANDREW CHENG** (in Chinese): *President, it has been reported that the Hospital Authority (HA) sought funding of over \$10 million from the Food and Health Bureau last year for renovating the Conference Hall in the HA Building, and the HA indicated that as the works was an internal administrative matter, the details would not be made public. It has also been reported that Tuen Mun Hospital had spent around \$1 million on renovating a conference room. Regarding monitoring internally by the HA and by the executive authorities of the improvement works carried out in the premises under the HA and its hospitals, will the Government inform this Council:*

- (a) *whether it knows the total number of renovation and improvement works projects carried out in the hospitals under the HA in each of the past three years, and the percentage of those involving facilities which will be used directly by patients;*
- (b) *whether it knows the hospital, premises, works items, reasons for carrying out the project and the amount of/estimated expenditure involved in each of the improvement works projects carried out or completed last year and those which have been approved but not yet commenced, as well as the name(s) of the committee(s) or post title(s) of the staff concerned which/who gave approval;*
- (c) *whether it knows if prior approval of the HA Board had been obtained for the aforesaid renovation works for the Conference Hall of the HA Building; and the mechanism for approving expenditure at different levels of the HA (including the HA Head Office, cluster and hospital levels); and if there are any express requirement that the management must obtain approval from the authorities concerned*

(including the HA Board) for expenditures exceeding a certain amount; if so, of the details; and

- (d) whether the Audit Department plans to conduct an audit review on the decision-making processes as well as the autonomy and accountability of the management in the allocation and use of funds by HA and its hospitals; if so, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, public hospitals under the HA are busy areas with a high pedestrian flow. To ensure that medical services are provided in a safe and secure environment, the HA carries out regular maintenance as well as renovation and improvement projects of various kinds for its public hospitals. The HA is one of the organizations that receives non-recurrent subvention under block vote subheads under Capital Works Reserve Fund Head 708. Under the present arrangement, the HA can seek funds under Block Allocation Subhead 8100MX under Head 708 for carrying out minor works and preparatory work on major projects costing not more than \$21 million each. Works funded under the Subhead include improvement and investigation works, preliminary feasibility study of projects and design work of building projects of various hospitals under the HA. In 2009-2010 financial year, the HA has been allocated a funding of \$600 million under the Subhead by the Financial Committee.

Currently, hospitals may propose minor works projects costing not more than \$21 million each in light of the conditions of their facilities and their operational needs. Such project proposals will be submitted to the respective hospital clusters for co-ordination after consultation and discussion by the relevant committees (such as the Hospital Governing Committee). The hospital clusters will then consider all such project proposals from their respective hospitals, set their priorities and submit them to the HA Head Office for review of the project proposals and project estimates. Projects recommended by HA Head Office will then be submitted to the Food and Health Bureau for approval. All approved projects are carried out by the HA's contractors and consultant surveyors under the supervision by the HA's professional staff. The contractors and consultant surveyors are engaged through open tender under the HA's established tender mechanism.

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

- (a) A total of over 300 items of renovation and improvement works on average were carried out in the hospitals under the HA in each of the past three years. Among them, more than 80% were carried out on sites which would be used directly by patients, and less than 20% of the remaining projects involved waterproofing to roof, slope maintenance, repair of underground water main and refurbishment of staff quarters and offices, and so on.
- (b) There are a total of over 900 items of renovation and improvement works costing not more than \$21 million each in HA hospitals in 2009-2010 financial year as set out by project category in the table below:

	<i>Project Category</i>	<i>Examples</i>	<i>Number of projects</i>		<i>Estimated expenditure for 2009-2010 (\$M)</i>
			<i>Commenced in 2009-2010</i>	<i>Commenced in or before 2008-2009⁽¹⁾</i>	
1.	Projects required by statutory requirements	Five-year electrical installations Inspection programme and urgent slope maintenance	12	8	6.3
2.	Corporate strategic projects	To conduct feasibility studies on major works projects, electrical and mechanical works on energy-saving, building services works required for filmless imaging, conversion works of nursing school, improvement works on fire installation, and so on	33	11	21.6

	<i>Project Category</i>	<i>Examples</i>	<i>Number of projects</i>		<i>Estimated expenditure for 2009-2010 (\$M)</i>
			<i>Commenced in 2009-2010</i>	<i>Commenced in or before 2008-2009⁽¹⁾</i>	
3.	Risk control projects	Security enhancement, flood prevention, asbestos abatement, maintenance of building façade, window replacement, road maintenance, maintenance on concrete structures, waterproofing to roof, and so on	113	81	89.7
4.	Projects to meet operational needs	Repair, conversion, refurbishment and improvement of general building facilities, offices and wards, and so on	174	560	482.4
		Total	332	660	600.0

Note:

(1) Only projects with expenditure incurred in 2009-2010 are included.

- (c) In general, approval from the HA Board is not required for maintenance and improvement works costing not more than \$21 million each. Nevertheless, as a recent renovation project is to be carried out at the Conference Hall in the HA Building where the HA Board Meetings are usually held, the project was submitted to the HA Board for consideration. On 19 November 2009, the HA Board endorsed after discussion the renovation project to be carried out at the Conference Hall at an estimated cost of \$11 million. The renovation of the Conference Hall in the HA Building on this occasion is proposed mainly having regard to the fact that the HA Building has been in use for more than 10 years since its completion in 1997 and its design, layout and size no longer meet the current

needs. Under the renovation project, the Conference Hall will be converted into one of a smaller size and two meeting rooms for effective utilization of the meeting facilities. Besides, the multiple-floor-level design of the existing Conference Hall has caused inconvenience to meeting attendees and public audience and does not facilitate accessibility of disabled persons. The renovation project therefore includes removal of the multiple-floor-level design of the Conference Hall to reduce the potential hazard to the attendees of the meetings as well as facilitating the attendance of disabled persons at the meetings. Also included in the renovation project are replacement of the public address and simultaneous interpretation system in the Conference Hall to ensure the acoustic quality of broadcasting and simultaneous interpretation; and replacement of outdated electrical installations and installation of energy-saving devices.

- (d) Under section 11 of the Hospital Authority Ordinance (Cap. 113), the Director of Audit may conduct an examination into the economy and efficiency with which the Authority has expended its resources in performing its functions and exercising its powers. It is noted that the Audit Commission takes into account a number of factors such as materiality, risk, timeliness, auditability and value added in selecting and prioritizing audit topics for detailed investigation. The Audit Commission will keep in view the HA's activities and utilization of resources and conduct an audit on the HA when the situation so warrants.

Self-employed Persons who Took out Employees' Compensation Insurance or Joined MPF Schemes

10. **MR IP WAI-MING** (in Chinese): *President, will the Government inform this Council whether it knows the respective numbers of self-employed persons engaged in the construction, catering and manufacturing industries who had taken out employees' compensation insurance and had joined mandatory provident fund schemes in each of the past 10 years; if it does not know, whether the authorities will collect the relevant data expeditiously?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, the Government does not have the number of self-employed persons who have taken out employees' compensation insurance. As it is a personal decision of the general public to take out insurance and given that circumstances would always change and that they are not required to report to the Government, it is not feasible to collect the relevant data.

In respect of Mandatory Provident Fund Schemes, according to the information provided by the Mandatory Provident Fund Schemes Authority (MPFA), as at end 2009, there were 347 000 self-employed persons participating in Mandatory Provident Fund Schemes. The MPFA does not have a breakdown of the number of self-employed persons in different industries.

Government Multi-storey Car Parks

11. **MS MIRIAM LAU** (in Chinese): *President, it has been reported that the utilization rates of quite a number of government multi-storey car parks under the Transport Department (TD) are persistently on the low side. In this connection, will the Government inform this Council:*

- (a) of the respective utilization rates of the various government multi-storey car parks under the TD at present;*
- (b) apart from the parking standards stipulated in the Hong Kong Planning Standards and Guidelines, whether the authorities have considered other factors in deciding on the number of parking spaces required to be provided in various districts; if they have, of the details; if not, the reasons for that;*
- (c) whether the authorities had, in the past two years, looked into the causes for the persistently low utilization rates of government multi-storey car parks; if they had, of the results; if not, whether they will conduct the relevant study;*
- (d) whether the authorities will re-assess the respective parking requirements of different categories of vehicles in various districts in Hong Kong, so as to ascertain the actual parking requirements in*

various districts and if their supply of parking spaces is sufficient; if they will; of the details; if not, the reasons for that;

- (e) whether the authorities will adopt new measures to attract more users to those government multi-storey car parks with persistently low utilization rates (for example, providing hourly or monthly parking spaces with parking fees lower than those in private car parks, or introducing parking schemes with longer rental periods, or relaxing the restrictions for parking medium and heavy vehicles at government multi-storey car parks); and*
- (f) given that some members of the transport industry have relayed to me that there is a shortage of parking spaces for medium and heavy vehicles in many districts, whether the authorities will consider altering or rebuilding some of the government multi-storey car parks with low utilization rates, so as to increase the number of such parking spaces; if they will, of the details; if not, the reasons for that?*

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

- (a) There are 14 multi-storey car parks under the management of the TD. According to the TD's statistics in December 2009, the average peak-hour utilization rates of private car/light van parking spaces in about 40% of the car parks ranged from 50% to 96%, while the corresponding rates fell below 50% in the remaining car parks. As regards motorcycle parking spaces, the average peak-hour utilization rates in about 90% of the car parks ranged from 56% to 93%, while the corresponding rates were less than 50% in the remaining car parks. Detailed figures are set out in the Annex.
- (b) When planning the number of parking spaces in various districts, apart from making reference to the Hong Kong Planning Standards and Guidelines, the Administration will take into consideration the public transport network and traffic condition of the districts concerned, as well as the demand of the local community for parking spaces.

- (c) Most of the government multi-storey car parks were completed more than 20 to 50 years ago. Over the years, the Administration has amended the planning standard to require newly developed buildings or shopping centres to provide adequate parking spaces to meet the demand. This arrangement has led to an increased supply of parking spaces in various districts and indirectly affected the utilization rate of government car parks already built.

The supply and demand of parking spaces for different types of vehicles vary among different districts. The TD has been closely monitoring the provision and use of parking spaces in different districts by such means as conducting studies and surveys to ascertain the supply and demand situation in different districts. Generally speaking, the utilization rate of motorcycle parking spaces in government car parks remains stable and relatively high. The utilization rate of private car/light van parking spaces in some of the car parks is however on the low side due to the car parks' geographical locations (night-time utilization is lower for car parks located in commercial areas) and the changes in distribution of economic activities over time in nearby districts.

- (d) As mentioned above, the TD has been closely monitoring the provision and use of parking spaces in various districts. For instance, to cater for the shortage of parking spaces for medium/large goods vehicles in Western District on Hong Kong Island, the TD has implemented necessary measures last year such as providing more car parking spaces for these vehicles on sites under short-term tenancies; and designating more on-street overnight parking spaces for goods vehicles with a view to increasing the supply of these parking spaces as soon as possible. The TD will conduct studies from time to time to ascertain the supply and demand of parking spaces for various types of vehicles. For example, the TD is currently conducting a survey on the demand of goods vehicles for parking and loading/unloading facilities on Hong Kong Island so as to assess the latest situation and formulate recommendations to meet the demand. The TD is also carrying out a study on the parking standards for private housing developments to review if the relevant standards in the Hong Kong Planning Standards and Guidelines are still appropriate.

(e) and (f)

To enhance the utilization rate of government car parks, the TD reduced the parking fees of the government car parks under its management in 2007 after making reference to the fee level of nearby private car parks in the same district. Apart from hourly and monthly parking, most government car parks offer concessionary rates for long-hour day/night parking. The above measures have attracted some motorists to use government car parks. In addition, the TD has converted some parking spaces for private cars to motorcycle parking spaces as there is a greater demand for motorcycle parking spaces, and introduced monthly parking concession for taxis. These measures have not only effectively relieved such problems as shortage of motorcycle parking spaces and illegal parking but also helped improve the over-supply of overnight parking spaces in the car parks. To optimize the use of surplus space in the car parks, the TD has, through the Government Property Agency, converted part of the unoccupied floors as government offices or let them out for short-term uses.

The government multi-storey car parks are currently designed for private cars, light vans and motorcycles. Since private cars differ considerably in height and size from the medium and large vehicles, the width of ramp required to accommodate vehicular movements of the latter is different. Hence, the proposal to permit parking of medium and heavy vehicles at government multi-storey car parks is technically not feasible unless the car parks are rebuilt.

The TD will continue to keep in view the utilization and fee level of its car parks as well as nearby private car parks and review the situation from time to time. Corresponding measures will be implemented when necessary to boost utilization of government car parks. In the long run, subject to future planning in districts concerned, the TD will review with other relevant departments if redevelopment is required for government car parks that are persistently under-utilized. For example, to tie in with the construction of Central Kowloon Route, the Yau Ma Tei Multi-storey Car Park, which has a relatively low utilization rate, will be demolished.

Annex

December 2009							
District	Car park	Private cars/light good vehicles			Motorcycles		
		No. of parking spaces	Average daily utilization rate ⁽¹⁾ (%)	Average daily peak-hour utilization rate ⁽²⁾ (%)	No. of parking spaces	Average daily utilization rate ⁽¹⁾ (%)	Average daily peak-hour utilization rate ⁽²⁾ (%)
Multi-storey car park							
Hong Kong Island	Kennedy Town	195	92	96	37	73	89
	Rumsey Street	844	34	47	109	54	60
	Star Ferry	370	29	62	35	46	74
	City Hall	165	9	23	27	48	56
	Murray Road	398	29	47	39	51	64
	Aberdeen	306	42	50	39	56	67
	Tin Hau	435	35	50	45	89	93
	Shau Kei Wan	384	34	39	60	63	73
Kowloon	Middle Road	735	26	50	95	51	69
	Yau Ma Tei	772	18	34	76	33	36
	Sheung Fung Street	284	23	30	42	74	81
New Territories	Kwai Fong	565	10	11	63	52	57
	Tsuen Wan	608	21	26	22	73	86
	Tsuen Wan Transport Complex	778	14	16	77	36	42

Notes:

- (1) Utilization rate is the ratio between the space-hours taken up by vehicles in a car park during its operating period (24 hours each day) and the total space-hours available in that car park during the same period.
- (2) Peak-hour utilization rate is the ratio between the space-hours taken up by vehicles in a car park during peak hours with highest demand and the total space-hours available in that car park during the same period.

Vaccination Schemes for Children

12. **MR FREDERICK FUNG** (in Chinese): *President, it has been reported earlier that a survey conducted by a childhood vaccines concern group has indicated that more than 30% of the parents interviewed did not know that the Government had started to provide free pneumococcal catch-up vaccinations for children under two years old since September last year, more than 60% of the parents interviewed said that they had not yet taken their children to Maternal and Child Health Centres (MCHCs) for such vaccination, and more than 80% of the parents interviewed considered that the Government's publicity work was insufficient. Moreover, the concern group has also pointed out that at present, the Government focuses its publicity work on the Childhood Influenza Vaccination Subsidy Scheme (CIVSS), and it suggests that the Government should at the same time enhance publicity on the various vaccinations as well as simplify the procedure for making appointments for vaccinations. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of children vaccinated through the Childhood Pneumococcal Vaccination Programme and the CIVSS since the implementation of the two schemes on 1 September and 19 October last year respectively; how such numbers compare with the originally expected numbers; the respective numbers of vaccinations already disposed of at present and those expected to be disposed of after the expiry of the two schemes; and*
- (b) *whether the authorities have assessed if parents will be confused by the need to arrange for their children to receive a number of vaccinations within the same period; if the assessment outcome is in the affirmative, whether the authorities will consider making improvements (including enhancing publicity on the effectiveness of the vaccinations concerned, simplifying the procedure for making appointments for vaccinations, adding more locations for vaccinations and extending the office hours to facilitate parents in bringing their children to receive vaccinations after work)?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, vaccination is one of the important aspects in safeguarding public health. Throughout the years, the Government has been providing the necessary

vaccinations to eligible children through the Childhood Immunization Programme (CIP) and other vaccination programmes. The types and schedule of vaccinations provided are based on scientific evidence. The arrangements of receiving a number of vaccinations within the same period, or to receive a few doses of the same vaccination according to the vaccination schedule have been implemented for years and are generally known to the public. Our replies to the specific questions are as follows:

(a) *Pneumococcal vaccination programme*

Pneumococcal conjugate vaccine has been included in the CIP since 1 September 2009. All infants born on or after 1 July 2009 can receive free pneumococcal vaccination in the MCHCs of the Department of Health (DH) according to the vaccination schedule.

In addition, the DH has been providing catch-up pneumococcal vaccination starting from the same date for children below the age of two at that time. Children born between 1 September 2007 and 30 June 2009 (both dates inclusive) can receive free catch-up pneumococcal vaccination at MCHCs. The catch-up programme will last until 31 March 2011.

As at 31 January 2010, over 21 800 children had received pneumococcal vaccinations at MCHCs under the CIP. As there were around 36 000 eligible children during the concerned period, the coverage rate was about 61%. On the other hand, as at 31 January 2010, among the 128 000 eligible children, over 73 700 had received pneumococcal vaccination at MCHCs under the catch-up programme, representing about 58% coverage rate. The above figures have not reflected those who have received pneumococcal vaccination at the private sector, and those who have returned to the Mainland or went overseas and thus have not received vaccination in Hong Kong.

The DH purchases the vaccines for the above programmes by batches and can adjust the procured amount having regard to the actual situation. The DH anticipates that all the vaccines procured could be fully utilized.

Seasonal Influenza vaccination programme

Regarding seasonal influenza, the Government launched the "Government Vaccination Programme (GVP)" since 19 October 2009 to provide free seasonal influenza vaccination to target groups of the population. The target groups include all children between the age of six months and less than six years old coming from Comprehensive Social Security Assistance families (estimated at around 19 000 children). They can receive free seasonal influenza vaccination at MCHCs. In parallel, the Government introduced the "Childhood Influenza Vaccination Subsidy Scheme" to subsidize other children of the same age group to receive seasonal influenza vaccination from private doctors enrolled in the Scheme. It is estimated that around 360 000 children are eligible for the CIVSS. The two programmes will last until 31 March 2010.

As at 31 January 2010, over 6 500 and 68 300 children received seasonal influenza vaccinations under the GVP and CIVSS respectively, representing about 34% and 19% coverage rates.

The GVP has been implemented for many years and the amount of vaccines required could be estimated based on past statistics. DH can also make necessary adjustment on the procured amount based on actual situation. Regarding CIVSS, private doctors participating in the scheme have to purchase vaccines themselves and the Government is not required to procure any vaccine in advance.

- (b) Pneumococcal conjugate vaccine has been included into the CIP since 1 September 2009 and catch-up pneumococcal vaccination has been provided to children under the age of two starting from the same date. Provision of pneumococcal vaccination service at MCHCs is in line with the existing arrangement for other vaccinations under CIP. Children can receive their pneumococcal vaccination when they receive other vaccinations under CIP without the need of separate appointment. If a child's catch-up vaccination schedule falls outside the CIP schedule, special arrangements have been made by the DH to provide vaccination services on Sundays. This arrangement does not affect existing services of MCHCs on the one hand, and provides conveniences to parents on the other hand. It has not caused any confusion.

CIVSS is a co-operative arrangement between the Government and private doctors. The scheme is launched before the winter peak influenza season each year with a view to reducing hospitalizations of children with influenza infection. At present, over 1 400 private doctors have enrolled in CIVSS to provide influenza vaccination service at more than 1 700 clinics in the 18 districts. As regards GVP, it has been implemented smoothly for many years to provide eligible children with free seasonal influenza vaccinations through the 31 MCHCs in Hong Kong.

Proper immunization records are kept at MCHCs. Each child has been provided with their immunization records to enable parents to know clearly the type and time of vaccinations received in the past as well as the next vaccination schedule. Staff of MCHCs will also remind parents of the next vaccination schedule. On the other hand, children's vaccination records under CIVSS are kept under the eHealth System. The DH has also issued guidelines to private doctors enrolled in the CIVSS to encourage them to provide vaccination records to parents.

The Government has spared no efforts in promoting and publicizing the vaccination programmes. There are TV and radio Announcement of Public Interest and briefings about the vaccination programmes have been provided from time to time through media interviews. Information leaflets have been distributed through MCHCs, private doctors enrolled in CIVSS, child care centres and kindergartens. Promotional posters and information leaflets have also been delivered to various health service points. In addition, the DH has developed a website and set up a telephone hotline (2125 2125) to answer public enquiries.

Safety of Pedestrians in the Vicinity of Schools in Rural Area

13. **MR LEE WING-TAT** (in Chinese): *President, in the middle of last month, a traffic accident occurred when a kindergarten pupil and his parent were crossing the road near his school in Ho Sheung Heung in Sheung Shui, resulting in one dead and the other seriously injured. Regarding the safety of pedestrians in the vicinity of kindergartens and primary schools in rural areas (rural schools), will the Government inform this Council:*

- (a) *of the number of traffic accidents which occurred in the vicinity of rural schools in the past three years, as well as the casualties involved;*
- (b) *of the number of rural schools without railings or road-crossing facilities outside their entrances and along the pavements in the vicinity; and*
- (c) *how the Transport Department (TD) and the Education Bureau will co-ordinate with each other and what road safety improvement measures will be taken, including whether speed humps will be added to the carriageways in the vicinity of rural schools to slow down vehicles, so as to protect the safety of the pupils, parents and teaching staff of the kindergarten involved in the aforesaid accident as well as other rural schools?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, according to information provided by the Education Bureau, there are currently 49 rural schools in the territory. They are located in Tuen Mun, Yuen Long, North District, Sai Kung and Islands Districts. My reply to the three parts of the question is as follows:

- (a) During the period from 2007 to 2009, a total of 16 traffic accidents occurred near the 49 rural schools, of which 15 were minor accidents, and 17 persons were slightly injured. Three of the above accidents involved children aged 12 or below, and one child was slightly injured in each of them. The remaining one accident was fatal. It happened on Castle Peak Road in Yuen Long near San Tin and no pedestrian was involved in that accident. The above traffic accidents occurred on roads within about 50 m from the rural schools. The persons involved in the accidents might just be passing near the school, and might not be students, parents or staff of the schools concerned.
- (b) Among the 49 rural schools, the TD is responsible for the management of roads near 21 of them (Roads in the vicinity of the remaining 28 rural schools are village roads or private roads which are not managed by the TD). Out of the above 21 rural schools, crossing facilities or fences have been installed near nine schools.

Six of the schools are primary schools or kindergartens on Peng Chau or Cheung Chau. The traffic condition on the outlying islands is different. Only a small number of village vehicles are permitted to travel on the roads. The traffic is light and the vehicle speed is relatively low. As the roads are designed for shared use by vehicles and pedestrians, crossing facilities and fences are not applicable. As regards the remaining six rural schools, "Slow" or "Children" road markings or signs have already been put up at appropriate locations to remind motorists to drive slowly and carefully. Both the vehicular and pedestrian flows at these roads are not high. The TD will examine from time to time whether the road facilities in the vicinity of rural schools are adequate.

- (c) The TD reviews regularly with relevant government departments the traffic management measures and pedestrian crossing facilities on carriageways near rural schools, and initiates improvement proposals as appropriate. According to the TD's analysis, the behaviour of road users (including drivers and pedestrians) has been the contributory factor for about 90% of the traffic accidents. Therefore, apart from improving road facilities, we attach great importance to a multi-pronged approach in enhancing road safety, which includes education, publicity and enforcement. To build up school children's safety awareness, the Education Bureau has been promoting the importance of road safety to school children through the school curriculum, various teaching activities and learning experience, and instilling in them positive values and proper attitudes, such as compliance with regulations and fulfilment of civil obligations. The Education Bureau also encourages schools to set up road safety patrol teams to help students cross the roads safely before and after school. Separately, to enhance school children's awareness of road safety, regional road safety teams of the police hold safety talks and distribute promotional leaflets at schools and community centres regularly and conduct various activities such as visits to the "Road Safety Town". Apart from initiating prosecutions against offenders, the police also launch their regular campaigns on safe driving and pedestrian safety to remind motorists and pedestrians to take heed of road safety.

Agreements on Avoidance of Double Taxation

14. **DR LAM TAI-FAI** (in Chinese): *President, at the meeting of this Council on 20 January of this year, I raised an oral question regarding the Arrangement between the Mainland of China and the Hong Kong Special Administrative Region for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (Arrangement) signed by the authorities of the Mainland and Hong Kong on 21 August 2006. In connection with the reply given by the Secretary for Financial Services and the Treasury, will the Government inform this Council:*

- (a) *whether it will request the Inland Revenue Department (IRD) to record the annual number of Hong Kong residents who have to pay tax on the Mainland because they have worked on the Mainland for more than 183 days in any 12-month period and have applied to the IRD for tax exemption in Hong Kong; if it will, when it will commence the work; if not, the reasons for that;*
- (b) *of the number of times the authorities have conveyed to the Mainland authorities concerned since the implementation of the Arrangement the views of members of the trade in Hong Kong that the 183-day threshold should be relaxed, as well as the contents of the views, the name of the Mainland authorities and the dates of meetings between the two parties;*
- (c) *given that the Mainland authorities concerned are of the view that the 183-day threshold has worked well all along and they see no sufficient justifications for changing it at present, whether it knows the details of "sufficient justifications"; if not, whether it will request the Mainland authorities concerned to give further explanation;*
- (d) *whether it knows if the 183-day threshold is also adopted in the agreements on avoidance of double taxation signed among the member states of the European Union for allocation of taxing rights; if it does, of the titles of such agreements; if not, the reasons for that;*
- (e) *since the implementation of the Arrangement:*
 - (i) *whether any Mainland resident employed in Hong Kong and was present in Hong Kong for more than 183 days in any*

12-month period has informed the IRD of his inability to pay tax or the need to apply for deferring tax payment; if so, of the respective numbers of cases involved, reasons for their inability to pay tax, total amount of taxes involved in each case and the amount of taxes in default; and

- (ii) whether any Hong Kong resident employed on the Mainland and was present on the Mainland for more than 183 days in any 12-month period has informed the IRD or the offices of the Government of the Hong Kong Special Administrative Region (HKSAR) on the Mainland of his inability to pay tax on the Mainland; if so, of the respective numbers of cases involved, reasons for their inability to pay tax, total amount of taxes involved in each case and the amount of taxes in default;*
- (f) whether there is any measure or mechanism in place to assist the Hong Kong residents in part (e)(ii) to apply to the Mainland authorities concerned for deferring tax payment and to appeal to the Mainland authorities concerned against the assessed amount of tax;*
- (g) whether it has assessed the respective numbers of Hong Kong residents who will be present on the Mainland for more than 183 days each year after the implementation/commissioning of the "one-hour quality living sphere" programme, Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link and Hong Kong-Zhuhai-Macao Bridge; if it has, of the details; if not, the reasons for that;*
- (h) how the authorities at present establish through the immigration records that the presence of Hong Kong residents on the Mainland is for work, so as to determine whether such persons are working on the Mainland for more than 183 days;*
- (i) whether it has assessed if the 183-day threshold will hamper the aspirations of Hong Kong residents to conduct business, work or reside on the Mainland, and whether it is contradictory to the original intention of the Hong Kong-Guangdong economic integration policy; if it has, of the details; if not, the reasons for that;*

- (j) *of the total number of submissions requesting for the relaxation of the 183-day threshold received by the authorities since the implementation of the Arrangement, and of the number of days for the relaxed threshold suggested in most of these submissions;*
- (k) *whether it will conduct a territory-wide survey of members of the various trades on the implementation of the Arrangement, so that it can obtain and put forward sufficient justifications to request the Mainland authorities concerned to relax the existing 183-day threshold; if it will, when such a survey will be conducted; if not, the reasons for that;*
- (l) *whether it has assessed the impact of relaxing the existing 183-day threshold to at least 260 days, or even removing such a threshold, on the tax revenue and economic development of the Mainland and Hong Kong; if it has, of the details; if not, whether it will consider making such an assessment; and*
- (m) *whether it has assessed if the 183-day threshold has been enforced effectively since the implementation of the Arrangement; if the assessment result is in the affirmative, of the details; if the assessment result is in the negative, the reasons for that, and whether it will propose to the Mainland authorities concerned removing the 183-day threshold?*

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

- (a) In implementing agreements for avoidance of double taxation, it is most important for the IRD to ensure that taxpayers enjoy the tax treatment they are entitled to in accordance with the relevant arrangement. It is not necessary for the IRD to keep specific statistics or records of various types of tax matters of different taxpayers, if such information does not affect tax collection.
- (b) Noting the proposal from the business sector to relax the 183-day threshold, the IRD reflected this view to the State Administration of Taxation (SAT) in October 2009.

- (c) Hong Kong residents working in the Mainland would have to pay Mainland tax, as would Mainland residents or residents of other countries or places. Hong Kong residents are not subject to any unfair treatment on this aspect. The 183-day threshold was adopted in all tax agreements the Mainland has entered into and also in those tax agreements signed by other tax jurisdictions between each other. The Mainland authority therefore considers that there are no sufficient justifications to change this threshold.
- (d) As far as we understand, all comprehensive avoidance of double taxation agreements signed by European Union countries between each other (such as the agreements signed by Belgium, France, Germany, Netherlands, Spain and the United Kingdom between each other) adopt the 183-day threshold.
- (e)
 - (i) The IRD does not keep separate records of default cases or holdover applications involving Mainland residents.
 - (ii) Since the implementation of the Arrangement, neither the IRD nor any of the Mainland offices of the HKSAR Government has received any request for help from Hong Kong residents concerning inability to pay tax in the Mainland.
- (f) If a Hong Kong resident considers that the Mainland tax authority has not been taxing him in accordance with the Arrangement, he may present his case to the IRD. If necessary, the IRD may invoke the mutual agreement procedures to resolve the double taxation issue. For Mainland tax issues other than double taxation, taxpayers would have to discuss with the relevant Mainland authority directly. The IRD cannot interfere with Mainland tax matters.
- (g) and (l)

The purpose of the 183-day threshold under the Arrangement is to provide a fair and certain basis for allocating taxing rights between the Mainland and Hong Kong. As far as this purpose is concerned, we do not consider it necessary to carry out the assessments mentioned in the questions.

- (h) A Hong Kong resident departing from Hong Kong does not need to declare to the Immigration Department the purpose of his departure, his destination or the period of stay. Whether a person is present in the Mainland for more than 183 days and thus is required to pay Mainland tax should be determined by the Mainland authority rather than the HKSAR Government.
- (i) Before the Arrangement was in place, a Hong Kong resident might be taxed by the Mainland authority as long as he worked in the Mainland for over 90 days. The 183-day threshold under the current Arrangement is already a major relaxation of the time limit, and should no doubt be conducive to the further integration and economic development of the two economies.
- (j) We have so far received two suggestions proposing to relax the threshold to 260 and 270 days respectively. Individual business associations have raised similar proposals on various occasions, but we have not kept specific records of them.
- (k) The IRD and the SAT meet annually to discuss the implementation details of the Arrangement. Before the meeting, the IRD will collect views from stakeholders, (including accounting and tax professionals and representatives of business associations). The current mechanism is working well, and we do not see the need for a territory-wide survey.
- (m) The 183-day threshold is a simple and clear rule widely and effectively implemented internationally. There has not been any implementation problem. We have raised with the Mainland authority the proposal of the business sector to relax this threshold. However, a total removal of the 183-day threshold (that is, Hong Kong residents would not have to pay Mainland tax no matter how long they have worked there) is not reasonable.

Provision of Mental Health Services

15. **MR CHEUNG KWOK-CHE** (in Chinese): *President, regarding the mental health services provided by the Hospital Authority (HA), will the Government inform this Council whether it knows in the past two years:*

- (a) *the following annual figures of the psychiatric specialist out-patient (SOP) clinics of public hospitals and mental hospitals under the HA:*
 - (i) *the respective numbers of persons aged five or below, six to 12 and 13 to 19 (children and youths (C&Ys)) treated at the aforesaid SOP clinics and; among them, the number of new cases involved, and the respective numbers of C&Ys diagnosed as having mental health problems;*
 - (ii) *the respective average waiting time and attendances for cases for first appointment and scheduled appointments (including urgent and non-urgent cases) of psychiatric SOP services for C&Ys and adults;*
 - (iii) *the number of admissions of C&Ys to mental hospitals;*
 - (iv) *the respective numbers of C&Y mental illness cases handled by the aforesaid SOP clinics and mental hospitals, with a breakdown by the type of illness (for example, schizophrenia, depression, anxiety and other emotional illnesses, and so on); and*
 - (v) *the percentage of C&Ys and adult out-patients of psychiatric SOP who did not turn up for follow-up consultations (including urgent and non-urgent cases);*
- (b) *the respective numbers of admissions of C&Ys with mental health problems to halfway houses, supported hostels and long-stay care homes each year;*
- (c) *the number of cases handled under the Child and Adolescent Mental Health Community Support Project, as well as the number of psycho-educational activities held and the hours of consultation service provided each year; and*
- (d) *the respective numbers of psychiatrists and clinical psychologists in public medical institutions who provided services for C&Ys with mental health problems?*

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

- (a) (i) The number of patients at the psychiatric SOP clinics of the HA and the number of new cases among them in 2007-2008 and 2008-2009 by age group are set out in the table below:

	<i>2007-2008</i>		<i>2008-2009</i>	
	<i>Number of patients receiving treatment</i>	<i>Number of new cases</i>	<i>Number of patients receiving treatment</i>	<i>Number of new cases</i>
Aged 0-5	770	360	859	486
Aged 6-12	5 354	1 593	6 033	1 942
Aged 13-19	5 017	1 526	5 428	1 632

- (ii) At present, under the triage system for new SOP cases in the HA, SOP clinics consider the clinical conditions, major symptoms and findings of physical examination of new patients and arrange the date of appointment having regard to the severity of their conditions. The age of the patients is not a major consideration.

The number of overall first attendances and follow-up attendances and the median waiting time for first appointment at psychiatric SOP clinics of the HA in 2007-2008 and 2008-2009 are set out in the table below:

	<i>2007-2008</i>	<i>2008-2009</i>
Number of first attendances	26 522	26 747
Number of follow-up attendances	601 653	621 117
Median waiting time for first appointment	4 weeks	4 weeks

During each consultation, doctors of SOP clinics will conduct assessment on the patient and consider whether he or she needs to undergo further examination and receive treatment or refer the patient to other specialties for follow-up having regard to his or her clinical conditions. Doctors would arrange the date of follow-up consultation of each patient based on the clinical conditions and treatment needs of the patient.

- (iii) In 2007-2008 and 2008-2009, the number of discharges of psychiatric in-patients aged 0-19 of the HA were 1 048 and 1 310 respectively.
- (iv) The number of psychiatric out-patients and in-patients aged 0-19 of the HA in 2007-2008 and 2008-2009 are set out in the table below:

	<i>2007-2008</i>	<i>2008-2009</i>
Psychiatric out-patients aged 0-19 of HA	11 141	12 320
Psychiatric in-patients aged 0-19 of HA	876	1 088

Statistics of psychiatric patients aged 0-19 of the HA diagnosed with the three more common types of mental disorders of this age group in 2007-2008 and 2008-2009 are as follows:

	<i>2007-2008</i>	<i>2008-2009</i>
Number of patients diagnosed with behavioural and emotional disorders with onset usually occurring in childhood and adolescence	3 677	4 295
Number of patients diagnosed with disorders of psychological development	2 869	3 348
Number of patients diagnosed with mental retardation	931	935

- (v) The HA does not have the statistics by age group on the rate of psychiatric patients defaulting in their scheduled appointment. The overall default rate of psychiatric out-patients in 2007-2008 and 2008-2009 were 12.2% and 12.7% respectively.

For patients who default in their scheduled appointment, the psychiatric SOP clinics will, depending on the circumstances, actively contact the patients and follow up to ensure that

patients in need will be provided with timely treatment as far as possible.

- (b) In 2007-2008 and 2008-2009, the number of attendances of persons aged 0-19 residing in half-way houses subvented by the Social Welfare Department (SWD) were five and 19 respectively. No person aged 0-19 resided in the long stay care homes and supported hostels subvented by the SWD in these two years.
- (c) To facilitate the early identification of children and adolescents with mental health problems with a view to providing them with necessary services as early as possible, the SWD and HA implemented the "Child and Adolescent Mental Health Community Support Project" in collaboration since 2005. The Project was fully transferred to the HA for implementation since July 2009. In 2007-2008 and 2008-2009, the Project handled a total of 259 and 194 cases and organized 191 and 166 psycho-education activities and consultation services. In addition, the Project also establishes linkages with community organizations to provide child and adolescent psychiatric patients with personalized rehabilitation services as well as training and activities relating to daily living and vocational skills in community settings. This is to help them overcome the adverse impact of mental disorders and develop mental wellness.
- (d) At present, there are approximately 19 psychiatrists and eight clinical psychologists providing child and adolescent psychiatric service in the HA. Apart from psychiatrists and clinical psychologists, health care staff of other disciplines, including psychiatric nurses, medical social workers and occupational therapists, also provide mental health services to children and adolescents.

Illegal Practices Used by Taxi Drivers to Deceive Travellers

16. **MR PAUL TSE** (in Chinese): *President, it has been reported that the situation of taxi drivers deceiving travellers by various illegal practices (including deceptively claiming that fares are in US dollars, activating the meters before picking up passengers as well as overcharging luggage fees and tunnel fees, and so on) is not uncommon in recent years. There was even an incident*

which occurred in December last year of a taxi driver allegedly detaining a few travellers after an argument with them over overcharging, which seriously undermines the reputation of Hong Kong's tourism industry. In this connection, will the Government inform this Council:

- (a) of the number of complaints received by the authorities about taxi drivers allegedly deceiving travellers by various illegal practices in each of the past three years; of the usual procedure for handling such complaints by the authorities upon receipt of the complaints, as well as the time usually needed for handling the complaints; where the investigation work of the complaints concerned can only be completed after the travellers have departed from Hong Kong, whether the authorities will inform such travellers of the investigation result;*
- (b) given that quite a number of travellers only make short stays in Hong Kong, whether the authorities have set up an express mechanism for handling travellers' complaints, so as to properly handle complaints similar to the aforesaid situations; if they have, of the details; if not, whether they will do so as soon as possible; and*
- (c) whether it will increase the penalty on taxi drivers who used the aforesaid illegal practices to deceive travellers, and enhance inspection and prosecution work, so as to create deterrent effect; if it will, of the specific details?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, based on the present procedure, if a tourist makes a report or lodges a complaint of being deceived by taxi drivers to the police, the complainant will be asked to provide detailed information of the complaint in order that the police can initiate an investigation. The investigation will be conducted as quickly as possible.

In case the investigation cannot be completed before the departure of the tourist, the police will request him/her to leave the contact so that the police can inform him of the progress and information results of the investigation. If necessary, the tourist may be requested to return to Hong Kong, at Hong Kong Government's expense, to give evidence at any subsequent court cases.

Besides, the Hong Kong Tourism Board (HKTB) operates a multi-lingual Visitor Hotline for handling visitors' travel-related enquiries in Hong Kong, with

a view to resolving the enquiries before their departure. In the case of taxi-related complaints, the HKTb will immediately refer these cases to the Transport Department (TD) or the police for follow-up and assistance.

To facilitate travellers in understanding the local taxi fare arrangements, the HKTb has uploaded onto its website the general information about hiring taxis. The TD has also produced flyers providing the scale of fares for hiring of taxis in Hong Kong and the fares to and from popular tourist areas. The flyers are distributed to visitors for their reference at major cross boundary control points and tourist attractions, such as the Airport, Lok Ma Chau Control Point and the Hong Kong Disneyland, as well as visitor centres of the HKTb. The TD also provides taxi fare information through information plates and LED display panels installed at major taxi stands. The information provided in the flyers and at the facilities includes hotline numbers of the TD, the police, the HKTb and Transport Complaints Unit (TCU) to facilitate visitors to seek assistance as and when necessary.

As regards the number of complaints lodged by tourists about having been deceived by taxi drivers through various illegal practices over the past three years, the HKTb received 18 cases in 2007, 20 cases in 2008 and 28 cases in 2009. For the number of complaints lodged by tourists against overcharging of taxi fares by taxi drivers, the TCU received 276 cases in 2007, 381 cases in 2008 and 433 cases in 2009.

The police and TD do not maintain separate statistics of the cases by "tourists" and "non-tourists". Over the past three years, the total numbers of complaints received by the police about overcharging of taxi fares by taxi drivers (including tourists and non-tourists), were 337 in 2007, 391 in 2008 and 422 in 2009. The corresponding numbers of complaints received by the TD were 93 cases in 2007, 123 cases in 2008 and 187 cases in 2009. As a complainant can lodge the same complaint through various channels, there might be overlaps with the above figures.

In accordance with the law, a taxi driver shall not overcharge passengers otherwise he would commit an offence and is liable on conviction to a maximum penalty of a fine of \$10,000 and an imprisonment for six months. If passengers find out that they have been overcharged by taxi drivers, they can keep the fare receipts and report to the police. The police will continue to take enforcement actions in accordance with the current legislations and enforcement policy.

Regulating Safety of Entertainment Establishments in Composite Buildings

17. **MS STARRY LEE** (in Chinese): *President, it has been reported that during an anti-narcotics operation of the police before Christmas last year, it was uncovered that a bar on an upper floor of a building in Tsim Sha Tsui had violated the licensing conditions, as about 400 customers had gathered in that bar which is allowed to serve only 49 customers. Some members of the trade have pointed out that some operators of entertainment establishments violated the licensing conditions for the sake of profits, and it is common that the number of people in an entertainment establishment exceeds the limit. The consequence would be unthinkable should an accident occur. At present, quite a number of entertainment establishments are located on the upper floors of composite buildings, which are for both commercial and residential purposes. The safety of such establishments is regulated by various ordinances, including the Fire Safety (Commercial Premises) Ordinance (Cap. 502), the Fire Safety (Buildings) Ordinance (Cap. 572) as well as the Karaoke Establishments Ordinance (Cap. 573) and its subsidiary legislation. In this connection, will the Government inform this Council of:*

- (a) *the number of entertainment establishments in composite buildings in each District Council district in Hong Kong, together with a breakdown by the type of entertainment establishment; and*
- (b) *the number of routine inspections carried out by the authorities of the entertainment establishments in part (a) in each of the past three years, together with a breakdown by the type of entertainment establishment; among such inspections, the respective numbers of those which uncovered that the numbers of people in the establishments exceeded the maximum numbers of people stipulated in the licensing conditions and the establishments had violated the aforesaid ordinances; the usual number of people in excess of the limit; the respective number of prosecutions instituted by the authorities in respect of these two types of situations, as well as the number of cases in which the persons involved were convicted and the usual penalties?*

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

- (a) Entertainment establishments in Hong Kong are mainly bars, karaoke establishments, nightclubs, commercial bathhouses,

massage establishments and mahjong/tin kau parlours. The number of various types of entertainment establishments by District Council district is at Annex. Some licensing authorities (including the Liquor Licensing Board (LLB), Food and Environmental Hygiene Department, Television and Entertainment Licensing Authority and the police) do not have the breakdown statistics on the number of entertainment establishments in composite buildings.

- (b) The Security Bureau has advised that according to the Dutiable Commodities Ordinance (Cap. 109), there are two categories of liquor selling premises: premises with club liquor licences and premises with general liquor licences. Premises in the former category are required to be issued with certificates of compliance for clubs by the HAD to be allowed to sell liquor. On the certificate of compliance, a capacity limit will be imposed as a condition. For general premises with liquor licences, the police will, by making reference to the location of the premises and having regard to public safety, recommend the LLB to impose a capacity limit as a licensing condition.

As the enforcement authority under the Dutiable Commodities Ordinance, the police will keep the operation of premises holding valid liquor licences under close watch and conduct inspections from time to time to ensure that they comply with the statutory requirements. The police will take appropriate actions against any illegal practices or non-compliance. Generally speaking, the police will issue summonses to licensees who have breached the licensing conditions. The police will even recommend to the licensing authority to reject application for renewal of licences or revoke the licences concerned if serious problems are found. The police has not further categorized the cases of non-compliance by individual premises at this stage and hence does not have statistics on the number of prosecutions instituted in respect of these cases of non-compliance. Any person in breach of the conditions imposed under the liquor licence commits an offence. The maximum penalty for the offence is a fine of HK\$100,000 and imprisonment for one year.

Besides, the police will also inspect other public entertainment establishments in accordance to the law to prevent crime. The Fire

Services Department (FSD) will examine the fire safety condition of liquor selling premises, night clubs, commercial bathhouses, massage establishments and karaoke establishments and carry out fire hazard abatement operations. These operations include checking and ensuring exits of the premises are free from obstruction and are not locked, smoke stop doors are properly closed and the premises' fire service installations are regularly maintained. The FSD will also ensure fire safety regulations are not breached. The number of inspections carried out by the FSD of the relevant entertainment establishments in the past three years are as follows:

<i>Year</i>	<i>Liquor Selling Premises</i>	<i>Night Clubs</i>	<i>Commercial Bathhouses</i>	<i>Massage Establishments</i>	<i>Karaoke Establishments</i>
2007	132	190	3	98	79
2008	353	198	3	97	246
2009	165	193	3	95	127
Total	650	581	9	290	452

Annex

The number of various types of entertainment establishments
in each District Council district

<i>Name of District</i>	<i>Food premises holding liquor licenses⁽¹⁾</i>	<i>Clubs holding club liquor licences</i>	<i>Licensed commercial bathhouses</i>	<i>Licensed food premises holding karaoke permits</i>	<i>Licensed clubs holding karaoke permits⁽²⁾</i>	<i>Licensed massage establishments</i>	<i>Licensed mahjong- tin kau parlours</i>
Central and Western District	575	79	6	1	0	30	0
Wan Chai	744	140	10	16	2	20	5
Eastern District	263	16	7	0	1	9	2
Southern District	88	26	0	0	1	0	1
Islands	182	19	1	0	0	4	0

<i>Name of District</i>	<i>Food premises holding liquor licenses⁽¹⁾</i>	<i>Clubs holding club liquor licences</i>	<i>Licensed commercial bathhouses</i>	<i>Licensed food premises holding karaoke permits</i>	<i>Licensed clubs holding karaoke permits⁽²⁾</i>	<i>Licensed massage establishments</i>	<i>Licensed mahjong-tin kau parlours</i>
Kwun Tong	185	12	1	3	0	2	4
Wong Tai Sin	90	1	0	0	0	1	3
Shum Shui Po	151	8	5	0	0	10	10
Kowloon City	271	17	4	1	0	3	7
Yau Tsim Mong	1173	111	48	56	2	67	22
Tsuen Wan	157	10	2	3	0	6	5
Kwai Tsing	88	3	0	1	0	1	0
Sha Tin	165	9	0	1	0	2	0
Sai Kung	141	7	0	0	0	0	0
Tai Po	100	2	0	0	1	0	1
North District	67	4	0	0	0	0	0
Tuen Mun	139	5	1	0	2	3	2
Yuen Long	163	7	1	2	0	3	4
Total	4 742	476	86	84	9	161	66

Notes:

- (1) Food premises holding liquor licences include all general restaurants/light refreshment restaurants holding liquor licences, such as Chinese cuisine restaurants. As "bars" is not a legally defined term, and that all "bars" could only apply for liquor licences after they have acquired general restaurant licences/light refreshment restaurants licences, the number of bar is included into the total number of food premises holding liquor licences.
- (2) Licensed clubs holding karaoke permits in composite buildings.

Case of Infringement of Privacy

18. **MRS REGINA IP** (in Chinese): *President, it has been reported that a magazine recently published on its front cover some sexy photographs taken clandestinely of a female university student in her home, which has enraged quite*

a number of members of the public and many of them, in particular women, consider such act an insult to women and infringement of privacy. In this connection, will the Government inform this Council of the policies and legislation in place at present to sanction such act?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Chinese): President, in respect of matters related to the publication of articles by newspapers/magazines, such publication of articles is subject to the regulation of the Control of Obscene and Indecent Articles Ordinance (COIAO). According to the COIAO, articles can be classified into three classes. Class I articles are neither obscene nor indecent and may be published without restriction. Class II articles are indecent and must not be published to persons under the age of 18 and, when published, must carry a statutory warning notice and be sealed in a wrapper. Class III articles are obscene and are prohibited from publication. The Obscene Articles Tribunal set up under the COIAO has exclusive jurisdiction to decide on the classification of articles. If the photographs taken clandestinely and published are classified as Class III, or as Class II but have been published not in compliance with statutory requirements, prosecution action would be made in accordance with the COIAO. At present, publication of obscene articles is subject to a maximum penalty of \$1 million fine and three years' imprisonment upon conviction. The first conviction for publishing indecent articles not in compliance with statutory requirements may attract a maximum fine of \$400,000 and imprisonment for one year, and subsequent conviction may attract a maximum fine of \$800,000 and imprisonment for one year.

As regards the protection of privacy, the Basic Law and the Hong Kong Bill of Rights Ordinance provide legal protection for rights of the individual, including privacy rights. Moreover, the Personal Data (Privacy) Ordinance also safeguards the privacy of an individual in respect of personal data.

The Law Reform Commission (LRC) published a report on "Stalking" in 2000, which recommended the introduction of anti-stalking legislation to render the pursuit of a course of conduct causing another person alarm or distress a criminal offence and a civil wrong. In 2006, the LRC published a report on "Privacy: The Regulation of Covert Surveillance", which recommended the creation of two new criminal offences against the obtaining of personal information through trespass into private premises, or by means of a surveillance device.

The LRC reports on privacy are highly controversial. Regarding the LRC report on the regulation of covert surveillance, the Hong Kong media sector and journalists have expressed their worry that the recommendations might compromise press freedom. In determining the way forward, we have to consider very carefully how we can look after press freedom and privacy at the same time.

We shall handle the report on "Stalking" first as there are relatively fewer controversies on regulating stalking behaviours. We are currently studying this report in depth for formulating the way forward, and making preparations for undertaking public consultation on the subject.

Mandatory Producer Responsibility Schemes

19. **MR KAM NAI-WAI** (in Chinese): *President, it has been reported that members of the public have to pay an environmental levy of 50 cents for each plastic bag taken from registered retailers when shopping at their retail outlets since the implementation of the Environmental Levy Scheme for Plastic Shopping Bags (PSBs) in July 2009, and the number of plastic bags distributed by supermarkets and convenience stores has significantly reduced by 80% to 90%, while the total amount of levy income collected by the Government in the first three months was over \$6 million. Regarding the implementation of mandatory producer responsibility schemes for various products, will the Government inform this Council:*

- (a) *of the total amount of levy income expected to be collected in the first year of the implementation of the aforesaid Scheme; how the Government will dispose of the income, whether it will use such income for waste and pollutant treatment so as to give effect to the "polluter pays" principle, as well as use it for carrying out other environmental protection work (for example, paying for the operating expenses of landfills, subsidizing the recycling industry and promoting environmental protection);*
- (b) *whether the Government will formulate any policy and measure to encourage the recovery of PSBs; if so, of the details; if not, the reasons for that; and*

- (c) *whether the Government will implement mandatory producer responsibility schemes for products such as vehicle tyres, glass containers, drink containers, electrical and electronic products, and rechargeable batteries; if so, of the details and the timetable; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

- (a) With reference to the quarterly returns submitted to the Government by registered retailers, the total amount of levy income expected to be collected in the first year after the implementation of the Environmental Levy Scheme on Plastic Shopping Bags is about \$27 million. The objective of the Environmental Levy Scheme is to reduce the indiscriminate use of PSBs through a direct economic disincentive. It is not meant to raise revenue. In fact, the more successful the scheme is, the less revenue it generates. To underline the Government's commitment in environmental protection, \$1 billion has been injected into the Environment and Conservation Fund (ECF) in January 2008 before the implementation of the Environmental Levy Scheme to support various environmental and conservation initiatives as well as public education programmes organized by local non-profit-making organizations. Since January 2008, over 600 organizations have received funding support from the ECF for some 680 programmes.
- (b) In December 2005, the Government published "A Policy Framework for the Management of Municipal Solid Waste", setting out a comprehensive strategy for municipal solid waste management in Hong Kong in the subsequent 10 years. It introduces producer responsibility schemes as a key policy tool for waste reduction, recovery and recycling. As far as PSBs are concerned, apart from reducing PSB distribution at source through the imposition of an environmental levy, we have been encouraging the public by ways of publicity and public education to reduce, reuse and recycle PSBs. These include relevant educational programmes and competitions organized by local groups with funding support from the ECF. Separately, we have offered assistance in the installation of waste recycling facilities, say through the Programme on Source

Separation of Domestic Waste. It is a territory-wide scheme seeking to encourage and facilitate the public to practice source separation of waste, including PSBs no longer reusable, for the recovery of the recyclables.

- (c) In July 2008, the Legislative Council enacted the Product Eco-responsibility Ordinance (Cap. 603) to provide a legal framework for introducing producer responsibility schemes for various products including PSBs, vehicle tyres, electrical and electronic equipment, packaging materials, beverage containers and rechargeable batteries. Apart from an environmental levy, a producer responsibility scheme may also include a product take-back scheme, a deposit-refund scheme, a recycling fee and restricting the disposal of certain products at designated waste disposal facilities. Specific legislative provisions are required to provide for the details of any mandatory producer responsibility schemes for the aforesaid products.

Further to the Environmental Levy Scheme PSBs, we are conducting public consultation on a producer responsibility scheme for waste electrical and electronic equipment. The public consultation will end on 30 April 2010. We will take into account views collected to develop the details of the scheme. Separately, we have been promoting recycling for the other relevant products on a voluntary basis and would consider the need of mandatory schemes at the next step taking into account practical circumstances.

Installation of Closed Circuit Television Cameras in Public Places

20. **MS EMILY LAU** (in Chinese): *President, closed circuit television (CCTV) cameras have been installed by various law-enforcement departments such as the Hong Kong Police Force, and so on, in many public places, and such camera systems are also installed in certain private properties and public rental housing (PRH) estates. In this connection, will the executive authorities inform this Council:*

- (a) *whether they know the total number of CCTV cameras installed by government departments and public organizations in various*

districts throughout Hong Kong, with a breakdown by the name of department and organization, as well as the 18 District Council districts;

- (b) regarding the installation of CCTV cameras in private properties and PRH estates by government departments and public organizations, whether the authorities have formulated policies to specify the criteria for installing these camera systems, time for dismantling and the government department(s) from which approval must be sought prior to installation; if they have, of the details; if not, how they ensure that the number of such cameras will not exceed the minimum number required for security purpose;*
- (c) whether at present, there are internal codes of practice for compliance by government departments, which stipulate that upon installation of CCTV cameras, the various responsible departments must notify the nearby residents of the locations of these camera systems, the persons authorized to view the video tapes, the conditions under which the video tapes can be passed to a third party, the storage and destruction of video tapes, and other specific arrangements; if so, of the details; if not, whether it will draw up such codes of practice expeditiously; and*
- (d) whether the Office of the Privacy Commissioner for Personal Data will draw up guidelines on the installation of CCTV camera system commonly known as "sky eyes" and similar devices, so as to ensure that privacy of members of the public is also protected while government departments are preventing crimes?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) We do not maintain statistics on the number of CCTV cameras installed by government departments and public organizations in various districts of Hong Kong. At present, various government departments, such as the Transport Department (TD), the Housing Department (HD) and the Leisure and Cultural Services Department (LCSD) have installed CCTV cameras in public places, such as strategic locations in the transport infrastructure, PRH estates and

entrances to public facilities and lift cabins, for traffic monitoring, facility management and other lawful purposes. The statistics provided by these three departments are as follows:

<i>Districts</i>	<i>No. of CCTV cameras</i>		<i>No. of CCTV systems</i>
	<i>TD</i>	<i>LCSD</i>	<i>HD⁽¹⁾</i>
Central and Western	11	434	5
Eastern	13	363	69
Southern	1	143	44
Wan Chai	16	332	Not applicable
Kowloon City	14	305	29
Yau Tsim Mong	23	892	5
Sham Shui Po	19	269	116
Wong Tai Sin	5	241	130
Kwun Tong	14	287	167
Tai Po	21	89	15
Tuen Mun	37	141	59
Yuen Long	46	216	90
North	26	135	19
Sai Kung	0	154	27
Sha Tin	69	417	77
Tsuen Wan	73	166	39
Kwai Tsing	117	269	149
Islands	13	72	60
Total	518	4 925	About 1 100

Note:

- (1) Each residential building of PRH estates have been installed with a CCTV monitoring system. Depending on the security needs of individual building and shopping mall and the tenants' requests, the number of CCTV cameras installed in each building is different. It is estimated that there are about 1 100 systems with a total of about 16 200 CCTV cameras. Moreover, the HD has also installed 116 sets of "Falling Object Monitoring Systems", commonly called the "sky eyes", involving a total of about 570 cameras in various PRH estates on a need and rotation basis.

No CCTV system is currently installed by the Hong Kong Police Force in public places on a permanent basis for the purpose of

maintaining law and order. The police have installed around 180 CCTV cameras along the land boundary for the purposes of boundary security, anti-smuggling and anti-illegal immigration.

To monitor crowd movement and for security purposes at the immigration control points, the Immigration Department (ImmD) and the Customs and Excise Department (C&ED) have installed 812 and 286 CCTV cameras at the immigration control points respectively.

In addition, the Yau Tsim Mong District Council has installed eight CCTV cameras in the district to monitor the throwing of objects from height. Other individual District Councils are also contemplating the implementation of this facility to enhance building management and security measures in their respective districts.

- (b) Various government departments install CCTV cameras to meet their reasonable needs and they have to observe their established arrangements. For instance, for traffic monitoring purpose, the TD would normally install CCTV cameras on high masts erected at the road side of truck roads. However, in some of the sites or under certain circumstances, such as obstruction by underground utilities which renders construction of the foundation for high mast not feasible, the CCTV cameras will be installed on the rooftop of housing estates or properties for traffic monitoring purpose. Installation of such CCTV systems is part of the public works programme, and the department will consult relevant District Councils and obtain approval from the Legislative Council as appropriate before commencement of the works.

The CCTV cameras installed at the venues of the LCSD are mainly for the purposes of maintaining public security, crowd control and facility management. The LCSD has formulated internal guidelines for strictly monitoring the use and operation of CCTV cameras by its staff to prevent any misuse or abuse of the cameras. The number of cameras installed varies according to the security needs of each individual venue.

The HD has issued internal guidelines in accordance with the data protection principles under the Personal Data (Privacy) Ordinance (the Ordinance) to instruct its staff on the related procedures. Regarding the installation of the CCTV monitoring systems, a definite purpose of surveillance and a distinct scope of monitoring have been specified. A stringent control on the retention and use of the video footage has also been adopted to protect the privacy of individuals. As for the CCTV monitoring system installed by the HD in the buildings and shopping malls, for security reasons, CCTV cameras are installed in accordance with the guidelines at suitable positions inside buildings, such as the door-phone positions at building entrances, lift lobbies on the ground floor, lifts, dark corners of rear staircases and letterbox areas, and so on. With respect to HD's Falling Object Monitoring System (FOMS), its installation is limited and confined to the PRH estates which have frequent incidents of throwing or falling objects from height, and repeated records or complaints of suspected or established cases for the purpose of enforcement and evidence collection. The positions of the cameras are adjusted carefully to avoid direct recording of the interior of the flats so as to protect the privacy of tenants.

As explained in the first part of the reply, the police, ImmD and C&ED decide the actual arrangement for installation of CCTV cameras as well as the number of cameras to be installed at the boundary and the immigration control points based on their boundary enforcement duties and the actual operational need of the immigration control points.

The Yau Tsim Mong District Council's "Working Group on Mong Kok Pedestrian Precinct" has promulgated the "Operational Guidelines for the CCTV System in Mong Kok Pedestrian Precinct" to specify the mode of operation and management of the system. In order to strike a balance between public safety and privacy, the Working Group took on board the advice from the Office of The Privacy Commissioner for Personal Data as well as the Secretary for Justice, and adopted a series of measures to respond to the privacy concerns of the general public.

- (c) The TD has issued internal guidelines which stipulate that CCTV systems can only be operated by authorized persons, and CCTV cameras can only be manipulated where there are needs on traffic monitoring and/or incident management. The guidelines also prohibit staff from abusing the CCTV cameras for infringing personal privacy. As the CCTV cameras are mainly for real-time traffic monitoring and incident management, the TD normally will not record or store any CCTV images or footage. Nonetheless, the TD's management contractors of Tsing Ma and Tsing Sha Control Areas may record and store the CCTV images where there is a genuine need. The TD will ensure that relevant recording strictly complies with the Ordinance.

It is stipulated in the LCSD's internal guidelines that all staff should comply with the rules on the operation of CCTV systems so as to protect the privacy of venue users. These rules include, among other things, that the recorded videotapes should be encrypted and kept under safe custody, and that only authorized staff should have access to these videotapes. In general, the recorded video images should not be kept for more than one month and should be destroyed when no longer needed. In addition, bilingual notices in both Chinese and English are displayed at conspicuous places at LCSD venues installed with CCTV systems to inform the public of the presence of CCTV systems at the venues and that only authorized staff of the LCSD would have access to the video recorded materials.

The HD displays notices at the ground floor lift lobbies of PRH buildings and the shopping malls to notify tenants and other persons that the video footage is used for security and property management purposes only. The system is accessible only to authorized management personnel who are responsible for operating the system, including duplicating, erasing, processing and keeping the video footage, and so on. Generally speaking, the video footage is kept for about seven to 14 days. If it is related to an offence or prosecution, the footage will be kept for a longer period, downloaded and passed on to the police for follow-up action.

The "Operational Guidelines for the CCTV System in Mong Kok Pedestrian Precinct" has specified the mode of operation and management of the system, as well as other details including

procedures and formalities for the police to retrieve the images. The guidelines and other rules have specified the following requirements:

- (i) Parties authorized by the Yau Tsim Mong District Council, including relevant departments and maintenance staff, may have access to the images for system review and maintenance purpose. Unauthorized persons should not view, download, save or copy the images captured by the CCTV system.
- (ii) The recorded images can only be retrieved by the police for investigation into cases of objects thrown from height and the police application should observe a set of prescribed procedures.
- (iii) The images will be automatically erased after 14 days unless they are used for the police's investigation into incidents of throwing objects from height. If any hard disk component containing recorded images has to be discarded due to damage, termination of the scheme or any other reason, the contractor must ensure that all information (including images) stored in the component has been completely erased with the effect that it becomes non-recoverable.

The Yau Tsim Mong District Council has put up notices in the area covered by the CCTV cameras to inform citizens that the area is under CCTV surveillance. All notices carry the objectives and functions of the system, and state that the relevant images may be used by the police for investigation into cases of objects thrown from height as well as by the persons authorized by Yau Tsim Mong District Council for regular maintenance and system review. The notices also specify the means for enquiry. To enhance transparency of the system, the Operational Guidelines formulated by the Yau Tsim Mong District Council has also been uploaded to its website to inform members of the public of the operational details of the system, use of recorded images, image retrieval procedure as well as measures safeguarding effective functioning of the system and personal privacy.

The relevant law-enforcement agencies have formulated internal guidelines on the retention and handling of video records to ensure their safe custody, proper handling and timely destruction. It is laid down in the guidelines that video records can only be viewed by designated law-enforcement officers for the purposes of law enforcement, internal review or other lawful and reasonable uses. The guidelines further provide for the proper management of the recording installations by designating officers who are allowed to enter control rooms to use them. In addition, notices are posted up at prominent locations on the premises of immigration control points by the ImmD and the C&ED to inform passengers of the presence of CCTV cameras.

- (d) According to information provided by the Constitutional and Mainland Affairs Bureau, the Ordinance (Cap. 486) protects the privacy of individuals in relation to personal data. Data users should comply with the provisions of the Ordinance if they collect the personal data of a person they intend to identify through devices like CCTV camera system. Data Protection Principle 1 of the Ordinance provides that in collecting personal data, the data user should ensure that only necessary and adequate data are collected in relation to his function and activity, and that the data are collected by means which are lawful and fair in the circumstances. For this reason, prominent copies of the "Personal Information Collection Statement" should be posted around the surveillance area to inform individuals that they would be entering an area under the surveillance of the CCTV system. The statement should also specify the circumstances under which personal data would be collected, the use of such data and the classes of persons to whom the data may be transferred. Data users are required to properly handle, retain and use the personal data collected.

The Office of the Privacy Commissioner for Personal Data has not formulated any guidelines on the collection, handling, retention and use of personal data by recording devices, for instance the CCTV camera system, installed in public places. Data users are required to observe the general provisions of the Ordinance.

BILLS**First Reading of Bills**

DEPUTY PRESIDENT (in Cantonese): Bills: First Reading.

COMPANIES (AMENDMENT) BILL 2010**BUSINESS REGISTRATION (AMENDMENT) BILL 2010****BUILDINGS (AMENDMENT) BILL 2010**

CLERK (in Cantonese): Companies (Amendment) Bill 2010
Business Registration (Amendment) Bill 2010
Buildings (Amendment) Bill 2010.

Bills read the First time and ordered to be set down for Second Reading pursuant to Rule 53(3) of the Rules of Procedure.

Second Reading of Bills

DEPUTY PRESIDENT (in Cantonese): Bills: Second Reading.

COMPANIES (AMENDMENT) BILL 2010

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, I move the Second Reading of the Companies (Amendment) Bill 2010.

The Companies Registry is developing Phase II of the Integrated Companies Registry Information System (ICRIS II) which will provide service for applications for the incorporation of companies and filing of company documents by electronic means. ICRIS II is expected to come on stream in the 2010-2011 fiscal year. For this reason, legislative amendments to the Companies Ordinance (the Ordinance) are required at this stage to facilitate the applications for incorporation of companies by electronic means, which include

allowing allow the signing of incorporation forms using passwords, streamlining the attestation requirements for signatures by founder members, and allowing the issue of electronic certificates of incorporation by the Registrar of Companies (the Registrar) and so on.

In the meantime, we also propose to introduce amendments to the Ordinance to expedite the company name approval process. In simple terms, a company name will be accepted for registration instantaneously if it satisfies certain preliminary requirements, for example, the company name concerned is not identical to another name on the register or does not contain certain specified words or expressions which require the Registrar's prior approval. Thereafter, if the company's name is found to be objectionable, the Registrar will be empowered to direct the company in question to change its name within a period specified by the Registrar.

Today we also propose amendments to the Business Registration Ordinance which seek to provide one-stop service upon the implementation of electronic incorporation of companies by the Companies Registry. That is, any person who submits an application for company incorporation to the Companies Registry will be deemed to have applied for business registration at the same time. I will elucidate the relevant arrangement when I move the Second Reading of the Business Registration (Amendment) Bill 2010 later. Upon the implementation of the aforementioned arrangement, the processing time for incorporating a local company and registering a business by electronic means will be greatly reduced from an average of four working days to one working day. This will greatly enhance Hong Kong's attractiveness in facilitating a business-friendly environment.

In addition to the above amendments, we would like to take this opportunity to introduce amendments to the Ordinance in other aspects covering a number of areas.

First of all, we propose to strengthen Hong Kong's company name registration system to enhance enforcement against "shadow companies". These so-called "shadow companies" are those companies incorporated in Hong Kong with names very similar to trademarks or trade names of other companies and then pose themselves as representatives of the owners of such trademarks or trade names to produce counterfeit products. We propose to amend the Ordinance to empower the Registrar to act pursuant to court orders to direct a "shadow

company" to change its name. The Registrar may substitute the company's name with its registration number if the company in question fails to comply with the Registrar's direction to change name.

In view of increasing popularity of electronic communications, we propose to amend the Ordinance to allow Hong Kong companies to use electronic means, including the companies' websites, to communicate with their shareholders. We also propose to amend relevant provisions to allow a listed company to publish its notice of closure of register of members on the website of the Hong Kong Exchanges and Clearing Limited (HKEx) according to the Listing Rules instead of publishing such notices in a newspaper.

At present, the statutory derivative action (SDA) procedure in the Ordinance allows a member of a specified corporation to bring an action or intervene in the proceedings on behalf of the corporation in respect of misfeasance committed against the corporation. In view of a recent court case, both the Court of Appeal and the Court of Final Appeal ruled that a "multiple" derivative action is maintainable in Hong Kong under the common law and considered it appropriate for the Ordinance to be extended to cover "multiple" SDA, the Ordinance should be amended to allow a member of a related company of a specified corporation to commence or intervene in SDA on behalf of the corporation. This proposal can further enhance the protection of the interests of minority shareholders.

Moreover, we propose to introduce technical amendments to the Ordinance to remove, or provide exceptions to, the limitations arising from provisions in the Ordinance that compel the use of paper documents of title and paper instruments of transfer. These technical amendments seek to facilitate the market to focus the discussion on the proposed operational model for implementing a scripless market. The Securities and Futures Commission is currently working with the HKEx and the Federation of Share Registrars on the proposal and have issued a consultation paper. This would be an important step in the legislative process and also laying down the foundation for the development of a scripless market in Hong Kong.

Lastly, we would take the opportunity to make some minor technical amendments to the Ordinance, including an amendment to section 57B(7) of the Ordinance to remove the discrepancy between the English and Chinese versions,

so as to bring it in line with the policy intention and the prevailing market understanding of the legislation.

Deputy President, I hope Members will support and endorse the Bill as soon as possible in order to further improve Hong Kong's business environment and strengthen the protection of minority shareholders. I so submit. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Companies (Amendment) Bill 2010 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

BUSINESS REGISTRATION (AMENDMENT) BILL 2010

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, I move the Second Reading of the Business Registration (Amendment) Bill 2010.

The Bill seeks to amend the Business Registration Ordinance with a view to providing one-stop service for company registration and business registration, and allowing the filing of business registration documents by electronic means, thereby facilitating the conduct of business in Hong Kong.

At present, both the Companies Registry and the Inland Revenue Department provide company registration service and business registration service for businesses. Any person who wishes to set up a local company must first submit an application for company registration to the Companies Registry. Within one month after the certificate of incorporation is issued, the party concerned should submit the application for business registration to the Inland Revenue Department.

In order to facilitate the conduct of business and to complement the implementation of Phase II of the Integrated Companies Registry Information System (ICRIS II) in the 2010-2011 fiscal year, we will launch one-stop service for company registration and business registration. Furthermore, we will allow

the submission of business registration and branch registration applications by electronic means. Therefore, we need to amend the relevant provisions.

Upon the passage of the Bill and the implementation of ICRIS II, any person who submits an application for company registration will be deemed to have applied for business registration at the same time. The Companies Registry will issue both the certificate of incorporation and business registration certificate to the successful applicants. Such service will be made available for both paper and electronic applications. Once an application made by electronic means is approved, the Companies Registry will issue a certificate of incorporation and business registration certificate by electronic means.

With the above arrangement in place, an on-line application for registration of a local company and business registration will be completed within one day, compared with an average of four working days under the existing system, which means that the time needed to process the application will be significantly shortened.

Currently, a company is required under the Companies Ordinance and the Business Registration Ordinance to notify the Companies Registry and the Inland Revenue Department respectively of any change in certain particulars, such as a change in corporate name and registered office address. In order to provide more efficient and integrated customer-friendly services to the business sectors, the Bill proposes to treat the company's notification of the change in such particulars to the Companies Registry as a notification to the Inland Revenue Department, thereby saving the efforts of the company to notify two departments of the same change.

The Panel on Financial Affairs of the Legislative Council was briefed on the proposals set out in the Bill on 11 June 2009, and we have explained the proposed amendments in the Legislative Council Brief circularized to Members on 20 January this year.

I hope that the Legislative Council will examine and pass the Bill as soon as possible.

Deputy President, I so submit.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Business Registration (Amendment) Bill 2010 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

BUILDINGS (AMENDMENT) BILL 2010

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, I move the Second Reading of the Buildings (Amendment) Bill 2010 (the Bill).

The Bill seeks to amend the Buildings Ordinance for the implementation of the mandatory building inspection scheme (MBIS) and the mandatory window inspection scheme (MWIS).

Building neglect has been a long-standing problem in Hong Kong. It endangers the lives of owners, occupants and pedestrians. The serious collapse of an old building on Ma Tau Wai Road in Hung Hom last Friday has claimed four lives and injured two persons. The tragedy has again awakened the entire community to the problem of building neglect and reminded us that we must make every effort to enhance building safety and allow no building collapse incident to recur.

Buildings in Hong Kong are facing a worsening aging problem. According to information from the Buildings Department (BD), there are now about 17 000-odd buildings aged 30 years or above in Hong Kong, of which about 4 000 aged 50 years or above. It is anticipated that the number of buildings aged 30 years or above will increase to about 28 000 in 10 years. In a densely-populated city like Hong Kong, we must ensure that buildings are safe, so as to eliminate the threat they pose to lives and property.

Prevention is better than cure. To effectively tackle the problem of building neglect, we must ensure that owners would regularly inspect their buildings and identify problems at an early stage for proper remedial works. To this end, the MBIS and MWIS should be launched without delay.

In fact, the policy of mandatory inspection of buildings and windows has been considered for years and it has been thoroughly discussed in society. Two rounds of consultation were conducted by the Government in 2003 and 2005 to collect public views. The community consensus collated from various stakeholders was that building owners should take up the responsibility of keeping their buildings in good repair and shoulder the costs involved. Various sectors of the community, including the Legislative Council, concurred that the policy direction of requiring owners to regularly inspect and maintain their buildings by way of legislation is correct. As such, the Government formally announced in mid-2007 its plan to introduce mandatory building and window inspection by way of legislation and explained the policy and implementation details to the relevant Panel of the Legislative Council. The policy had the general support of Members.

Having secured this consensus with the Legislative Council and the community, we immediately proceeded to draft the Bill and consulted the Panel on Development of the Legislative Council in 2008 and 2009 on the major issues of the two schemes, including the target buildings, items to be inspected, operational procedures, as well as the regulation on service providers. The proposal we tabled today has extensively adopted the views of Members and various stakeholders.

According to the proposals in the Bill, under the MBIS, owners of private buildings aged 30 years or above, except domestic buildings not exceeding three storeys, will be required to carry out inspection and, if necessary, repair works of the common parts, external walls and projections of the buildings every 10 years. Under the MWIS, owners of private buildings aged 10 years or above, except domestic buildings not exceeding three storeys, are required to carry out inspection and, if necessary, repair works of all windows of the buildings every five years.

Each year, the BD will select target buildings based on factors such as building age, building condition, records of repair and location to orderly implement mandatory inspection of buildings and windows in phases. In selecting the target buildings, the BD will make reference to the advice of selection panels comprising community representatives and professionals. To minimize disturbance to owners, the BD will endeavour to synchronize the implementation of the MBIS and MWIS. Buildings selected for the MBIS will also be selected for the MWIS under the same cycle as far as practicable, so that

owners can carry out inspection and repair works under both schemes concurrently.

In past discussion on mandatory building and window inspection, Members and the public were most concerned about two issues. First, how will the Government increase the number of service providers and impose regulation on them? And second, how will it assist needy owners to carry out inspection and repair works for their buildings?

For the smooth running of the two schemes, we will ensure that adequate inspectors and contractors are available in the market for owners' selection, and that the charges for inspection and repair works remain competitive through market competition and affordable to the owners. In respect of building inspection, we propose to expand the scope of inspectors from authorized persons (APs) and registered structural engineers (RSEs) registered under the Buildings Ordinance to include registered architects, registered professional engineers of the relevant disciplines and registered professional surveyors of the relevant disciplines. All professionals in the expanded pool will be registered as registered inspectors (RIs). The number of RIs will then substantially increase from 1 800 to about 6 500, which should be able to meet market demand upon implementation of MBIS and promote competition in the industry. In respect of window inspection, the scope of inspectors will be further expanded to include registered general building contractors and registered minor works contractors. It is expected that the number of qualified inspectors can reach 30 000.

In respect of maintenance and repair works, we have completed the legislation on the minor works control system, and registration of minor works contractors also started in late 2009. We estimate that about 5 000 companies and 25 000 individual workers can be registered as qualified contractors. As we anticipate that repair works for most typical buildings and windows should be minor works, owners may thus follow the new set of simplified procedures under the forthcoming minor works control system to carry out the works in a simpler, quicker and less costly manner, and without the need to employ APs or make prior application to the BD for the works.

In addition to increasing the number of service providers for building and window inspection, appropriate regulatory efforts will also be made to monitor their service quality. In the past consultation process, Members and the public

recognized the need of the authorities to strengthen regulation on the service providers. To this end, the Bill proposes to create a new register and regulatory mechanism under the Buildings Ordinance, and establish Inspectors Registration Committees to scrutinize and monitor the professional standards of inspectors. The BD will issue detailed guidelines on the requirements and standards of building inspection, window inspection and repair works, and conduct random detailed audit checks of inspection reports submitted by inspectors and impose appropriate sanctions for irregularities detected.

To successfully implement the MBIS and MWIS, providing appropriate assistance to needy owners is of paramount importance. In this regard, after years of hard work, we have forged partnership with the BD, Hong Kong Housing Society (HKHS) and Urban Renewal Authority (URA), drawing on their professional knowledge and experience to provide advice to owners regarding actual execution of works as well as financial and technical assistance. Such tripartite collaboration has created great synergy. We will maintain this good partnership to assist needy owners under these two schemes, especially those of old buildings without owners' corporations.

In respect of financial assistance, the HKHS has undertaken to provide subsidy on the cost of first building inspection to eligible owners. We estimate that about 80% of the owners will be eligible for the subsidy. If maintenance and repair works is needed after inspection, a number of grants and loans are available for needy owners, such as the Comprehensive Building Safety Improvement Loan Scheme administered by the BD, the Building Management and Maintenance Scheme by the HKHS, the Building Rehabilitation Materials Incentive Scheme and the Building Rehabilitation Loan Scheme by the URA, as well as the Building Maintenance Grant Scheme for Elderly Owners (Elderly Owners Grant Scheme) launched in 2008 with an injection of \$1 billion by the Government. The Elderly Owners Grant Scheme seeks to increase financial assistance for elderly owner-occupiers to repair and maintain their properties. I can report to Members that to date, the Elderly Owners Grant Scheme that I mentioned just now has helped over 5 000 elderly owner-occupiers. Eligible elderly owner-occupiers can receive a maximum grant of \$40,000 for conducting building maintenance and repair works. I believe the measures above can effectively assist needy owners to meet the requirement of conducting mandatory inspection, maintenance and repair works for their buildings.

Deputy President, the Bill has provided the legal framework and implementation details for the MBIS and MWIS, but the success of the schemes still hinges on the importance that we should duly attach to the problem of building neglect. We will actively assist needy owners, especially owners of old buildings without owners' corporations, to collectively conduct building inspection and maintenance. The Home Affairs Department (HAD) and the HKHS will provide active support to owners to establish residents' organizations such as owners' corporations, owners' committees and mutual aid committees. The HKHS will make full use of its past experience in assisting owners in building maintenance and repairs and its district network, including the 10 Property Management Advisory Centres in various districts, to assist owners to manage and co-ordinate the works collectively and provide professional advice and technical consultation services. The BD will, depending on the situation, handle statutory orders flexibly and extend the time limit for owners to conduct building inspection and repair works. Out of public safety consideration, the BD will also conduct building inspection and repair works on behalf of owners where necessary and recover the costs involved from the owners afterwards.

To dovetail with the legislative work, we will step up publicity and education in this regard. A pamphlet is produced — the one I dispatched to Members earlier — to introduce first-hand to the public the main points of the MBIS and MWIS through different district networks such as the District Offices, BD, HKHS and URA. To lay the foundation for launching the two schemes, the BD, HAD, HKHS and URA will continue to join force in educating owners on the importance of establishing owners' corporations, the requirements of the MBIS and MWIS, tips on employing inspectors and contractors, and so on, to enable owners to have more in-depth understanding of the importance and basic concepts of building management and timely maintenance and repair.

Deputy President, the implementation of the MBIS and MWIS is an important part of the SAR Government's strategy to enhance building safety in Hong Kong. At present, various support measures for needy owners are ready and it is now opportune to launch the relevant initiatives. In this metropolitan city of Hong Kong, building safety is a basic requirement for people to live in peace and for public safety to be safeguarded. I deeply believe that Members, like me, really do not wish to witness any more casualties or people losing their

homes due to building neglect. I urge Members to support the Bill to enable early implementation of these two schemes on enhancing building safety.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Buildings (Amendment) Bill 2010 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

(Bill originally scheduled for Second Reading (*Debate to resume*), Committee Stage and Third Reading at last Council meeting)

Resumption of Second Reading Debate on Bills

DEPUTY PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Inland Revenue (Amendment) (No. 2) Bill 2009.

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 2009

Resumption of debate on Second Reading which was moved on 24 June 2009

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Kam-lam, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

MR CHAN KAM-LAM (in Cantonese): Deputy President, in my capacity as the Chairman of the Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2009 (the Bills Committee), I would now brief the Council on the major deliberations of the Bills Committee.

The Bills Committee has held four meetings in total and examined the Inland Revenue (Amendment) (No. 2) Bill (the Bill) with the Administration.

The public, including relevant organizations have been invited to give views on the Bill. Subsequently, three accounting firms have provided written submissions to the Bills Committee.

The Bills Committee supports the policy objectives of the Bill, that is, to improve the operation of the Board of Review and the administration of the Inland Revenue Ordinance (IRO).

The IRO currently provides that a member of the Board of Review may continue to handle an ongoing case even if his appointment expires before the completion of the case. However, a person who has ceased to be a member of the Board of Review is not empowered to handle a case that he has handled before. To enhance the efficiency of the Board of Review, the Administration proposes that a retired member be allowed to handle a case that he has handled before under three specified circumstances.

On request by the Bills Committee, the Administration has provided examples of appeal boards established under other ordinances to illustrate whether the proposed arrangement is in line with common practice. The Administration also pointed out that the Board of Review has received 33 applications over the past three years, so there is a practical need for the Board of Review to be granted the proposed flexibility in redeploying retired members.

A member remained concerned about the propriety and fairness of the proposed arrangement, and requested the Administration to consider imposing a statutory requirement for the Board of Review to obtain the prior consent of both parties before allowing a retired member to handle a case he has handled before. The Administration explained that, under the current practice, both parties to an appeal can raise concerns on the composition of the hearing panel upon receipt of the hearing notice. While it is the ultimate authority of the Chairman of the Board to decide on the composition of the hearing panel, it is not uncommon for the Chairman to change the membership after taking into account views of either party. As a matter of principle, the Administration considers that parties to an appeal should not be given a statutory right to choose a hearing panel and object to members whom they dislike.

Another major deliberation of the Bills Committee is the proposed amendment to extend the period within which a prosecution may be instituted for an offence committed by a staff member of the Inland Revenue Department

(IRD) in breach of the secrecy provisions from six months to six years. The Administration stated that the amended provision aligns with similar provisions under the Business Registration Ordinance.

Mr James TO opined that in deciding the time limit for instituting prosecution, a correct balance should be struck between enforcing compliance with the secrecy provisions and litigation fairness, making reference to legislation other than the Business Registration Ordinance and overseas practices.

The Administration advised that there is no time limit for prosecution of breaches of secrecy provisions in a number of ordinances, for example, the Official Secrets Ordinance and the Securities and Futures Ordinance. Neither is there any prosecution limit of breaches of secrecy provisions in the tax legislations of the United Kingdom, Singapore, Australia and New Zealand. As the IRD collects information under both the IRO and the Business Registration Ordinance, and the information collected under each ordinance can be used to enforce the laws in the other ordinance, the authorities considers that the level of safeguards against breach of secrecy should be comparable under the two ordinances. However, in view of Mr James TO's concern, the Administration accepts that the prosecution period for breach of secrecy provisions can be extended to two years instead of six years as proposed originally. The Administration will move a Committee stage amendment (CSA) to clause 14 to this effect.

Regarding the proposed amendment to the definition of "owner" in the IRO, the Bills Committee noted that it seeks to raise a property tax assessment on the owners' incorporation registered under the Building Management Ordinance or the person who receives rental income on common parts of a building. A member has expressed concern about the impact of the proposed amendment on property tax assessments and whether the amended definition of "owner" will be exhaustive, such as covering persons who have no right to the property in question nor authorization from owners to collect rental income on the common parts.

The Administration has explained that, under the existing practice, the Commissioner of Inland Revenue could raise tax assessment on the owners' incorporation concerned or on all the owners of a building, and the proposed amendment will provide clarity and avoid unnecessary dispute. The proposed

revised definition of "owner" is an inclusive definition and is broad enough to cover persons receiving rental income on common parts of a building, including those mentioned by the member.

The Bills Committee agrees to the amendments to be moved by the Administration, and supports the resumption of the Second Reading debate.

Deputy President, next, I will speak on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) on the Bill.

Deputy President, the DAB supports the amendments and the CSAs to be moved by the Government. This amendment exercise mainly seeks to make technical improvements, and has received widespread support from the industry. During the legislative process, we can also see that the Government is basically prudent in its attitude. It has not only consulted a number of trade associations, but also taken heed of the Bills Committee's advice and given thorough explanation and consideration to address members' concerns.

The Board of Review has altogether received 33 applications in three years, which we consider to be quite a lot compared to other similar bodies. Regarding the Government's proposed amendment to allow a retired member to handle a case that he has handled before under specified circumstances, we consider that it does not only enable effective deployment of human resources, but will also enhance the proposed flexibility of the Board of Review. On the other hand, this amendment may also enhance the operation efficiency of the Board while saving the appellants' time and costs. We therefore consider that it should be supported.

A member has expressed concern about this amendment, questioning its propriety and fairness, and proposing that the Board of Review should seek prior consent of both parties before allowing a retired member to do so. We nonetheless consider this concern unnecessary.

First of all, the Board of Review is an appeal body comprising of professionals, whose impartiality should not be questioned unless there is clear evidence to prove it. While an appeal body is dependent on its reputation of being fair and impartial, the appeal body itself will also exert its best efforts to safeguard its impartiality. Should an appeal body consider it inappropriate for

some members to handle certain cases, appropriate internal adjustments will be made. In my opinion, we should have trust in their impartiality.

Given that every case has its uniqueness, there is no doubt that a retired member should have a better understanding of the details of a case than a new comer. The more they know about the facts, the more thorough consideration can be made to the work completed in the course of appeal and in making a judgement. We therefore do not think that the judgment made by new members would necessarily be fairer. Furthermore, it is the current practice of the Board of Appeal to have the case handled by the original hearing panel as far as possible. Hence, the new amendment is basically in line with the established principle of the Board of Review.

Secondly, given that the Board of Review is an appeal body, similar to litigants in court proceedings who are not allowed to choose the judge, parties to an appeal should not be allowed to choose members of the hearing panel of their appeal. As the Chairman of the Board has the ultimate authority to decide on the composition of the hearing panel, both parties to an appeal should not have any special statutory rights to choose members of the hearing panel because the panel comprises of a retired member. If both parties to an appeal have objection to any panel member, they may certainly raise an objection just as other appellants are allowed to do, but the final decision will rest with the Chairman of the Board. We consider this an appropriate arrangement. Furthermore, it is not the case that all retired members can handle cases that they have handled before in all circumstances, for they can do so only in three extraordinary or specially specified circumstances. This is already an effective restriction on the handling of cases by retired members. We thus consider such concern unnecessary.

Under the existing ordinance, correction of accidental slip or omission in any decision of the Board, including error in computation and omission to ask for a certificate for counsel in an application for costs order, involves an appeal process. While this kind of correction is very simple and the correction itself would not serve to alter any interest of the parties under the intended decision, the appeal process is nonetheless long and complicated. We therefore agree to the Government's amendment to enable the correction of such errors to be made without requiring a formal appeal, which can in turn facilitate the early implementation of the Board's decision.

It is also reasonable to extend the period within which a prosecution may be instituted for an offence committed by an IRD staff member in breach of the secrecy provisions. This amendment does not only facilitate the provision of better protection for personal information, it also ties in better with the Business Registration Ordinance and should therefore be supported. While the six-year prosecution period proposed by the Government is acceptable to us, a revision made by the Government to extend it to two years instead of six years after taking heed of members' advice is still considered acceptable as this amendment is relatively mild. However, we suggest that this two-year prosecution period should be put on trial for a certain period of time and then reviewed taking into account the advice of the executive authorities.

The proposed amendment on the definition of "owner" has no implication on the assessment of property tax by the Government, for it has merely given effect to the current tax assessment and made provisions in law. This amendment has increased the clarity of the original provision and avoided unnecessary dispute. We therefore consider that it should be supported.

The Government is quite forward-looking in introducing these legislative amendments and their implementation will not bring about any problem. The authorities have taken precautionary measures and made timely amendments in anticipation of the possible problems, and we agree to such an arrangement.

Deputy President, the DAB supports the Bill and the CSAs proposed by the authorities. Thank you, Deputy President.

MR VINCENT FANG (in Cantonese): Deputy President, Hong Kong is an international cosmopolitan city with frequent commercial activities. It is important to attract foreign investments and promote local economic development by way of upholding a low tax regime, but it is even more necessary to put in place a sound tax system. Regarding the Inland Revenue (Amendment) (No. 2) Bill 2009 (the Bill) proposed by the Administration on this occasion for the purpose of amending the relevant provisions, thereby enhancing the tax-related regulations in Hong Kong, the Liberal Party supports this move.

In the course of deliberations of the Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2009 (the Bills Committee), members have conducted detailed discussions on the membership of the Board of Review (the Board) and

the relevant procedure. Under the current Inland Revenue Ordinance (IRO), a retired member of the Board is not empowered to handle a case that he has previously handled. For this reason, the Board may have to nominate other members to take over the case concerned. However, the latter may not be conversant with the circumstances of the case and may therefore need to spend more time acquainting themselves with the facts of the case. To improve such a situation, the Administration has proposed that a retired member of the Board be allowed in specified circumstances to handle a case that he has previously handled.

However, members of the Bills Committee have questioned the propriety and fairness of the authorities' proposal while holding that it will be a fairer arrangement for a rehearing to be handled by new members because members who have previously handled the case would have already formed their views on the case. Hence, members have requested the Administration to consider imposing a statutory requirement that the Board must obtain the prior consent of the appellant of a case and the Commissioner before allowing a retired member to handle a case that he has previously handled in the circumstances proposed in the Bill or when the Court remits a case to the Board for rehearing.

That said, according to the information furnished by the authorities, the current practice adopted by the Board also respects the views of the two parties to a case and in some cases, membership of the hearing panel was changed having regard to the reasonable opinions put forward by one of the parties to a case. If this practice is written into the law as a statutory requirement, the spirit of achieving a balance between the two principles of handling cases in a flexible manner and enhancing efficiency will be compromised. For this reason, the Liberal Party opines that the proposal made in the Bill is more desirable.

In the course of the Bills Committee's deliberations, members have also held discussions on the time limit for instituting prosecution against a staff member of the Inland Revenue Department for a breach of the secrecy provisions of the IRO. The Government has proposed that the prosecution period be extended from six months to six years, but some Honourable colleagues have questioned the fairness of the proposed extension.

The Liberal Party holds that the secrecy provisions are very important. Although we may not necessarily support the extension of the prosecution period

to as long as six years, the prosecution period of six months may actually be insufficient for law-enforcement agencies to take legal action in relation to a breach of the secrecy provisions. Eventually, the Administration has decided to propose a Committee stage amendment (CSA) to the effect that the prosecution period be extended to two years instead of six years as originally proposed in the Bill. The Liberal Party will lend its support to this CSA as we consider this a reasonable amendment and at the same time, we also support the passage of the Bill.

Deputy President, I so submit.

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

(No Member indicated a wish to speak)

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, first of all, I have to thank Mr CHAN Kam-lam, Chairman of the Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2009 and members of the Bills Committee, as well as colleagues of the Legislative Council Secretariat for their efforts which enabled the deliberations to be completed smoothly.

(THE PRESIDENT resumed the Chair)

The Inland Revenue (Amendment) (No. 2) Bill 2009 (the Bill) was tabled in the Legislative Council in June last year. The Bills Committee held a total of four meetings and invited the relevant professions and stakeholders to express their views.

The Bill aims to introduce certain technical amendments to the Inland Revenue Ordinance (IRO) so as to smoothen the operation of the Board of Review (the Board) and improve the administration of the IRO. These technical amendments mainly include:

- (1) Empowering the Board to correct clerical mistakes in its written decisions;
- (2) Proposing that the Chairman of the Board shall nominate members for the purpose of conducting a hearing;
- (3) Allowing a retired member of the Board to handle a case that he has handled before in certain circumstances;
- (4) Specifying that if both the Chairman and a Deputy Chairman of the Board serve on a hearing panel, only the presiding officer shall have the casting vote;
- (5) Specifying that the interest payment incurred in purchasing certain types of machinery and plant be tax deductible;
- (6) Improving the arrangements for home loan interest deduction;
- (7) Streamlining the arrangements for levying property tax on the rental income on common parts of a building;
- (8) Extending the period for instituting prosecution against staff of the Inland Revenue Department (IRD) who are in breach of the secrecy provisions under the IRO;
- (9) Empowering the Commissioner of Inland Revenue to repay the remaining balances in Tax Reserve Certificates accounts with interest to relevant taxpayers unilaterally where appropriate; and
- (10) Making some minor and textual amendments to the IRO.

These technical amendments will not change or affect the existing taxation policies.

The Bills Committee has agreed to most of the amendments. Now I wish to briefly explain two of these amendments which are of greater concern to the Bills Committee.

In relation to clause 9(3) of the Bill, which allows a retired member of the Board to handle a case that he has handled before in three circumstances in order to enhance the efficiency of the Board, we have explained to the Bills Committee in detail that this amendment is introduced in the light of the actual operational needs of the Board.

Under these three circumstances, it is the current practice of the Board to have the case handled by the original hearing panel as far as possible because there is a need for the hearing panel to be conversant with the case background and previous deliberations in its actual operation. Therefore, our proposed technical amendment is not intended to create a totally new arrangement under those three circumstances. It only provides the Board with the flexibility to deploy, where necessary, a retired member who has handled the case before to deal with the case again.

Mr CHAN and Mr FANG mentioned earlier that some members of the Bills Committee have reservations about this amendment. They are of the view that the Board should obtain the prior consent of both parties to an appeal before deploying a retired member to handle a case that he has handled before in those three circumstances.

In this connection, we have pointed out to the Bills Committee that under the current practice, both parties to an appeal can raise concerns on the composition of the hearing panel upon receipt of the hearing notice. While it is the ultimate authority of the Chairman of the Board to decide whether or not to change the composition of the hearing panel, it is not uncommon for the Chairman to do so after taking into account the views of either party.

I wish to point out that the Chairman of the Board, as also pointed out by Mr CHAN earlier on, is an independent person with professional legal knowledge who will certainly work impartially and fairly. We, therefore, believe that after the amendment is passed, the Chairman will redeploy a retired member to a hearing panel only if he is proven fit and proper to serve. As a matter of principle, the Administration and the Chairman of the Board consider that parties

to an appeal should not be given a statutory right to veto the Chairman's decision on the composition.

Another amendment of greater concern to the Bills Committee is about the prosecution period for breaches of secrecy provisions under the IRO. Clause 14(3) of the Bill proposes to extend the period for instituting prosecution against staff of the IRD in breach of secrecy provisions from six months to six years to align with similar provisions under the Business Registration Ordinance which is also enforced by the IRD.

In response to the concern raised by the Bills Committee, we agree that the prosecution period can be extended to two years, instead of six years as proposed originally. We will propose an amendment to the effect that the prosecution period be extended to two years. This amendment already has the support of the Bills Committee.

I implore Members to support the Bill and the amendments proposed by the Administration.

President, I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Inland Revenue (Amendment) (No. 2) Bill 2009 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Inland Revenue (Amendment) (No. 2) Bill 2009.

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 2009

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Inland Revenue (Amendment) (No. 2) Bill 2009.

CLERK (in Cantonese): Clauses 1 to 13 and 15 to 23.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1 to 13 and 15 to 23 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 14.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Chairman, I move that the clause read out just now be amended as set out in the paper circularized to Members.

Currently, the Inland Revenue Department can institute prosecution against its staff who are in breach of the secrecy provisions under the Inland Revenue Ordinance within six months from the day on which the offence is committed. Clause 14(3) of the Inland Revenue (Amendment) (No. 2) Bill 2009 proposes to extend the prosecution period to six years. In response to the view of the Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2009 (the Bills Committee), we agree to revise the proposed extension of the prosecution period to two years and an amendment to clause 14(3) is therefore necessary.

Chairman, this amendment has obtained the support of the Bills Committee. I hope Members will support the amendment.

Thank you, Chairman.

Proposed amendment

Clause 14 (see Annex I)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 14 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 14 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bills: Third Reading.

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 2009

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

Inland Revenue (Amendment) (No. 2) Bill 2009

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Inland Revenue (Amendment) (No. 2) Bill 2009 be read the Third time and do pass.

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 of the Members present. I declare the motion passed.

CLERK (in Cantonese): Inland Revenue (Amendment) (No. 2) Bill 2009.

(Bills scheduled for Second Reading (*Debates to resume*), Committee Stage and Third Reading at this Council meeting)

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Toys and Children's Products Safety (Amendment) Bill 2009.

TOYS AND CHILDREN'S PRODUCTS SAFETY (AMENDMENT) BILL 2009

Resumption of debate on Second Reading which was moved on 16 December 2009

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 and that is: That the Toys and Children's Products Safety (Amendment) Bill 2009 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Toys and Children's Products Safety (Amendment) Bill 2009.

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

TOYS AND CHILDREN'S PRODUCTS SAFETY (AMENDMENT) BILL 2009

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Toys and Children's Products Safety (Amendment) Bill 2009.

CLERK (in Cantonese): Clauses 1 to 23.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1 to 23 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bills: Third Reading.

TOYS AND CHILDREN'S PRODUCTS SAFETY (AMENDMENT) BILL 2009

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, the

Toys and Children's Products Safety (Amendment) Bill 2009

has passed through Committee without amendment. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Toys and Children's Products Safety (Amendment) Bill 2009 be read the Third time and do pass.

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 of the Members present. I declare the motion passed.

CLERK (in Cantonese): Toys and Children's Products Safety (Amendment) Bill 2009.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Occupational Deafness (Compensation) (Amendment) Bill 2009.

OCCUPATIONAL DEAFNESS (COMPENSATION) (AMENDMENT) BILL 2009

Resumption of debate on Second Reading which was moved on 3 June 2009

PRESIDENT (in Cantonese): Dr PAN Pey-chyou, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

DR PAN PEY-CHYOU (in Cantonese): President, in my capacity as Chairman of the Bills Committee on Occupational Deafness (Compensation) (Amendment) Bill 2009 (the Bills Committee), I now report on the highlights of the deliberations of the Bills Committee.

The Bill seeks to improve the compensation for persons with occupational deafness and adjust the rate and proportions of distribution of the Employees' Compensation Insurance Levy (the Levy). The Bills Committee has held six meetings and received the views of representatives of organizations at one of the meetings.

At present, the ceiling for first-time reimbursement of expenses in relation to the acquisition and fitting of hearing assistive devices (HADs) under the Occupational Deafness (Compensation) Ordinance (ODCO) is \$9,000. Some members have pointed out that this may not be adequate for purchasing some of the more sophisticated HADs in the market. They consider that the current ceiling of \$9,000 for first-time reimbursable expenses on HADs should be increased to allow applicants a wider choice of HADs.

The Administration has advised that the setting of a first-time maximum reimbursable amount for HADs seeks to ensure that applicants who have little experience in using HADs will make a prudent choice in their first-time purchase. Information provided by the Occupational Deafness Compensation Board (ODCB) indicates that only about 3% of first-time applications for reimbursement of expenses relating to HADs involve amounts exceeding \$9,000, with most of these applications involving expenses between \$9,000 and \$12,000. In response to members' suggestion, the Administration has undertaken to introduce Committee stage amendments (CSAs) to increase the ceiling for first-time reimbursement of expenses for HADs from \$9,000 to \$12,000.

At present, the ODCO provides for compensation to employees who meet the occupational requirements and are confirmed to be suffering from noise-induced hearing loss to both ears. But monaural hearing loss (MHL) was not compensable. The Bill has made provision for transitional arrangements whereby some 500 claimants who have previously made applications to the ODCB and found to be suffering from MHL can also be netted in for compensation.

Some members are concerned that there may be persons who have not made applications to the ODCB in the past after they underwent self-arranged hearing tests and obtained results showing MHL, as they were aware that MHL was not compensable under the ODCO at that time. As such, these persons would not be entitled to compensation under the existing transitional arrangements of the Bill. Since some of them may have already left

employment and failed to fulfil the occupational requirements, they would also not be able to apply to the ODCB for compensation after the Bill comes into effect. Members take the view that the proposed transitional arrangements should be made more flexible such that these special cases could also be netted in for compensation.

The Administration has advised that as long as the principles of fairness and reasonableness underpinning the ODCO are not compromised, it is willing to make the transitional arrangements more flexible. The Administration will move CSAs to net in workers with MHL who had not filed any applications with the ODCB in the past but could provide proof of his employment in the specified noisy occupations for the designated number of years and the self-arranged hearing test results showing their MHL at that point in time. The Administration has also advised that the results of such hearing tests will be adopted for the purpose of assessing the degree of hearing loss suffered by the claimant.

Under the Bill, an employee, after his last application, is entitled to further compensation, if certain specified conditions are satisfied, for the additional permanent incapacity resulting from the employee's additional hearing loss following further employment in noisy occupations. But the employee should have at least five years of employment in aggregate in any of the specified noisy occupations in Hong Kong before he can apply for further compensation. Some members take the view that the required aggregate length of employment should be reduced so that more employees could benefit from such further compensation.

The Administration has advised that studies show that while prolonged exposure to excessive noise can cause noise-induced hearing loss, the rate of hearing loss is the fastest in the first 10 years and will then slow down thereafter. On the basis of these studies, the Administration considers that five years of aggregate employment in noisy occupation is a suitable interval for the purpose of re-assessment of the deterioration in hearing due to continued exposure to noise at work. Nevertheless, since those employees have already been assessed to be suffering from occupational deafness, the adoption of a shorter interval for re-assessment may be beneficial to them as the ODCB can then keep closer track of their hearing conditions and provide them with necessary information on hearing conservation where appropriate. In response to members' concern, the Administration will move CSAs to reduce the aggregate length of employment required for making application for further compensation from five to three years.

Besides, there are some technical amendments. In respect of the drafting of clauses, members have expressed concern about the use of "must" in new sections 20(2A) and (2C), and new section 27D(3), whereas "shall" would continue to be used in other sections of the ODCO, including sections 20(1) and 27D(2). Members are concerned that the simultaneous appearance of "must" and "shall" in the same section would cause confusion and problems in interpretation by the public and the courts in future. Members consider it more consistent to use the term "shall" or "must" in the same section of the ODCO. To address members' concern, the Administration will move CSAs to amend the term "shall" as "must" in sections 20 and 27D of the ODCO. The Administration has advised that a change has already been implemented in the drafting of legislation in the use of "must" to impose an obligation in place of "shall". This new style is now used in all new legislation. It is also adopted when amendments are made to existing legislation.

Besides, members have noted the use of "he or she" and "his or her noise-induced deafness" in the proposed new section 27B(1A), while "he" and "his noise-induced deafness" would continue to be used in section 27B(1). They consider it more consistent to use the same phrase in the same section of the ODCO. They have also asked about the reasons for using "he or she" and "his or her" only in the English text of the new section 27B(1A), while the corresponding rendition (他或她) is not used in the Chinese text of the same section.

In response to members' concerns, the Administration will move CSAs to amend "he" and "his" in sections 27B(1) and 48(1) as "he or she" and "his or her" respectively. Regarding the Chinese renditions of "he or she" and "his or her", the Administration has advised that gender-neutrality has no significant implications for Chinese drafting. The character "他" is more gender-neutral compared to "he". For example, "他們" is used for a group of people of both sexes. Therefore, if no interpretation problem is likely to arise in the particular context, "他們" and "他" may continue to be used as they are suitable and concise. However, after further considering members' concern, the Administration will move CSAs to amend the corresponding renditions of "he or she" and "his or her" in sections 27B(1) and 27B(1A) in the Chinese text as "該人".

President, the following is my personal views.

Occupational deafness, which is different from many other occupational casualties and occupational diseases, is gradually induced over a long period of time and it is generally not easy to confirm in which stage of work it began to appear. Occupational deafness may sometimes affect the hearing in just one ear instead of both ears, or the hearing loss in both ears may not be entirely the same. Neither is it easy to define the degree of hearing loss in an easy, simple and explicit way. Instead, very complicated and technical testing procedure is required. So, I understand the difficulties encountered by the Government in reviewing and drafting the Bill.

Precisely because it is difficult to determine the formation of loss hearing and diagnosis is also very complicated, coupled with the complexity of the drafting work, the organizations concerned are holding many different views. On 9 July last year, the Bills Committee gave various organizations concerned and stakeholders a good opportunity to fully express their views, and the Government have responded to some of their aspirations by, among others, increasing the ceiling for first-time reimbursement of expenses of HADs from \$9,000 to \$12,000, and reducing the aggregate length of employment required for making application for further compensation from five to three years. These amendments reflect that the Administration is willing to absorb the views of the organizations. So, I think I should express a positive message here and thank the authorities concerned for listening to the concerns of all quarters and absorbing their views. However, I must admit and point out that a lot of concerns have not yet been addressed. We hope that the Government, after the discussions on this Bill and this amendment exercise, will take on board these views in conducting a review in future, so as to address the stakeholders' aspirations.

Generally speaking, the Bill has taken into consideration the provision of compensation for employees suffering from occupational MHL, while increasing the maximum reimbursable amount for expenses incurred in purchasing, repairing and replacing HADs, as well as providing further compensation for employees whose hearing deteriorate as a result of continued employment in noisy occupations. The above amendments, together with reducing the overall Levy, as well as re-defining the proportion of funding for the three statutory bodies, have all been thoroughly discussed and approved by the ODCB, the Employees Compensation Assistance Fund Board, the Occupational Safety and Health Council and the Labour Advisory Board. In other words, the Bill submitted by the Government has essentially achieved a tripartite agreement and consensus of the employees, employers and Government.

Certainly, we very much hope that the legislation can cover more people. However, if amendments are further made during the scrutiny of the Bill, it will be necessary to consult stakeholders from all quarters again and this will certainly cause a delay in the passage of the Bill. In order to bring benefits to employees as quickly as possible, we support the passage of the Bill and the Hong Kong Federation of Trade Unions also implores Members to support it.

I so submit.

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

MS LI FUNG-YING (in Cantonese): President, 15 years have passed since the enactment of the Occupational Deafness (Compensation) Ordinance (ODCO) in 1995. In the past 10-odd years, although the ODCO had been amended for four times, workers suffering from monaural hearing loss (MHL) were excluded in each amendment exercise and not incorporated into the scope of compensation by the Administration. I have participated in the amendment of the ODCO twice since 2002, but unfortunately, the amendments had only led to disappointment among workers suffering from MHL again each time.

In May 2009, the Labour and Welfare Bureau proposed amendments to the ODCO again. First of all, I very much welcome the Administration's proposal that workers suffering from occupational MHL will be netted in for compensation. For workers who have been waiting for more than a decade, their aspiration is finally answered as the Government eventually has not turned a deaf ear to their voices and they can now be entitled to compensation as in the case of workers suffering from hearing loss in both ears.

Under the proposed amendments, the Government has simultaneously proposed that workers suffering from hearing loss and having been awarded compensation be given an opportunity to receive further compensation. For instance, a worker will be entitled to further compensation if his hearing deteriorates as a result of continued employment in noisy occupations. This amendment has changed the unreasonable arrangement that workers engaging in noisy occupations can apply for compensation only once. I support the Government's amendment.

The Bills Committee has spent more than six months discussing the Bill with government officials this time around. Although our views are very much different from the Government's as far as details of the amendments are concerned, as Chairman of the Bills Committee has just said, the Government is undoubtedly willing to listen to the Bills Committee's views and propose amendments, such as increasing the ceiling for first-time reimbursement of expenses in relation to the acquisition of hearing assistive devices, reducing the years of employment in noisy occupation as required for applying for further compensation, and providing for more flexible transitional arrangements. All these have reflected the Administration's sincerity. I hope this is not the one and only time that we see the Government's openness and willingness to accept different views. I hope the Government can persist with it and make it the attitude of the Government in its administration.

Nevertheless, President, I have to point out that the passage of these amendments to the ODCO cannot totally dispel the worries of workers suffering from hearing loss. This is particularly true for workers suffering from MHL who had neither made any application to the Occupational Deafness Compensation Board (ODCB) nor undergone self-arranged hearing tests in the past. Even though the Bill is passed, their right to compensation is still not protected by law.

Besides, the greatest hope of workers suffering from deafness is that they can be granted monthly allowance by the Government to meet their medical and daily expenses. In fact, there is a major misconception about deafness among the general public. They think that deafness means total hearing loss, which will not cause too much difficulty in a person's daily life except his communication with others. However, the truth is that a person suffering from deafness cannot hear any outside noise due to his defective cochlea, but he is troubled day and night by noises from the functioning of his own organs which normally should not be heard. I was told that the sound of their heartbeats, the sound of their breathing lungs and blood flows and so on, for instance, could amount to almost 90 decibels. They are tormented by such noises every day, every hour and every minute, thus preventing them from getting good and sound sleep.

Therefore, many workers suffering from deafness told me that they simply could not sleep. They sat and watched television for most of the night and it was only when their eyes could not open any more that they could get some sleep while sleeping. Over time, this has led to many health problems, such as mental and emotional disorder, for which psychiatric treatment is necessary. I am very

sympathetic to their plight. In fact, by reading relevant documents, one would know that the number of applicants for compensation on the ground of deafness is far fewer than that initially expected by the Government and they are mostly at old age. Under the circumstance that the ODCB is having a surplus of more than \$500 million, I think the Government should consider granting the workers a monthly living allowance, whether on compassionate or humanitarian ground. Although this problem cannot be solved by the Bill at present, I still sincerely hope that the Government will continue to consider this proposal.

Lastly, in the amendments now proposed, the Government has lowered the rate of Employees' Compensation Insurance Levy, and I have some reservations about this. Although the number of industrial injuries and accidents has decreased in recent years, we must ensure that adequate resources are available for early actions to be taken to prevent industrial accidents as human lives are involved. The Government should regularly review the funding ratio of the three bodies to ensure their normal operation, while enhancing the measures for preventing industrial injuries, accidents and occupational diseases.

President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): President, I support the Occupational Deafness (Compensation) (Amendment) Bill 2009 (the Bill). Basically I also agree to the Government's amendments, the content of which as a whole seek to improve the system of compensation for workers suffering from occupational deafness. Therefore, I will support it.

As Ms LI Fung-ying has just said, the Ordinance was enacted in 1995. At that time, I had also participated in the relevant work and proposed some amendments to increase the compensation amount. But unfortunately, there were so many deficiencies that the law was unable to protect workers suffering from hearing loss. Therefore, the amendments proposed now can be said to be one step forward. But in my opinion, it has come too late because 15 years have passed since 1995. Workers suffering from hearing loss have been waiting for too long and it is indeed unfair to them in dragging on for so long before compensation is granted to them. It is indeed long overdue. Yet, it is better late than never.

I have been fighting for compensation for workers suffering from monaural hearing loss (MHL) for many years, but the Government has always been

reluctant to listen to our views and relax the criteria. This time, the Government's willingness to relax the criteria is certainly a good thing. But I do not see it as a great favour from the Government. Instead, the Government has done so only because the Fund is flooded with money. Facing such a huge surplus, the Government does not know how to spend it and feels embarrassed after the deduction of the source of funding for the Fund. Only under such a circumstance has the Government decided to give compensation to workers suffering from MHL. It is indeed undesirable to give workers compensation as if it is some sort of handouts purely because of an excessively huge surplus rather than paying due regard to workers' contributions to society and the economy over the years. I find this very regrettable.

I have repeatedly raised a question: Why did some workers suffer from MHL? These workers, who were mainly engaged in the textile industry, had plugged only one ear while working to maintain communication with others. As a result, they suffered from MHL. However, the experts have never admitted this, saying that this is medically not possible. Precisely because it is medically not possible but practically a reality that the Administration is reluctant to recognize it. Hence, these workers have not been given compensation in the past 10-odd years. President, it is most unfortunate that some of them have passed away before compensation is granted. It is most lamentable that they cannot benefit from the compensation even though it is granted to them. Therefore, the Secretary has always reiterated that what the Government did should be tailored to the needs and he is also very concerned about the workers. I hope that after making this amendment, the Secretary will continue to propose further amendments to the Ordinance in the next two years of his term as many problems have remained unresolved.

Firstly, the maximum reimbursable amount for expenses incurred by workers suffering from deafness in purchasing, repairing and replacing hearing assistive devices. Currently, the Bill proposes that the maximum reimbursement amount be increased from \$18,000 to \$36,000. Despite the increase, the price of hearing devices has also gone up tremendously. I was told that the price of a hearing aid had jumped from \$5,000 per set to \$9,000 per set, which can last for four to five years. Assuming that a worker has purchased the first set of hearing aid in his 50s, the sum of money received will be used up in a few years. In other words, the money will be used up before he passed away. Thus, \$36,000 is not adequate. As such expenses are reimbursable on an accountable basis, why can the Government not be more generous, so that the workers need not go for the low-end products or even endure the hardship of using a malfunctioning

hearing aid? I hope that the Administration can improve such undesirable arrangement.

Secondly, the proposal to further reduce the required aggregate length of employment for making application for further compensation. As for workers who have been offered compensation after the first application, the Administration has originally proposed that they should have at least five years of employment in a noisy occupation before they can apply for further compensation. After listening to the views of organizations, the Administration has changed the length of employment from five to three years. But I still consider it too long and hope that it can be further reduced to two years so as to benefit more workers. I hope that the Administration can give further consideration to this point.

Thirdly, the principle and method of calculating the amount of compensation for workers suffering from occupational hearing loss. I agree and the Government also knows that the living expenses of many workers suffering from hearing loss have not been compensated. As Ms LI Fung-ying asked earlier: Why does the Government not listen to the views of workers by giving them a recurrent allowance for living expenses as in the case of workers suffering from pneumoconiosis? I have discussed the issue with the Administration and they indicated that no precedent should be set for fear that granting a living allowance to workers suffering from hearing loss might induce workers of other work types to make the same claim. Secretary, President, I beg to differ, because apart from pneumoconiosis, occupational deafness is the only occupational disease for which a fund has been set up. Only these two types are considered special because no fund has been set up for other work types. As allowances are given to workers suffering from pneumoconiosis to meet their costs of living, why does the Government not consider extending the benefit to workers suffering from occupational deafness? As these workers are also suffering badly from the illness over the years, I hope the Secretary can consider this in his term of office.

Another amendment that I wish to mention is gender mainstreaming in the legislation.

President, I had originally proposed an amendment which was eventually withdrawn because the Government indicated that it would propose a new solution. What is the problem then? The problem is that in certain provisions, "he" and "she" are clearly written in the English version, which should be

rendered as "他" and "她" when translating them into Chinese. But the Government has adopted a very strange approach whereby "他" (which means "he") is still used in the Chinese version. The Administration said that "他" is neutral, without any gender implication. Our Legal Adviser has specifically looked up the dictionary and found that the character "他" was indeed neutral without any gender implication before the May Fourth Movement. But after the May Fourth Movement, the usage is different as "他" only refers to male and does not include female ("她"). Thus, in principle, "he" and "she" should be rendered as "他" and "她" in Chinese. However, according to the Government, a consensus has been forged with the Panel on Administration of Justice and Legal Services of the Legislative Council. The Government said that owing to the global trend, "he" specifically refers to male, and thus, "he" and "she", rather than "he" alone, should be used. However, as such consensus has been forged in respect of the English only, the Government insists that "他" be adopted in the Chinese version to maintain gender neutrality. I think this is rather ridiculous to make changes in the English version but not in the Chinese version. Therefore, I had intended to propose an amendment, specifying that "他" and "她" be adopted.

However, the Government is so smart that it has come up with a solution to avoid confrontation by adopting "該人" to replace "他" and "她" and asked me if it was acceptable. I said it was acceptable this time, but if the Government could also give due regard to gender mainstreaming in legislation, there should be clear specification in law. In the past, the Chinese character "他" (which means "he") referred to both male and female, but now it refers to male only and does not include female. I hope this point should be clear to all. If the law can take the lead, the community will gradually accept this. So, President, I would like to take this opportunity to say that I am willing to accept the use of "該人" to replace "他" and "她", but I hope that this will not be the case for other bills and such a compromise will not have to be adopted again in the future. I hope that we will give due regard to the status of men and women and put across this point to the community with the legislature taking the lead.

With these remarks, President, I support the Bill.

MR IP WAI-MING (in Cantonese): President, I believe the original intent of providing occupational deafness compensation is to make compensation to workers who suffer from hearing loss due to noise at work. This is what we in the Hong Kong Federation of Trade Unions (FTU) have been advocating and this

is also the major incentive and reason for us to conduct surveys on occupational deafness since 1988. Of course, we welcome the Government's decision to take on board our suggestions back then to establish a mechanism of compensation so as to provide compensation to those workers who have made contribution to and sacrifices for Hong Kong's economy. Under this mechanism, subsidies will be provided to the claimants for acquiring hearing assistive devices (HADs) to improve their hearing so that their daily lives would not be affected.

However, we think the Government has always exercised very stringent or even extremely harsh control over the Occupational Deafness Compensation Fund (the Fund). Since the Occupation Deafness (Compensation) Ordinance (the Ordinance) came into effect in 1995, workers have faced many problems when claiming for compensation. For example, workers are required under the Ordinance to make an application not later than 12 months after leaving employment in the concerned occupations, and they must also fulfil the continuous contract requirement of working for a continuous period of four weeks, each week with 18 hours of work. At the Bills Committee meetings, we have raised this matter for discussion with the Government in the hope that it will relax the relevant requirements. However, it seems that the Government has not accepted our suggestion. But we still hope that the Government will reconsider whether such amendments should be introduced in the next legislative amendment exercise. Moreover, we note that the workers are often quite ignorant and they may not even know about this Fund. When they know about it, the 12-month application deadline may have already expired.

As regards the demand for granting compensation to workers with monaural hearing loss, just as Ms LI has said, this is actually what labour organizations and concern groups have long sought for. We have to understand that noisy machines may be installed on just one side of the workers in the workplace. As a result, hearing loss may only occur to one ear of the affected workers. We have come across cases where in the past, some female workers working at very noisy spinning factories would only put ear plugs in one ear as they wanted to leave the other ear open to receive orders from the foremen. With time, they had suffered hearing loss in one ear. However, under the then legislation, the Government insisted that compensation would only be provided to workers who suffered hearing loss in both ears. As a result, many workers were deprived of the opportunity of getting compensation. Therefore, we of course welcome the amendment proposed now.

In the past few years, the Government has been exercising stringent control over the financial position of the Fund. It is not until recently when the Fund has accumulated a hefty balance that the Government has introduced the relevant legislative amendments. As at 31 December 2008, the Occupational Deafness Compensation Board (the Board) has accumulated a reserve of \$511.7 million. In the past five years, the Board has an annual operating surplus of \$33.2 million on average.

The reason for such a hefty balance is very simple. With the restructuring of the Hong Kong economy, many factories as well as noisy industries and machinery have been moving out and hence, the number of workers suffering from occupational hearing loss has dwindled. Given the Fund's hefty balance and hence, affordability, the FTU supports the Government's proposed amendment so that workers suffering from monaural hearing loss can also be compensated. This is the natural thing to do. Although this arrangement comes late, it is always better late than never.

During the early stage of scrutiny of the Bill, we considered that the Government still maintained some of its miserly ways. It just kept on reiterating and emphasizing that the most expensive HADs may not necessarily be the only choices, which implied that the workers assumed that expensive HADs were better. Of course, the workers understand that the most expensive ones are not necessarily the most suitable ones for them. But the problem is, given the meagre amount of subsidies, they are forced to make do with the less expensive ones which may not suit their needs as they just cannot afford to buy the more expensive HADs. In the end, as the HADs are not suitable for them, they feel uncomfortable and stop using the HADs.

After many rounds of discussion in the Bills Committee and with the Government, the Government has finally agreed to increase the ceiling for first-time reimbursement of expenses for HADs from \$9,000 to \$12,000, and reduce the aggregate length of employment required for making application for further compensation from five to three years. While agreeing to these proposed amendments, the FTU hopes that the Government can further improve these requirements in the next review.

Another point which I want to mention is that when considering an application for compensation made on the ground of deafness, the Government should compare the average earnings of the claimant in his previous successful

application with the average earnings of the claimant in his current application, and adopt the higher one as the basis for calculating the amount of further compensation. This is because the earnings of a worker could be very high during the previous boom of manufacturing industries. But as the Government has taken so long to introduce the relevant legislative amendments, the same worker may now be facing underemployment or earning much less as a result of the restructuring of the economy. If the current level of wages is used to calculate the amount of compensation, it will be very unfair for the workers. But unfortunately, the Government has not accepted our proposal in the present legislative amendment exercise. The FTU, nonetheless, hopes that the Government can take on board our suggestion in this regard in its next review on the Ordinance so as to benefit more workers. We also hope that it will not take too long for our suggestion in this regard to materialize.

President, I so submit.

MR WONG SING-CHI (in Cantonese): President, all trades and sectors in Hong Kong have been struggling under a difficult operating environment since the outbreak of the financial tsunami. Faced with the structural changes in Hong Kong's economic outlook, both white and blue-collar workers have to think seriously about how they can make ends meet and how to meet the challenges with new thinking. These workers, of course, include workers who suffer from occupational deafness. The Democratic Party has always considered that manpower resources are an essential element of life with unique value, and also a private asset of citizens. Hence, an employee should have the respect of his employer, whereas an employer should not regard his employees merely as production tool. At the same time, the workers should be able to enjoy the right to safety and health at work. The Occupational Deafness (Compensation) (Amendment) Bill 2009 (the Bill) is introduced exactly because the existing legal provisions cannot satisfactorily safeguard the legitimate rights of the workers. As such, the Democratic Party is totally in support of the Bill under debate today.

President, in previous meetings of the Legislative Council, my colleagues and I have always emphasized that Hong Kong's achievements in the world today are absolutely inseparable from the efforts made by the labour force working silently behind the scene. If our society does not have this diligent labour force, Hong Kong would never be able to make its spectacular achievements today no

matter how forward-looking and well-thought-out the policy initiatives of the SAR Government are or how unique the employers' business practices are.

However, President, everything has its price in this world. Some employees may have sacrificed their family time for work and some workers may have sacrificed their precious health. Examples of the latter include those who suffer from hearing loss due to noise at work. As the saying goes, "prevention is better than cure". Prevention is always the preferred option. As such, the Democratic Party has, for many years, been urging the relevant authorities of the Government to review and address squarely the problem of occupational safety and health to ensure that workers can work in a safe and healthy environment before unfortunate incidents happen. Unfortunately, the Government's actions to date are far from enough. Whenever problems occur, the relevant authorities of the Government must take remedial actions but such actions are invariably too late. However, the Government is absolutely duty-bound to take decisive, humanistic and reasonable remedial and compensation measures. Therefore, the Bill, if enacted, will enable many workers with occupational deafness to be further benefited. This can in turn help alleviate the financial burden and psychological pressure arising out of the additional livelihood expenses caused by their deafness.

President, I think the amendments proposed in the Bill today, which have been discussed and further refined after discussions by the Administration and the Bills Committee, are worthy of the support from Honourable Members. One relatively more significant amendment is that the scope of compensation would cover those eligible workers suffering from monaural hearing loss. The Democratic Party believes that this proposal would benefit many workers who have been deprived of compensation previously. Of course, money cannot buy good health. No matter how much monetary compensation is paid, it can never buy back the hearing of those workers with occupational deafness. However, I think the Government should do all it reasonably can to help the needy workers if, by providing certain compensation, it can help relieve their additional financial caused by deafness. To a certain extent, this could be taken as a *de facto* recognition of the sacrifices made by these workers for Hong Kong's prosperity.

Of course, President, if you were to ask me whether the Bill is perfect, my answer is definitely no. As many colleagues have said just now, there are many aspects of the Bill where further work is required. During meetings of the Bills

Committee, many constructive views have been put forward by Members from different fractions to further safeguard workers with occupational deafness. But the Government is only willing to accept some of their views. Other views have not been incorporated into the Bill due to various reasons. For example — I think Mr LEE Cheuk-yan would probably talk about this himself later — Mr LEE Cheuk-yan has suggested during the meetings that the Government should make better arrangements for the Employees' Compensation Insurance Levy (the Levy) so that more resources could be allocated to the Occupational Deafness Compensation Board and the Occupational Safety and Health Council to further benefit those in need. The Democratic Party totally subscribes to Mr LEE's view. However, the Government has rejected this proposal on the grounds that the proposal would trigger off a new round of consultation which would delay the passage of the Bill. In other words, the Government also considers this a good and viable proposal. But it has refused the proposal for fear that it would delay the passage of the Bill. Then why has the Government not thought about it earlier? We have made so many good suggestions but the Government has turned them down just because there is not enough time and the suggestions are then put aside. I think the Government is really slow in response and it really bothers us sometimes.

President, while it is undeniable that the earlier the Bill is passed, the earlier it can benefit people with occupational deafness. That said, President, it does not mean that the work of the Government ends with the passage of the Bill. On the contrary, the Bill really has a lot of areas where improvement is warranted and there is still room for further refinement and adjustment in future. In addition to the examples I quoted above, there are matters which merit further consideration by the authorities and us, such as those relating to the reimbursement arrangements for expenses incurred in the acquisition, repair and replacement of hearing assistive devices (HADs), the ceiling for first-time reimbursement of HADs-related expenses and the required aggregate length of employment for making application for further compensation. Although the Government has set specific limits on the relevant amount and duration, the figures themselves and their rationale might be obsolete in future. Secretary Matthew CHEUNG has always stressed the importance of having new thinking, so I hope the Secretary can always adopt new thinking when reviewing this Ordinance in future so that its contents can keep abreast of the times and its execution more flexible.

Hence, President, even though we have completed scrutiny of the Bill, it does not mean that the authorities have finished their work — the Secretary is still in this Chamber — because the authorities must gauge the effectiveness of the amended Ordinance in a pragmatic manner. If it is found that there is a need for policy adjustments or increasing the flexibility of the compensation procedure and mechanism, the Government must do its utmost to make timely and reasonable arrangements so as to help the needy. This is what the Government should do as a responsible government and a government shown to be willing to make commitments. The Democratic Party hopes that both the Chief Executive and Secretary Matthew CHEUNG will not disappoint the people of Hong Kong and those suffering from occupational deafness.

I so submit. Thank you, President.

MR IP KWOK-HIM (in Cantonese): President, on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), I support the resumption of the Second Reading of the Occupational Deafness (Compensation) (Amendment) Bill 2009 (the Bill).

According to the statistics provided by the Labour Department, out of the confirmed cases of occupational disease in 2008, silicosis was the most common occupational disease and occupational deafness ranked second. According to the statistics provided by the Occupational Deafness Compensation Board (ODCB), the number of applications for compensation in the past three years was maintained at about 120 to 130 cases whereas in the past two years, there were more than 300 applications for reimbursement of expenses relating to hearing assistive devices (HADs). It is evident from these figures that many workers of noisy occupations are indeed seriously affected by this occupational disease. Due to loud noise at work, they have to live with permanent damage to their hearing and even gradual loss of total hearing in the more serious cases. As a result of this occupational disease, these workers have lost the important sense of hearing and hence, have difficulty communicating with others. Their daily lives and even mental health are thus affected. Just now, Ms LI Fung-ying has cited some examples of the affected workers. They suffer from insomnia and all they can hear with their ears are their own biological sounds. The legislation, which has been enacted for 15 years, must be able to meet the needs of those seeking compensation. As such, its provisions should be reviewed periodically to keep

up with the times. Otherwise, the objective of protecting the workers' rights will be defeated. In arriving at the many proposed amendments under the Bill, the Administration has consulted, collected and collated the views from different stakeholders and concerned organizations.

At present, there are altogether 29 specified noisy occupations under the law. Workers can easily suffer from this occupational disease as a result of prolonged exposure to excessive noise in the workplace. However, since the implementation of the Occupational Deafness Compensation Scheme (the Scheme), more than 500 workers have been deprived of compensation because of the requirement under the Scheme that only employees with hearing loss of at least 40 dB in both ears are eligible to apply for compensation. But it is an undeniable fact that they have suffered from hearing loss. The Administration has now agreed to propose an amendment introducing flexible transitional arrangements to allow claimants who have previously made applications to the ODCB and found to be suffering from monaural hearing loss (MHL) to be netted in for compensation. Moreover, those who had not filed any applications with the ODCB in the past but could provide proof of self-arranged hearing test results showing their MHL can also apply for reassessment and compensation. It is of course good news for these workers and it also reflects the Administration's willingness to take on board Members' suggestions. The DAB supports the amendment.

President, apart from netting in workers suffering from MHL for compensation, the Bill also proposes that workers can make application for further compensation if their deafness has worsened due to continuous employment in noisy occupations. Regarding the aggregate length of employment required for making application for further compensation, the Administration's original proposal was at least five years. But during the scrutiny of the Bill, Members have raised their concerns in this regard and the Administration also considered that a shorter interval for reassessment may be beneficial to the workers suffering from hearing loss. Hence, the Administration will introduce amendments today to reduce the length of employment from five years to three years. The DAB is in support of the amendments. Regarding the proposal to increase the maximum reimbursable amount for expenses relating to HADs from \$18,000 to \$36,000, I think Honourable colleagues will have no disagreement on that.

During the scrutiny of the Bill, Members have also expressed concern about the Administration's proposal to reduce the rate of the overall Employees' Compensation Insurance Levy (the Levy) and to adjust the proportions of distribution of the net resources of the Employees' Compensation Insurance Levies Management Board (ECILMB). While the proposed reduction in the overall Levy is modest, it is the first reduction since the enactment of the Employees' Compensation Insurance Levies Ordinance in 1990. Nonetheless, even with the reduced rate of the overall Levy, there would be no major effect on the ODCB. Information shows that the ODCB has a robust financial position with an accumulated reserve of \$519.3 million as at March 2009. In the past five years, it has on average an annual operating surplus of \$33.2 million. With the enactment of the Amendment Ordinance today, the implementation of the three improvement items would incur an additional annual expenditure of about \$13 million for the ODCB. Given its accumulated fund balance, the additional expenditure can still be comfortably absorbed by the ODCB. As for the Employees Compensation Assistance Fund Board and the Occupational Safety and Health Council which are involved in the distribution of the remaining Levy, they can still maintain effective operation. Moreover, many rounds of consultation and discussion on the proposal have been conducted through the Labour Advisory Board. The DAB considers that the long-standing consultation mechanism should be respected. Therefore, the DAB will support the relevant amendments as well as the proposed reduction of the Levy rate.

President, occupational deafness is incurable. Prevention is the only way to stop other workers from falling prey to this occupational disease. That is why the DAB hopes that apart from fine-tuning the existing legislation to improve post-event compensation, the Administration should also consider how the problem can be tackled at root by strengthening occupational safety education for both employers and employees of noisy occupations so that their awareness for protecting their hearing could be increased and enhanced.

President, I so submit.

MR LEE CHEUK-YAN (in Cantonese): On behalf of the Hong Kong Confederation of Trade Unions, I support the Occupational Deafness (Compensation) (Amendment) Bill 2009 (the Bill) today.

In fact, I am happy and yet with a sigh of regret today. I am happy because workers suffering from monaural hearing loss (MHL) can finally get compensated. I sigh with regret because we had had many discussions about compensating workers with MHL at the former Bills Committee in the last amendment exercise but to no avail. Nevertheless, we finally make it today. I hope the Secretary can be more thorough whenever legislative amendments are proposed so that we do not have to wait for an indefinite number of years before our suggestions can be realized. We are lucky that our patience pays off this time.

We also want to put forward a suggestion for the Administration to consider for early implementation without a long wait, and that is, to provide monthly compensation or subsistence allowance for the victims. Let us think about this suggestion. First, I think we do not have to worry about the financial implication because if better preventive measures are in place, the number of workers with occupational deafness should dwindle over time. Moreover, some of the workers suffer from occupational deafness as a result of their employment in the manufacturing industry in Hong Kong. But the manufacturing industry is already on the decline and the number of such workers has been reduced. Of course, other workers in noisy occupations would still be affected but we can imagine that to a certain extent, the overall number of compensation cases will follow a downward trend, particularly if better preventive measures are put in place. The number of cases will be even less.

Therefore, why can we not do more for these victims? We should remember that these workers have lost their hearing to contribute to Hong Kong's prosperity. Is one-off compensation enough to make it up for the rest of their lives? To put it frankly, we all know that although the concept is to provide some sort of compensation, the compensation is not meant for life. But can we do better in this regard to award some compensation for the affected workers every month so that they know the society is trying to make up for their losses? The fact is such compensation can in no way make up for their deafness. But I consider that at least, this is a better treatment for the victims. What I do not want to see is that our society seems to be treating workers as if they are disposable after use whenever industries accidents occur involving casualties of workers. Workers are not disposable tissue paper and they should not be treated as such. Instead, we should respect them, their health and their lives. If the compensation fund has more than \$500 million in reserve and if the number of

victims will fall correspondingly with better preventive measures, then why can a monthly compensation not be provided for the victims?

In fact, I am not merely pinpointing the problem with occupational deafness. I think the whole compensation system in Hong Kong needs a complete revamp with an approach offering more social security so that the victims will not be left alone to struggle on the streets or in the sea after a one-off compensation. Instead, arrangements should be made for them to have more safeguard and security so that they are better protected after suffering from life-long damages. In fact, the case of occupational deafness satisfies all the conditions because a fund has already been established and there are not too many victims. We have already done so for pneumoconiosis so that the victims are at least provided with a monthly compensation or allowance to give them a sense of security. Therefore, I very much hope that in this regard, the Government can introduce relevant legislative amendment as soon as possible, so that we will not have to wait for an indefinite number of years before this could happen but instead, more comprehensive protection will be given to the victims as soon as possible.

Another point I want to raise is that it is not necessary to increase the maximum reimbursable amount for expenses incurred in purchasing, repairing and replacing hearing assistive devices to \$36,000. Of course, the amount of \$36,000 may not be spent completely in a few years. But we are considering the entire legislation from a long-term perspective. If the workers really have the need and their conditions are to be monitored by doctors as "gate keepers", compensation should be provided continuously. For this reason, I am doubtful of the need to impose a ceiling of \$36,000. Of course, the Government can say that after the money is used up, there will be another round of legislative amendments so that compensation will be provided continuously. If that is the case, then why is the ceiling not removed once and for all? I think it is the better way.

President, while we support the Bill today, we also hope that the Government can do more to provide better compensation for the victims expeditiously.

Lastly, I want to talk about the proposal to reduce the levy from 6.3% to 5.8%. I consider it unnecessary because by reducing the levy from 6.3% to 5.8%, resources will be cut. We can see that at present, the society is not only

concerned about occupational deafness. The whole issue of occupational safety is also of great concern to the community. Although occupational safety has been talked about for many years, Hong Kong has yet to realize what the Government has said about "one accident is too many" and neither is there "zero accident". As such, if the levy is not reduced from 6.3% to 5.8%, we will have more resources for better safety education. Unfortunately, the Government's stance is that as the issue has been discussed and settled in the Labour Advisory Board (LAB), it is better for us not to propose any changes. My original intention was to propose amendments in this regard. But I think if I have done so, the Government would likely suggest that the issue be referred to LAB for consideration and this could indefinitely postpone the enactment of the legislation. This is not what I want to see. But I really think the 0.5% is just peanuts from the employers' point of view. If they have proper measures to ensure industrial safety and reduce the number of accidents, this would be more than enough to offset that 0.5%. Insurance premium will come down with less compensation. In other words, fewer accidents mean less insurance premium. Therefore, I would rather see better safety precautions being put in place than less occupational safety and health education as a result of the 0.5% reduction. Should accidents occur because of this, it will be very terrible. Although the Government is proceeding with the reduction today, I still hope it will propose levy increases when necessary to provide additional financial resources, especially when there is a need to increase the resources for enhancing occupational safety and health.

Thank you, President.

MS MIRIAM LAU (in Cantonese): President, workers engaging in noisy occupations in Hong Kong are usually low-income earners. Under the prevailing economic environment, the living conditions of many such workers are far from satisfactory. If they unfortunately fall prey to occupational deafness due to noisy work environment, they would need more support both in terms of treatment and financial resources. The Liberal Party supports the Administration's present legislative proposal because upon the enactment of the legislation, compensation provided for employees suffering from hearing loss would be improved.

We understand that some Members have different views about the present proposal to adjust the overall rate and proportions of distribution of the levy. Mr

LEE Cheuk-yan has talked about it just now. But our understanding is that since the enactment of the Employees' Compensation Insurance Levies Ordinance in the 1990s, the Government has introduced four upward adjustments of the overall levy rate. Given the healthy financial position of the various statutory bodies, we consider it both fair and reasonable to reduce the overall levy rate so as to alleviate the burden of the employers.

Furthermore, the proposed rate of reduction is modest and has basically no bearing on the financial viability of the Occupational Safety and Health Council, the Occupational Deafness Compensation Board and the Employees Compensation Assistance Fund Board. Moreover, the proposals under the Bill can benefit more employees with occupational deafness and alleviate their financial burden. Hence, it is a win-win arrangement.

We all understand that for any legislative proposals involving employment relations, thorough consultation must be conducted. The Administration has also advised that the current proposal is a consensus reached after extensive consultation among stakeholders and statutory boards. We are concerned that if Members do not agree to the current proposal, the Administration must start the consultation process all over again. Just now, Mr LEE Cheuk-yan also said that should the Secretary withdraw the Bill and consult the Labour Advisory Board again, no one can tell when it will be introduced into the Legislative Council again. We all know that this kind of consultation will only come to a consensus after a long period of time. Those who suffer ultimately are only the victims of occupational deafness. Hence, the Liberal Party supports the passage of this Amendment Bill today so that employees with occupational deafness can be better compensated as soon as possible.

The Liberal Party also urges the Administration to keep in view the financial position of the concerned statutory bodies after the passage of the Bill and introduce adjustments at a suitable time according to circumstances so that these statutory bodies will maintain smooth operation. By doing so, it will better protect the rights of employees with occupational deafness.

President, I so submit. On behalf of the Liberal Party, I support the passage of this Amendment Bill and the Committee stage amendments proposed by the Administration.

MR CHAN KIN-POR (in Cantonese): While I support the Bill proposed by the Government, I want to talk about the levy specifically. At present, the levy is paid by employers. Apart from the 6.3% levy payable under the Employees' Compensation Insurance Levies Ordinance, an employer is also required to contribute a levy of 2% to the Employees Compensation Insurer Insolvency Bureau and 3% for the Government Terrorism Facility Charge. Those add up to 11.3% in total, which is a very high percentage creating a huge burden on the employers. Therefore, if conditions allow, the rate of levy should be lowered.

The rate of distribution under the present proposal by the Government has already taken into account the financial requirements of the Employees Compensation Assistance Fund Board, the Occupational Deafness Compensation Board as well as the Occupational Safety and Health Council at present and in the coming few years, while ensuring the healthy operation of these bodies. Hence, it would be unfair and unjust to the employers if the rate of levy is not adjusted downward even though the right condition exists. I therefore consider that the Government should proceed with its proposal.

However, another problem is that if somebody proposes to make changes, the Government would need to consult the stakeholders again. But we have to understand that this decision is not made within a short time. Instead, it is the consensus reached among the stakeholders after consultation over a long time. Therefore, even if another consultation will be held, the result will not change. So another consultation does not mean that anything will change. If the result will not change even after another consultation, then why should we not hasten our steps to bring early benefits to those workers with occupational deafness? For these reasons, I support the new levy rate proposed by the Government. Thank you.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Labour and Welfare to reply. This debate will come to a close after the Secretary has replied.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the Occupational Deafness (Compensation) (Amendment) Bill 2009 (the Bill) was introduced into the Legislative Council for First and Second Readings on 3 June 2009. Thereafter, a Bills Committee was formed by the Legislative Council to scrutinize the Bill in detail. I am indebted to Dr PAN Pey-chyou, Chairman of the Bills Committee, and other members for their efforts and valuable contributions, so that the Second Reading debate on the Bill can resume today. I also want to thank Dr PAN, Ms LI Fung-ying and Mr IP Kwok-him for their positive comments about our efforts to receive public views and respond to their demands as far as possible.

The Bill consists of two key components. Firstly, it seeks to amend the Employees' Compensation Insurance Levies Ordinance (ECILO) to adjust the overall rate and proportions of distribution of the Employees' Compensation Insurance Levy (the Levy). Secondly, it seeks to amend the Occupational Deafness (Compensation) Ordinance (the Ordinance) to improve the statutory rights of employees with occupational deafness.

At present, for every Employees' Compensation Insurance (ECI) policy, employers are required to pay a levy at the rate of 6.3% on the premium of that policy to the Employees' Compensation Insurance Levies Management Board (ECILMB). The Levy so collected will then be distributed to three statutory bodies, in accordance with the proportions stipulated under the law, as their main source of income. The three statutory bodies are the Occupational Deafness Compensation Board (ODCB), the Employees Compensation Assistance Fund Board (ECAFB) and the Occupational Safety and Health Council (OSHC). The Bill proposes to adjust the proportion of distribution of the Levy to these three statutory bodies according to their financial position so as to meet their operational needs. As a result, the overall Levy rate will be adjusted downwards.

The Administration keeps under regular review the financial position of the three statutory boards periodically so that timely assessment can be made. In a review conducted in 2006, it was found necessary to adjust the proportion of allocation of the Levy to ECAFB and ODCB as ECAFB might face cash flow problems in a few years' time, while ODCB had accumulated a very healthy

reserve that would continue growing. Hence, a proposal was worked out for consultation.

Subsequently, in view of the concerns raised by various stakeholders, the Administration came up with a revised package of proposals in 2007 to improve the Occupational Deafness Compensation (ODC) Scheme and to adjust the rate and proportions of distribution of the Levy. Under the revised proposals, the rate of the Levy for distribution to ECAFB would be increased from 2.5% to 3.1% and that to ODCB be reduced from 1.8% to 0.7%. The current Levy rate for OSHC would remain unchanged. As a result of these changes, the overall Levy rate would be adjusted downwards by 0.5 percentage point from 6.3% to 5.8%. This would be the first downward adjustment since the establishment of the ECILMB in 1990.

In the past, four reviews had been conducted on the Levy and each resulted in an upward adjustment of the overall Levy rate. With the present package of proposals, the ODC Scheme can be improved to benefit employees with occupational deafness on one hand and on the other, the stable and effective operation of the three statutory bodies can be ensured while the overall Levy rate reduced. This is in fact a win-win package. In fact, representatives of the employers and the employees as well as the concerned statutory bodies all support the proposed package. In 2008, the Administration has separately consulted and obtained support from the Labour Advisory Board (LAB) and the Panel on Manpower of the Legislative Council on the proposal.

Another objective of the Bill is to improve the statutory rights of employees with occupational deafness through amendments to the Ordinance. The proposed amendments include extending the coverage of compensation to employees suffering from monaural hearing loss (MHL); increasing the maximum reimbursable amount for expenses incurred in the acquisition, repair and replacement of a hearing assistive device (HAD) from \$18,000 to \$36,000; providing further compensation for employees whose sensorineural hearing loss deteriorates as a result of continued employment in noisy occupations; and introducing technical amendments to various operational aspects of the ODC Scheme.

During the scrutiny by the Bills Committee, members have stated support for the proposals under the Bill generally and raised valuable suggestions. Taking into account the views of the Bills Committee, I will move the relevant Committee stage amendments (CSAs) later on.

President, the Bill can, on one hand, ensure the financial viability of the concerned statutory bodies for discharging their functions through the proposed adjustment in the proportions of distribution of the Levy. On the other hand, the Bill can also improve the ODC Scheme so as to benefit employees with occupational deafness. When proposing the relevant amendments, the Administration has duly consulted the relevant statutory bodies, the LAB and the Panel on Manpower of this Council with employers and employees represented. All stakeholders as well as the representatives of employers and employees supported the proposed package.

I wish to thank Mr LEUNG Yiu-chung here for agreeing to withdraw his proposed amendment. Mr LEUNG hopes that gender-neutral wording would be used in the Chinese text of the legislation or that gender-specific pronouns be avoided. The Law Drafting Division (LDD) of the Department of Justice (DoJ) has taken note of the relevant views and adopted gender-neutral drafting in the CSAs I shall move later on. As far as I know, the LDD of the DoJ has presented an information paper on drafting of legislation for discussion by the Panel on Administration of Justice and Legal Services at its meeting on 15 December 2009. This also serves to respond to the request by some members of the Bills Committee that other Members of the Legislative Council be informed of the relevant law drafting rules.

Just now, many Members have made a lot of suggestions about how we can further improve the operation and contents of the Ordinance. I wish to point out that the Administration will examine and review the current employee compensation regime from time to time in the light to the social development of Hong Kong and we will introduce improvement proposals when necessary. I undertake that the Administration will carefully consider the valuable views put forward by all Members today in our next review exercise.

With these remarks, President, I earnestly call on Members to support the passage of the Bill as well as the CSAs that I shall move later on.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Occupational Deafness (Compensation) (Amendment) Bill 2009 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Occupational Deafness (Compensation) (Amendment) Bill 2009.

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

OCCUPATIONAL DEAFNESS (COMPENSATION) (AMENDMENT) BILL 2009

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Occupational Deafness (Compensation) (Amendment) Bill 2009.

CLERK (in Cantonese): Clauses 1, 2, 5, 9 to 12, 16, 17, 19, 20, 21 and 25 to 28.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1, 2, 5, 9 to 12, 16, 17, 19, 20, 21 and 25 to 28 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 3, 4, 6, 7, 8, 13, 14, 15, 18, 22, 23 and 24.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Chairman, I move the amendments to the clauses read out just now, as set out in the paper circularized to Members. Having considered the views put forward by the Bills Committee during the scrutiny of the Bill, we propose the following amendments:

The first category of CSAs relates to the transitional arrangements for netting in cases of monaural hearing loss (MHL). Under the transitional arrangement provided in the current Bill, workers who have made applications for compensation to the ODCB and are confirmed to be suffering from MHL can also be compensated. At the meetings of the Bills Committee, some members were concerned that there might be persons who had not made applications to the ODCB in the past after they underwent self-arranged hearing tests and obtained results showing MHL, as they were aware that MHL was not compensable under

the Ordinance at that time. As some of them may have already left employment, they would fail to fulfil the occupational requirements under the Ordinance. Some members took the view that the proposed transitional arrangements should be made more flexible such that these special cases could also be netted in for compensation.

Having listened to and carefully considered the views of the Bills Committee, we are prepared to make the transitional arrangements more flexible as long as the principles of fairness and reasonableness underpinning the Ordinance are not compromised. Under the proposed CSAs, the ODCB shall, when determining the percentage of permanent incapacity of claimants with occupational deafness, make reference to the results of their self-arranged hearing tests confirming MHL. As for the calculation of the amount of their compensation, the same method of calculation for claimants with MHL under the transitional arrangements will be applied.

The second category of CSAs relates to the reduction of the aggregate length of employment required for making application for further compensation. According to the original proposal in the Bill, an employee should have at least five years of employment in aggregate in any of the specified noisy occupations before he can apply for further compensation. However, at the meetings of the Bills Committee, some members took the view that the required length of employment should be suitably reduced so as to benefit more employees. We have carefully considered the views of the Bills Committee in this regard. While we consider that five years of aggregate employment in noisy occupation is a suitable interval for the purpose of reassessment of the deterioration in hearing due to continued exposure to noise at work, we have also taken into account the fact that since these employees have already been assessed to be suffering from occupational deafness, the adoption of a shorter interval for reassessment may be beneficial to them as the ODCB can then keep closer track of their hearing conditions and provide them with necessary information on hearing conservation where appropriate. This would be helpful to the employees with occupational deafness. As such, we will move CSAs to reduce the specified length of employment from five to three years.

The third category of CSAs relates to the increase in the ceiling for first-time reimbursement of expenses relating to hearing assistive devices

(HADs). At the meetings of the Bills Committee, some members suggested that apart from increasing the maximum reimbursable amount for expenses relating to HADs from \$18,000 to \$36,000, the current ceiling of \$9,000 for first-time reimbursable amount for HADs should be increased to allow employees suffering from occupational deafness a wider choice of HADs. Having studied the current buying pattern of applicants, consulted specialists' medical advice and reviewed the price range of HADs in the market, the Administration agrees to increase the ceiling for first-time reimbursement of expenses for HADs. The proposal now is to increase the ceiling from the current level of \$9,000 to \$12,000.

The remaining CSAs concern the drafting of the relevant legislation. At the meetings of the Bills Committee, some members suggested that the Government should amend the relevant provisions of the Bill so as to improve comprehensibility, clarity and consistency. Taking into account this view, we consider that technical amendments can be introduced to certain parts of the Bill to improve their clarity, such as by improving the drafting of the relevant provisions or by making corresponding amendments to other related parts of the Ordinance to tie in with the new amendments. These amendments will neither affect the Ordinance nor the policy intent and implementation of the Bill.

Chairman, all the above CSAs have the support of the Bills Committee. With these remarks, I hope Members can support the passage of the abovementioned CSAs. Thank you, Chairman.

Proposed amendments

Clause 3 (see Annex II)

Clause 4 (see Annex II)

Clause 6 (see Annex II)

Clause 7 (see Annex II)

Clause 8 (see Annex II)

Clause 13 (see Annex II)

Clause 14 (see Annex II)

Clause 15 (see Annex II)

Clause 18 (see Annex II)

Clause 22 (see Annex II)

Clause 23 (see Annex II)

Clause 24 (see Annex II)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Labour and Welfare be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 3, 4, 6, 7, 8, 13, 14, 15, 18, 22, 23 and 24 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 3, 4, 6, 7, 8, 13, 14, 15, 18, 22, 23 and 24 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 7A Referral to Medical Committee

New clause 22A Noisy Occupations.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Chairman, I move the Second Reading of new clauses 7A and 22A as set out in the paper circularized to Members.

The CSAs are only some technical amendments. As a result of the proposal to extend the scope of transitional arrangements for MHL cases, we have to make corresponding amendments to section 19 of the Ordinance. In addition, we need to add the section numbers of 14 and 48 within the square brackets in the note to Schedule 3 of the Ordinance.

Chairman, the above CSAs have been agreed to by the Bills Committee. With these remarks, I hope Members can support the passage of the above CSAs.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clauses 7A and 22A be read the Second time.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That new clauses 7A and 22A be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clauses 7A and 22A.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Chairman, I move that new clauses 7A and 22A be added to the Bill.

Proposed amendments

New clause 7A (see Annex II)

New clause 22A (see Annex II)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clauses 7A and 22A be added to the Bill.

CHAIRMAN (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

OCCUPATIONAL DEAFNESS (COMPENSATION) (AMENDMENT) BILL 2009

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

Occupational Deafness (Compensation) (Amendment) Bill 2009

has passed through Committee stage with amendments. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Occupational Deafness (Compensation) (Amendment) Bill 2009 be read the Third time and do pass.

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 of the Members present. I declare the motion passed.

CLERK (in Cantonese): Occupational Deafness (Compensation) (Amendment) Bill 2009.

MEMBERS' MOTIONS

(Motion originally scheduled to be moved at last Council meeting)

PRESIDENT (in Cantonese): Members' motions. Select committee to inquire into the interference with the professionalism of social workers on the part of the Secretary for Home Affairs and District Officer (Islands).

I now call upon Mr CHEUNG Kwok-che to speak and move his motion.

SELECT COMMITTEE TO INQUIRE INTO THE INTERFERENCE WITH THE PROFESSIONALISM OF SOCIAL WORKERS ON THE PART OF THE SECRETARY FOR HOME AFFAIRS AND DISTRICT OFFICER (ISLANDS)

MR CHEUNG KWOK-CHE (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, the Tai O "river crab" incident, which broke out in December 2008, has been lingering on for more than a year. Why does the social welfare sector take the incident so seriously and insist on investigating it? We do not attempt to use the establishment of a select committee to target any government officials or undermine their credibility. We only wish to dig out the real facts and ascertain the causes of the incident, so as to do justice for a devoted social worker who has made selfless sacrifices for the residents of Tai O. More importantly, the incident has brought to light a major controversy: Is the professional autonomy of social workers being interfered with?

According to the Social Workers Registration Ordinance, the sector has drawn up the Code of Practice for Registered Social Workers (Code of Practice). The Code of Practice represents our beliefs in serving the community, or the core values of social work. However, once these beliefs are interfered with by outsiders, our professional integrity will become open to question, and the rights and interests of the disadvantaged group may also be liable to suppression.

The Code of Practice provides a basis for regulating the conduct of social workers. It also states clearly the basic values and beliefs of social workers, including, among others, assisting their clients in facing hardship, building unity and helping each other. Social workers are also obliged to safeguard human rights and promote social justice. May I ask all colleagues and government officials here one question: If a responsible social worker who follows the core values and beliefs of social workers in serving the public is subject to disciplinary action, what will you feel?

Moreover, I cannot but mention the 49th provision in Part 2 of the Code of Practice, let me read it out in full: "The social worker recognizes the need to bring to the attention of policy makers or the general public any policies, procedures or

activities of governments, societies or agencies which create, contribute to, or militate against the relief of hardship and suffering."

The above provision poses great challenge to frontline social workers. In practice, they must demonstrate great courage to conviction because social workers are not simply required to assist the disadvantaged group, they also have to stand up against certain groups of people, certain organizations and even the entire Government on their own to safeguard the interest of their clients.

Hence, safeguarding the professional autonomy of social workers does not purely or simply mean maintaining their dignity. As clearly pointed out in the preamble of the Code of Practice, one of the objectives of the Code of Practice is to protect clients and enhance public trust and confidence in the social work profession. If the professionalism of social workers is really subject to interference, whereas we cannot safeguard the beliefs and core values of social workers, members of the community might loss confidence in the social work profession. Should that be the case, how could our clients trust us? Moreover, if government departments really interfere with the operation of the profession, social services will only be reduced to a tool of the Government. Eventually, the disadvantaged group will definitely be deprived of their rights and interests.

After explaining certain principles, I will now rationalize the causes and effects of the incident, so that Members can have a better understanding of the incident. Tai O was struck by two disasters in June and September 2008 respectively. In both cases, the residents there considered that the Islands District Office had failed to take adequate measures in coping with contingency and co-ordination, and the various measures taken had failed to cater for the needs of the residents. As a result, the residents of Tai O were seething with discontent, and there were widespread grievances. However, the Government still turned a deaf ear to the complaints lodged by the residents.

Witnessing the plights of the disaster-struck victims who were left with no water supply and electricity, completely ruined homes and no shelter, I believe every member of the community with a conscience would have done their level best to provide immediate assistance to these victims to address their urgent needs. Motivated by the professional spirit of social workers, a team of the Tai O Community Development Office of the Hong Kong Young Women's Christian Association (YWCA), comprising TSE Sai-kit, a social worker, and his

colleagues teamed up with the residents to voice out their demands for the improvement of the situation of their homeland and a reasonable rehousing policy. The prompt assistance provided by the YWCA team and its caring attitude were appreciated by the community organizations, shop operators and residents of the district, and they wrote a commendation letter to the Headquarters of the YWCA to pay tribute to the team.

However, the wholehearted and devoted efforts made by the YMCA team in relieving the hardship of the residents were greeted with a number of unreasonable complaints made by the Tai O Rural Committee to the Board of Directors of the YMCA. The Rural Committee accused the social worker of inciting the residents to stand up against the Rural Committee and the Government without citing justifications. It merely suggested that the team ignored the contribution made by various community organizations to the development of the district and claimed all the credits of the community development of Tai O. The Rural Committee even concluded that the team was not politically neutral and inclined to the democratic camp. The above allegations fully demonstrate that the complainant was jealous of the team and exercising political screening.

Apart from this, LAM Saint-kit, the District Officer (Islands), who was reluctant to be outdone, reflected his dissatisfaction with TSE Sai-kit and another social worker to the Board of Directors of the YWCA, criticizing them for failing to appreciate the government departments which were responsible for allocating the funding.

Members should have noticed that the abovementioned complaints are completely groundless. What was more shocking was that the YWCA, an organization set up with the objection of "serving the community", had agreed to deal with the case and set up a task force to follow up the case. On 22 January 2009, the task force concluded that the team comprising TSE Sai-kit had performed well. However, they should have the political sensitivity to minimize unwarranted misunderstanding. The task force also agreed to conduct another review three months later.

On the following day, 23 January, according to a document issued by the YWCA, in a meeting with the Secretary for Home Affairs, TSANG Tak-sing, the management of the YWCA, including its President, Mrs Mona LEONG WONG

Man-Suen, and its Chief Executive, introduced to the Secretary the development of the services provided by the YWCA and the redevelopment plan of its club in Kowloon to lobby for the support of the Secretary. During their conversation, the Secretary mentioned a copy of a letter written by the Tai O Rural Committee to the YWCA, which he had received. The Secretary also reminded the YWCA to maintain a harmonious relationship in carrying out its community work, so as to tie in with the Government's policy in promoting harmony in the community.

However, on 30 January, before the three-month review was due and only a week after the senior echelon of the YWCA met with the Secretary, the Board of Directors of the YWCA convened a special meeting to hand down a decision on the incident. It was pointed out direct that the "good performance" of TSE Sai-kit and another social worker had tarnished the reputation of the YWCA and that punishment had to be imposed, including the issue of a written warning and the transfer of posts from Tai O.

Later, the Chief Executive of the YWCA also confirmed at a press conference that the remark of Secretary TSANG Tak-sing was one of the considerations taken in imposing punishment on their two colleagues, including TSE Sai-kit. Secretary TSANG Tak-sing also admitted in person at a case conference convened by the Legislative Council that he had received a copy of the complaint letter issued by the Tai O Rural Committee. He said he had expressed to the senior staff of the YWCA his hope for the Rural Committee and the YWCA to work jointly for the well-being of the residents of Tai O, with a view to complementing the Government's policy of promoting harmony in the community. He also admitted at the meeting that no inquiry had been conducted into the case, and his "reminder" to the senior echelon of the YWCA was issued just because he had received a copy of the complaint letter.

Regrettably, the answers provided above cannot dispel all the doubts about the incident. Since the YWCA has already established a task force to deal with the incident, why did it have to convene a special meeting for the Board of Directors to hand down another decision? Since the task force has already given TSE Sai-kit and the others involved a three-month observation period, why did the Board of Directors not respect this decision? Why did the Board of Directors, after meeting Secretary TSANG Tak-sing, make an immediate decision without trailing the incident? Given that Secretary TSANG Tak-sing has to handle endless tasks every day, why would he show particular concern about this

complaint? Why would LAM Saint-kit, the District Officer (Islands), ask the social workers of the team to appreciate the work of the government departments responsible for funds allocation? When community organizations show signs of poor co-ordination and disharmony, should the District Officer act as a mediator or add fuel to the fire?

At present, everyone in the Mainland as well as Hong Kong is talking about maintaining harmony. Frankly speaking, the seventh provision of Part 1 of the Code of Practice also mentions that social workers have to "recognize the central importance of human relationships and seek to strengthen relationships among people", which means that social workers should also seek harmony. However, what is meant by harmony? Does it mean remaining silent, acting cowardly and submissively? Can harmony be achieved with the Government turning a blind eye to the grievances aired by the people who have nowhere to go for redress? Harmony should be based on mutual respect and accommodation. People can disagree during discussions and seek consensus amid criticisms, with a view to clarifying and settling the affairs of the community as a whole.

Actually, in delivering their daily duties, social workers will sometimes inevitably come into conflicts with certain people in order to resolve the community problems faced by the residents. Social workers should be condemned if they back off in the face of people in power in order to maintain the false impression of harmony in the community.

To what extent can we blame this incident on misunderstanding and the pressure exerted? Since all parties only present their side of the story, I think the incident can hardly be clarified. Hence, the best solution is to establish a select committee to ascertain the real facts. I would like to reiterate that the objective of establishing the select committee is not to interrogate the wrongdoers, for we only want to know the real facts of the incident. Meanwhile, the Secretary may take this opportunity to clarify in open certain facts and find out what has actually happened in Tai O after the floods, to ensure that similar incidents will not reoccur.

Finally, I believe various professions will face interference on various fronts every day. The crux is whether or not the interference is deliberate or not. In the course of handling such incidents, can the management act rationally and in

the interest of upholding justice? The social work sector and other professions should have gained experience from this "river crab" incident, and I believe senior government officials should also reflect on themselves.

President, I so submit.

Mr CHEUNG Kwok-che moved the following motion: (Translation)

"That this Council appoints a select committee to inquire into whether TSANG Tak-sing, Secretary for Home Affairs, and LAM Saint-kit, District Officer (Islands), failed to promote harmony among community organizations during 2008 and 2009, and Secretary TSANG Tak-sing, before understanding the real facts, exerted pressure on the President of the Hong Kong Young Women's Christian Association and interfered with the operation of the profession of social workers, and based on the results of the above inquiry, to make recommendations on preventing government officials from interfering with the professional work of social workers; 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."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHEUNG Kwok-che be passed.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, I will give my response after Members have spoken.

MR CHEUNG HOK-MING (in Cantonese): President, I have to first declare that I am the Vice-Chairman of the Heung Yee Kuk New Territories, and the Tai O Rural Committee is one of the 27 Rural Committees set up under the Heung Yee Kuk New Territories. The Tai O Rural Committee, which has its root in the district, comprises village representatives, resident representatives and fisherman representatives. With a history of more than 50 years, the Committee has been serving the residents of Tai O enthusiastically in a pragmatic manner. It also

strives to maintain the solidarity of the community and express the views of the community and residents faithfully.

The Tai O Social Work Office of the Hong Kong Young Women's Christian Association (YWCA) also started providing community services to residents of Tai O in 1978. Though the nature of services provided by the two organizations are different, over the years, the Tai O Rural Committee and the YWCA, as well as other welfare organizations, have been working hard for the well being of the residents of Tai O through mutual support and assistance. The Tai O Rural Committee has all along adopted an open attitude in maintaining communication and co-operating sincerely with various community organizations.

The incident occurred this time around is purely originated from the enthusiastic attention given by both parties to the problems related to the livelihood of the residents of Tai O, as they both share the urgent needs of the residents and are eager to offer assistance. In particular, regarding the serious flood occurred in 2008, the two organizations showed concern to the residents from different perspectives, and they thus had different opinions on the rebuilding work to be implemented as part of the disaster relief measures. After Tai O was struck by the flood, I went to Tai O a number of times to visit the affected residents, and I knew full well that the damage brought by the flood was extremely serious. As the streets in Tai O were all flooded with water, the work to combat flood and rebuild the community could brook no delay. After all, the purpose of both organizations was to safeguard the well-being of the residents there.

From the perspective of the Tai O Rural Committee, the act of writing to the YWCA to explain the concerns of the residents was only meant to fulfil its duties and express its opinions, hoping that a solution to the problem could be found. In the course of doing so, the Administration was not requested to intervene. As a people-based government, the Administration is obliged to find out the degree of integration among community organizations. It is appropriate for the Secretary for Home Affairs and the District Officer to show concern for community affairs or exchange views with community organizations. They are also duty-bound to do so. What is more, the YWCA has explained clearly that neither Secretary TSANG Tak-sing nor the District Officer (Islands) had indicated explicitly or implicitly to the YWCA that follow-up action had to be

taken. Nor had they exerted any pressure on the YWCA. The incident arising from the conflicts between the Tai O Rural Committee and the work of the YWCA might only be attributed to their differing cultures, and the lack of communication as well as misunderstanding between them.

Concerning the transfer of posting of certain social workers by the YWCA, it is indicated in the information available to public that the transfer was actually an internal, administrative arrangement. The YWCA had also convened a press conference afterwards to explain the whole incident to the public. Given that the YWCA has indicated publicly and unequivocally that there is no need for it to take any action as it has not been subject to any pressure from the Government, and the Government has already made clarification, I think it is inappropriate for this Council to get entangled anymore. What is more, there is absolutely no need to establish or appoint a select committee to conduct an inquiry.

With these remarks, President, I oppose the motion.

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

MR WONG SING-CHI (in Cantonese): President, the incident involving the interference with the professionalism of social workers by the Secretary for Home Affairs and the District Officer (Islands) is actually quite serious, because certain government officials might have taken advantage of their power and influence to exert pressure through informal channels with a view to interfering with the delivery of professional duties by social workers. Of course, we should conduct a relevant inquiry now to dig out the real facts of the incident. Although a case conference on the incident had been convened by the Legislative Council, but before we were able to put questions to LAM Saint-kit, the District Officer (Islands), the time was up and the conference had to be ended. Subsequently, the President of the Hong Kong Young Women's Christian Association (YWCA) refused to resign, though she was eventually not offered another term. It seemed that the whole incident was left unsettled.

Actually, social workers are professionals. Every social worker possesses professional knowledge and skills, and has to undergo training. Most importantly, we have to observe some ethical practice, though we are not required to employ harmonious means to perform our duties. This is not the case. On

the contrary, our ethical practice requires us not to overlook the need of our clients when we are under pressure. We should all the more come forward when there is injustice and help the needy to deal with the social condition facing them.

We find that in the incident in question, the service provided by the organization concerned is called the "Tai O Neighbourhood Level Community Development Project" (NLCDP), which precisely falls within the purview of the Home Affairs Bureau policy-wise. We also find that the work carried out by the social workers in Tai O has not violated any requirement set out under the NLCDP, which is to assist the residents of the district to organize themselves to fight through various channels for their entitled rights and improving their living environment. In fact, when Tai O was hit by flood, this time, a social worker, TSE Sai-kit, assisted the residents in organizing residents' meetings, and making appointments to meet with government officials and reflect their views. We also find that this social worker and his team have done a lot of good deeds in the course, and have printed posters to express gratitude to the Rural Committee and all supporters. Ironically, the target of the poster, whom they intended to thank, rebuked him by saying, "What is wrong with you?" and "Why did you express gratitude to us?" — this is really funny and yet annoying.

Yet, these were all trivial matters. There might just be some misunderstanding or communication problems. But, due to such misunderstanding and communication problems, the District Officer (Islands) conveyed certain messages, even in black and white, to the Board of Directors. Besides, the messages were not targeted at those implementing the NLCDP. Instead, a letter was sent direct to the Board of Director, bypassing the head of the NLCDP, or the supervisor of the social worker. Obviously, the action actually aimed to ask the Board of Directors to face up to the conduct of this group of staff members. In fact, after investigation, we found that the staff members had not violated any ethical practice, and everything they did was in the interests of the residents. Why did the District Officer (Islands), LAM Saint-kit, criticize the two social workers for failing to maintain a harmonious relationship with community organizations and even describe them as "going too far"? It might have something to do with the poster printed by them to express gratitude to the Rural Committee and some people. But actually, the poster was not printed by the two social workers; it was actually printed by the residents of their own accord. This might have led the District Officer (Islands) to think that they had "gone too far". The most worrying remark was that the two social workers had

failed to "appreciate the work of the departments responsible for funds allocation." I have thought about this again and again. As social workers, we do not have much of an opportunity to express appreciation to any funding departments or persons. I believe the resources received by social workers will not actually go to their pockets. Instead, the resources will be used for serving the community through their efforts. Hence, why should they show appreciation to the funding departments? Why would the failure to show appreciation to the funding departments be seen as a crime? Certainly, both parties have their own story to tell. While the social workers said that such remarks had been made, the Secretary denied having said so. What has really happened?

In the motion put forth by Mr CHEUNG Kwok-che today, he proposed that a select committee with binding effect be established in the hope of inquiring into whether — "whether" suggests "uncertainties" but there are signs, evidence and information suggesting — TSANG Tak-sing, Secretary for Home Affairs, and LAM Saint-kit, the District Officer (Islands), had accused two social workers of failing to promote harmony among community organizations during the period between 2008 and 2009, and whether Secretary TSANG Tak-sing, and even the District Officer (Islands), had exerted pressure on the President of the YWCA before understanding the real facts — this had not only put the President of the YWCA under pressure, but also cause the President or the Board of Directors to interfere with the operation of the profession of social workers. The logic is to ascertain whether any Bureau Director or government officials had interfered with a social service provider, thus preventing it from providing services which are genuinely in line with those provided by the social work profession and causing residents to suffer. As these services are publicly-funded, the relevant work will not be able to meet the principles governing the use of public fund. As a result, the quality of the services provided will be affected. I consider this a very serious problem. The Secretary himself should also be held politically accountable. Hence, if he has acted improperly in this respect, he actually needs to assume political accountability and explain to the public. In that case, why should we not conduct to an inquiry to find out what has happened? If the inquiry is to be carried out in the form of a case conference, as we did last time, the real facts can hardly be dug out. Hence, it is actually more reasonable for a select committee with binding effect to be set up to conduct an inquiry.

I would like to add one more point. According to the Code of Practice and the Guidelines on Code of Practice issued by the Social Workers Registration

Board, "social workers accept responsibility to advance social justice and to safeguard the cause of human rights". This is crystal clear. Moreover, "social workers believe that each society, regardless of its form, should provide maximum benefits to its members". Clearly, there is no mention of the need to "appreciate" government funding. If some government officials consider this as a crime, they must first find out if the District Officer, or even the Secretary, has really considered this as a crime. It will be terrible if it is found to be so. Why should the crime be taken so seriously that pressure had to be exerted on the organization concerned? In view of all these, I think an inquiry must be conducted.

Also, we have to take into account that the YWCA is a subvented organization. Therefore, there is actually a need for an inquiry to be conducted when staff members involved in a controversial incident raise doubt about their transfer of posts due to pressure of the Government. Of course, some professionals also share the view that the President and Board of Directors of the YWCA might have over-reacted in the incident. When they heard a casual remark made by the Secretary, they were so nervous that they implemented a number of measures promptly. But according to our understanding, this seemed not to be the case. Should this really be the case, the Board of Directors should be held accountable, and the President should also take the blame and resign immediately. However, the President has not acted in this manner. She was determined to finish her current term and even intended to run for another term, only that she was forced not to do so in the face of political pressure. However, are all these the real facts? We think an inquiry should be conducted.

According to a survey commissioned by Mr CHEUNG Kwok-che and conducted by the Social Work Department of the Hong Kong Baptist University in September 2009, the professional social workers interviewed were working long hours. Moreover, 15% of the interviewees showed signs of serious depression and 8.1% anxiety, reflecting the enormous work pressure they were experiencing. At present, even without the pressure from the Secretary and the Board of Directors, social workers are already working extremely hard. If social workers have to respond to the various requests from the Secretary and District Officer, or show appreciation to funding organizations, their pressure will definitely be extremely heavy. If a more stringent inquiry is not conducted to find out the truth for the welfare sector, the public and the recipients of social services, a great burden will be put on social workers serving the community and

the public. Moreover, there will be considerable doubt about whether or not public money is properly spent.

At a special meeting held by the Panel on Welfare Services on 28 September 2009, members discussed matters concerning the professional autonomy enjoyed by social workers and the governance of subvented non-government organizations. We also found that the Tai O incident, or the "river crab" incident, in which social workers were asked to achieve harmony and show appreciation to funding organizations, was not an isolated incident. Some other organizations also indicated that they had similar experience. I myself had such experience 20 years ago. At that time, I was responsible for a rural neighbourhood project, which involved the discussion of the rights and interests of female villagers. I was merely staging an exhibition to illustrate certain incidents happened at the time and make public the views of both parties. On the day following the exhibition, my boss called me and said that he was told by certain officials that the incidents should not be publicly displayed. Twenty years ago, I was still very young and did not know how to stand against my boss. At that time, I felt frightened and intimidated. I even feared losing my job. In retrospect, what I did at the time I was wrong, for I should come forward to be a witness. Now, many years have passed, but we can still see that these are not isolated incidents. If we do not face this problem squarely, more similar problems might emerge. Should that happen, the services provided by the social work profession will become more and more miserable.

To conclude, insofar as the "river crab" incident is concerned, there is indeed a need to establish a select committee to carry out an inquiry, for justice should be done to the Secretary, the District Officer LAM Saint-kit, the two social workers, the YWCA, the social worker sector or even the residents in Tai O, right? Hence, I think the select committee should start work expeditiously and explain to the public. Thank you, President.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, I support the motion proposed by Mr CHEUNG Kwok-che, hoping that the incident involving the interference with the social work profession by the Secretary for Home Affairs

will be investigated thoroughly and that we can have a clear understanding of the truth.

This has to be done because, President, I had met with TSE Sai-kit, the social worker who made the complaint, in person at the Complaints Division and then held a case conference with other colleagues and met with Secretary TSANG Tak-sing direct. The Secretary told us a clear fact that he had received a lot of complain letters at that time. What would he usually do to handle those complaint letters? He would usually give all the letters to his subordinates and let them handle the complaints. He would not handle the letters himself. However, he said the only complaint letters he had read was written by the Tai O Rural Committee. He said he remembered the content of the letter after reading it. Later, he met with the person-in-charge of the Hong Kong Young Women's Christian Association (YWCA). He mentioned the incident on a public occasion and said that he hoped to maintain harmony in the community.

This was what he said. Right, there was such an incident. But there was one underlying question. Since it was a usual practice for the Secretary to refer all complaint cases to his colleagues without even looking at them and he would not deal with them personally, why would he choose to read that complaint letter only? Why did he not refer the letter to his colleagues for follow-up action after reading it? Why would he remember the content of the letter so clearly? Why would he remember the content of the letter and then mention it to the organization concerned? He gave no explanation at all at the case conference held on that day. Hence, I consider it necessary to establish a select committee to inquire into the various queries I mentioned just now. There were so many queries — though the Secretary can rarely attend a case conference to have direct dialogue with us, he could not answer the series of queries we had raised. In my opinion, the incident is very serious, why? On the one hand, the Secretary said that he was not biased, but on the other hand, he said he would like to promote harmony in the community. If he Surely, we have not read the letter written by the Rural Committee to the Secretary, and we do not know the content of the complaint. I have not read the letter. But the question is: What was the complaint lodged by the Tai O Rural Committee?

Here, I have a record of the meeting between the YWCA and the Tai O Rural Committee. During the meeting, the Tai O Rural Committee expressed its views on and lodged a complaint about the community work carried out by the

YWCA in Tai O. I would like to read it out to Members. What is the complaint about? The Rural Committee said that it was dissatisfied with the way the Tai O Social Work Team (the Team) handled the landslide in June and the windstorm in September. There were several items. I remember a total of 11 items were listed. What was the first item? It said, "The Team has failed to notify the Tai O Rural Committee in advance of the berthing of the vessel transporting water and the arrangement for water provision." I think it is only a trivial matter, for only some community work was involved. If trivial issues like this one have to be reported to the Rural Committee, I think work can hardly be carried out and the residents will have to endure a long period of hardship. However, this incident was described as an indication of disharmony.

Second, "The Team has failed to notify the Tai O Rural Committee/Islands District Office before staging the resident complaint meeting and the press conference." President, I really cannot understand why an organization convening a resident meeting must notify the Rural Committee in advance? Why should the District Office be notified in advance? Why should this be regarded as an indication of disharmony? Why? I really do not understand. Is this a reasonable complaint? Will this promote harmony in the community?

Third, "The Tai O Rural Committee queried the capacity and purpose of the Tai O Social Work Team and the resident organizations in posting posters to express gratitude." It is really strange. An organization is not even allowed to issue an open letter and post posters to commend certain members of the community for their community work. They have to clarify their capacity and purpose for doing so. I really cannot understand. How will the knowledge of such information promote harmony in the community? How would harmony in the community be jeopardized if such information is not made known?

Fourth, "In the provision of relief services, the work and comments of the Tai O Social Work Team have gone overboard." Different people may have different views about this. I definitely do not want to argue about the definition of "going overboard", but the question is why they should be criticized for expressing their opinions.

Fifth, this point is related to me. President, it said that "the close contact with LEUNG Yiu-chung, a Member of the Legislative Council, gives the Tai O Rural Committee an impression that your Association has a political inclination

in the delivery of its work" — "your association" refers to the YWCA. I find this very strange. Why would they have the impression that having close contact with a Member serving the district would affect one's political inclination? In fact, President, as far as I know, every time the Tai O Social Work Team invited me to attend a meeting, they would at the same time invite the eight directly-elected Members serving New Territories West to attend the meeting. It was up to them to decide whether they would attend the meeting or not. As for me, I chose to attend the meeting. That was the case. In addition to issuing invitation letters on every occasion, they would also ask the residents to make phone calls. They had done the proper liaison work in a fair and impartial manner without prejudice. Is the accusation made by the Tai O Rural Committee fair and justified? Is the Rural Committee promoting harmony in the community?

The sixth point reads, "The Team has failed to show courtesy when they used the office borrowed from the Tai O Rural Committee and when they went in and out of the office." Certainly, it was a personal matter and I am not going to comment on this here. As for the seventh point, it said that "The Team had used the loud speakers improperly." I think every member of the public may give their comments, so I would not express my views.

The eighth point reads, "The Team has obstructed the co-ordination of disaster relief work between government departments and the Tai O Rural Committee." President, insofar as this point is concerned, I really cannot understand how they would come up with this accusation. Actually, during the several floods or landslides occurred recently, I did visit the scene for inspection and work with colleagues serving the Tai O community. I did not see how they hindered or obstructed the work of the government departments concerned. On the contrary, I saw that they were promoting and assisting with the relevant work. Let me cite a simple example to illustrate this. Colleagues of the Tai O team were extremely familiar with the situation of the community, and they knew the exact locations of collapsed houses and floods. They would lead rescue workers to the scene to provide assistance and tell them the places where debris was found blocking the access of residents. They were helping but not hindering the work. I recalled that one night, TSE Sai-kit and I called the Housing Department to request that Lung Tin Tsuen be opened to provide shelter for the residents. We spent two hours on the phone and even the battery of my mobile phone ran out. TSE Sai-kit had been by my side, and we took turns to talk the Housing

Department and request that the community facilities be opened expeditiously for the residents to take shelter. How could such an act be regarded as hindrance? Now, we have this complaint lodged by the Tai O Rural Committee, but the Secretary seemed to accept everything and fully believe in the remarks made by the Rural Committee and had thus requested the YWCA to promote harmony. Since there are so many problems, I think it is really unfair if a thorough inquiry is not conducted, for the incident has apparently been handled in an unfair manner. I think that a thorough inquiry must be conducted to determine who is right and who is wrong, as well as who is promoting the harmony of the community and who is not. I think it is the most important point.

On the other hand, we also have to examine why the Secretary, in the face of so many complaints, would take unilateral action on his own against a community organization and request it to promote harmony in the community when he did not know what was going on and, at the same time, fail to make some effort regarding another party. Actually, the Tai O Rural Committee was previously closely associated with certain directly-elected Members. So, what is the problem? While they can maintain close ties with such Members, why can community organizations not foster close ties with some other directly-elected Members? Why would such ties be detrimental to social harmony? What efforts have the Secretary and the Home Affairs Bureau made in promoting harmony? These are the most important points, President. However, we have not seen any effort made in the past. Regarding this so-called "harmony" issue, I do not see what point the Secretary wants to make. Hence, if we do not conduct a thorough inquiry and request the Secretary to explain clearly what he means by the harmony problem, what mistakes have been made, which organizations and who have undermined harmony in the Tai O community, and if these issues are not resolved thoroughly, I think the development of the community as a whole will surely be impeded. Hence, we must ascertain the cause of the incident, which is of utmost importance.

I have read out the eighth point just now, what about the ninth point? The Tai O Social Work Team of the YWCA was complained for "mobilizing residents to lodge a complaint to the Complaints Division of the Legislative Council." I really do not understand why they could have complained about this. Do they consider that social workers should not assist residents in lodging complaints to the Complaints Division of the Legislative Council? Is that what they think?

Is there anything else? The tenth point reads, "The Team was suspected of disseminating inaccurate information and bad-mouthing Tai O." I really do not quite understand. On the contrary, I see that the YWCA has been serving Tai O for more than 20 years — I am not sure if it is more than 20 years — Anyhow, the YWCA has been providing continual assistance to promote the development of Tai O over such a long period of time. I really cannot see how they bad-mouthed Tai O. If they really did, I hope that evidence can be presented. Otherwise, such a complaint is unwarranted.

The last point reads, "arrangements were made for volunteers and residents to praise the YWCA on public occasions or when events were held". Even if someone praises his own organization, or the YWCA in this case, how would he undermine harmony in the community? Why would the Secretary consider it impossible for harmony to be co-ordinated in the community when he saw those complaints — I assume he had seen those complaints? I really do not quite understand. Hence, to ensure fairness, I think we should conduct a thorough inquiry into this incident to examine the method adopted by the Secretary in handling this incident, his underlying objectives and the implied substance and significance. Otherwise, it will be unfair and unjust to all parties involved. Therefore, I fully support the motion proposed by Mr CHEUNG Kwok-che.

I so submit.

MRS SOPHIE LEUNG (in Cantonese): President, the incident stemmed from a meeting held between the Secretary for Home Affairs, TSANG Tak-sing, and the senior echelon of the YWCA in January last year, at which the Secretary indicated his hope that the YWCA and the Tai O Rural Committee would work together to promote harmony in the community.

President, promoting harmony in the community is the obligation of the Government, social workers, the Rural Committees and every one of us. I think that Secretary TSANG Tak-sing was fulfilling his just duties in making the comments in the hope that community organizations could join hands to promote harmony in the community. Hence, the motion's call for the establishment of a select committee to inquire into whether the Secretary has "promoted harmony among community organizations" is unwarranted, is it not?

President, in dealing with everything, some people will sometimes only see one side of it without noticing the other side. However, if we have a harmonious society, everyone should be patient or should have the breadth of mind to take one step backward. If so, the whole incident may just be a storm in a teacup.

As for "interfering with the professional work of social workers", the YWCA, which was "under pressure", so to speak, in the incident, has more than once clarified that the Secretary and the Government have not exerted pressure on it.

President, last week, I visited the YWCA, for I was invited to attend a seminar that afternoon. When I mentioned the incident to a number of staff members before and after the meeting, they all expressed a strong sense of helplessness and did not understand why the incident would have been elevated to such a high level. They earnestly hoped that they could continue to work peacefully. They thought that if the incident was allowed to run its course, their work at the community level might be mistaken by some irrational persons as an attempt of sowing discord. Hence, I think it is not necessarily good for us to go over the top with respect to this incident.

As for the issue of warnings to and transfer of the social workers concerned, honestly, this is actually an internal affair of an organization. The Legislative Council should not conduct an inquiry into the personnel matters of individual organizations; otherwise, we will be acting like the overlord. Earlier on, the YWCA has openly explained the reasons for transferring the staff member concerned. After my enquiry about the issue last Thursday, I understood that the YWCA considered this staff member a very good employee. Even though they have had some disputes previously, their misunderstanding has already been cleared up. The YWCA subsequently withdrew the warning issued to the social worker concerned and even admitted its failure in handling the incident in a comprehensive manner.

President, I hope that apart from the YWCA, all non-governmental organizations (NGOs) or subvented organizations will learn a lesson from the incident. As the saying goes, "we learn from our mistakes". This is particularly so as we have entered the 21st century, Hong Kong is so densely populated, and NGOs in Hong Kong account for nearly 90% of our social

resources. Should we fail to accept advice and improve the management culture and make a mountain out of a molehill instead, we will actually be doing a disservice to the resources given to us by the community.

The report of the Public Accounts Committee mentioned this morning the discovery of inadequacies in publicly-funded NGOs. President, please allow me to read out from the paper: "in recent years, the Audit Reports have revealed many common failings among publicly-funded NGOs, including their failure to comply with relevant statutory requirements, breach of their own rules and procedures and lax internal controls. All these have indicated that there is a lack of a corporate culture of compliance and prudence in the use of public funds, as well as inadequate emphasis on documentation in these organizations." Actually, this is only the tip of an iceberg. Management culture should regard people and community as its priority. Earlier on, some colleagues said that they had only done this and that. Certainly, from the point of view of the YWCA, many such things should be done. However, sometimes, we may lose sight of a forest when we focus on a tree. How should we measure the harmony of the forest as a whole? How should we measure the development of the forest as a whole?

President, I do not intend to spend time talking about management culture here. I just wish to encourage Members that from today onwards, we should get our job done, and get the job of our neighbour done, too. We should also take into account the development of society as a whole. It is even better if we can act in this manner.

Since the report of this incident by the media in the middle of last year, the incident has been discussed numerous times at different meetings of the Legislative Council. Early this month, the House Committee voted against the establishment of a select committee. Actually, setting up a select committee in the Legislative Council necessitates a large amount of resources, and take up much of Members' time. Given that our ratings are on the decline, various panels and the committees dealing with the Lehman Brother incident and the LEUNG Chin-man incident are now in progress, and there are many major bills still pending to be scrutinized in the future, should we devote more manpower and resources to interfere in the internal affairs of the YWCA? Should we focus our attention on more constructive issues to serve the public?

President, I surely understand that social workers are a very important resource to us. However, I think that social workers, being members of the 7-million population, should understand that a harmonious society has to be supported by social workers as well as other organizations. We have spent a lot of resources to train up social workers, and I hope that social workers can step into the 21st century with us and look at our society and needs with a greater breadth of mind and horizon society rather than focusing on certain incidents — I dare not say that seek to secure personal gain — or insisting on their own views.

President, if every one of us can take a step backward and look at our society from a wide perspective — Our society may have many inadequacies and many areas requiring updating. I am not only talking about this incident and this social worker. But does it mean that we have to stand up for them every time? Can we adopt a more accommodating and understanding attitude? Can we communicate in a rational and peaceful manner and seek common grounds despite our differences, rather than taking a confrontational stand on every issue? I believe everyone involved in the incident has learnt from their mistakes. I hope that we can improve our communication and co-operation and work for the well-being of the residents of Tai O and all the people of Hong Kong.

Thank you, President.

MS MIRIAM LAU (in Cantonese): President, the Liberal Party is of the view that the Legislative Council (Power and Privileges) Ordinance (the Ordinance) is our "imperial sword". It should only be used as the last resort and should not be used lightly. Hence, before exercising the power of investigation conferred under the Ordinance, this Council must cautiously consider various factors, and a decision should not be made lightly in the lack of consensus.

Regarding the incident mentioned in the motion today, which states that a social worker under the Hong Kong Young Women's Christian Association (YWCA) complained the Secretary for Home Affairs, TSANG Tak-sing, for mentioning a complaint letter from the Tai O Rural Committee at a meeting with the senior echelon of the YWCA on 23 January 2009, and making remarks like "Tai O seems to lack harmony". It is suspected that the Secretary "has exerted pressure" on the senior echelon of the YWCA, and caused the YWCA to issue a written warning to the social worker concerned and remove him from the post in

Tai O. The incident is suspected to involve interference with the professional autonomy of social workers.

Since the abovementioned accusation is of a very serious nature, the incident is taken very seriously by the Legislative Council. For this reason, over the past period, Members have conducted numerous discussions about the incident at the meetings held by different committees of the Legislative Council, including two case conferences held on 15 July and 18 September respectively by the Complaints Division, a special meeting held on 28 September by the Panel on Welfare Services, and the oral question time at the Council Meeting on 21 October.

The Secretary for Home Affairs, TSANG Tak-sing, the District Officer (Islands), LAM Saint-kit and the representatives from the YWCA, as mentioned in the motion, had all attended the case conference held by the Complaints Division on 18 September and took questions from Members. At the conference, Secretary TSANG Tak-sing denied any intention or act of "exerting pressure" on the YWCA, and stated that he had made no mention of any individual person. At the same time, the YWCA stated that it did not feel that the Secretary had indicated explicitly or implicitly that the YWCA should take any action. Nor did the YWCA feel that it was under "pressure". After the case conference, Members had not come up with any conclusion that the Secretary had interfered with the operation of the YWCA.

Actually, the YWCA had already explained that the social worker concerned was transferred from Tai O mainly because of a number of complaints against him and it would be difficult for him to restore relations with the community within a short period of time. The transfer arrangement was made on concern that the provision of community services might be affected. The YWCA reiterated that the transfer was not meant to be a punishment, nor was the social worker transferred deliberately because the YWCA was under "pressure". As for the written warning, in fact, the Board of Directors of the YWCA had agreed unanimously on 27 March to withdraw the warning upon receiving the request for reconsideration from the staff association. On 10 September, the Chief Executive of the YWCA admitted at the press conference that the Board of Directors had failed to give full consideration to the case when the warning letter was issued. The Board of Directors had thus made an apology to the social

worker concerned, but it stressed that the warning letter was not issued under pressure.

Moreover, at the meeting of the House Committee held on 8 February, Members conducted another in-depth discussion about the establishment of a select committee. In the end, Members did not come up with a unanimous conclusion that the Secretary had exerted "pressure", and the proposal for establishing a select committee was voted down.

Hence, unless Members have other concrete evidence proving that the Secretary or the senior echelon of the YWCA had "lied" or concealing the truth, Members should respect the resolution agreed by the House Committee at the meeting held early this month. In the absence of *prima facie* evidence, Members should not make groundless accusation, presuming that there must be some problems. Nor should Members insist on conducting an inquiry and overturning the case, or invoking the Legislative Council (Power and Privileges) Ordinance to carry out the inquiry.

Finally, the Liberal Party considers that accountable officials have a special status. They hold the enormous power of formulating policies and allocating resources, and so their words and deeds are very important. For this reason, the Secretary must not think that he is just making some casual remarks and speak imprudently on sensitive incidents. I hope the authorities will learn a lesson from the incident. It must act and speak with prudence in future to avoid sparking controversy over suspected interference or "exertion of pressure".

President, I so submit.

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

MR LEE CHEUK-YAN (in Cantonese): President, I support Mr CHEUNG Kwok-che's motion requesting the conduct of an inquiry into the incident. Actually, after listening to all the speeches, I found that the arguments made by many colleagues who oppose the launch of the inquiry were based on two reasons only: One of the reasons is that the Secretary's remark is no big deal. He was

merely asking for harmony, and so why would an inquiry be needed? This is one point.

The second point concerns the Hong Kong Young Women's Christian Association (YWCA) — Ms Miriam LAU said just now that even the YWCA itself did not admit being pressurized, so why did you people say it was? Actually, one may say the YWCA itself Ms Miriam LAU asked just now whether some Members were suggesting that the YWCA was lying. It can be argued that there were instances in which the YWCA was lying and other instances in which it was telling the truth. When was it telling the truth? Actually, at a certain point, it was telling the truth. When? It was telling the truth at the meeting of its board of directors. I now read to Members the relevant part of the minutes of the meeting. Where did I get this part of the minutes of the meeting? It was shown to us at the meeting of the committee responsible for investigating the case when we asked what exactly the Secretary had said that day. The Secretary personally admitted having reminded the YWCA to maintain a "harmony" in the community in carrying out its community work, and this was where the so-called "river crab" came from. The Secretary did admit having made this remark.

Well then, what did the YWCA say? The YWCA said during the meeting of the investigation committee that it was not under any pressure. Frankly, however, I think what the YWCA said that day — when I looked up the facts later — was a lie. Why? My point is substantiated. That day, I asked the YWCA whether it could show me the minutes of the meeting. Then, it was very nice of it to finally show me the minutes of the meeting held that day. What day was it? It was the day when the board of directors meeting was held to decide to bring the two social workers originally, the decision was not just to issue written warnings but to dismiss them. Subsequently, however, written warnings were issued instead.

The meeting was held on 30 January — let me get to my point in chronological order — on 23 January, Secretary TSANG Tak-sing made his "river crab" remark, referring to a "harmonious" community relationship. I would also like to raise one more point. It was precisely at the meeting on 23 January that the development of the Kowloon Club was discussed and the YWCA intended to make its funding application. In other words, when someone intended to apply for funding allocation, he said: "Look, it will be great

if greater harmony can be achieved." Just now, Members agreed that he should be cautious about his words. I will respond to his remark later. However, I would like to point out that the minutes of the YWCA meeting on 30 January read: "At the meeting with the Secretary for Home Affairs on 23 January following the receipt of the complaint letter from the Tai O Rural Committee, it was mentioned that our staff members were unable to maintain a harmonious work and community relationship in Tai O. Upon discussion with our directors, it was considered that the reputation of our organization (that is, the YWCA) had thus been tarnished. Subsequently, it was unanimously agreed that penalties be imposed on the two staff members of the Tai O Community Work Office by issuing written warnings and transferring them from their Tai O positions expeditiously."

Would Members please listen carefully that it was mentioned, very clearly, in the minutes of the meeting that it was the result of the remark by Secretary TSANG Tak-sing at the meeting. This was recorded in the minutes of the meeting. Therefore, frankly speaking, this was a black and white record and there is no way the YWCA can deny it. There is another issue relating to the chronological order of events, which I would also like to share with Members.

What is the chronological order of events? The YWCA has actually been dealing with this case through a task force, and the task force has been making continuous efforts. Originally, it should be taken as a gentle and friendly reminder with apparently no special meaning when someone said "you are doing a good job and your performance is very satisfactory, just that it will be well if you can be more careful in handling community relationship" before dealing with the case. Moreover, the task force has all along been handling complaint cases this way, which was OK. All of a sudden, something changed on 23 January after Secretary TSANG Tak-sing made that remark. Before the task force had compiled a report for submission to the board of directors, the directors hastily convened a meeting on 30 January. Before the task force had completed its work on the relevant incident and compiled a report, and when the discussion was still underway, that is, when no conclusion had been reached, the board of directors immediately responded on 30 January to the remark made by the Secretary on 23 January, that is, one week later, and took immediate actions. There is no way the YWCA can deny it.

What is more, I also have to mention one more point. In response to reporters' questions at the press conference on 10 September, the Chief Executive

of the YWCA said clearly (there were instances in which she told the truth) that when she was under pressure, she would sometimes be evasive. I do not blame her for saying so. However, at the press conference, she mentioned that "the opinion of Secretary TSANG Tak-sing was one of the considerations for the YWCA board of directors to impose penalties on the two staff members by transferring them out of Tai O immediately and issuing written warnings to them". This is indeed hard evidence. It was recorded in the minutes of the meeting and she also said so at the press conference. Even though she said, "No, this had nothing to do with it" at the case conference (which was more than a month afterwards), Members can think about this: immediate actions were taken only one week afterwards.

Therefore, if someone argues that TSANG Tak-sing's remark does not have any impact, I would request Members to look squarely at the facts. These facts can serve as hard evidence. Obviously, the YWCA was pressurized by Secretary TSANG Tak-sing. Members might say Secretary TSANG Tak-sing's remark should not be taken as an attempt to exert pressure and he was only asking the YWCA to be more cautious, only that actions were taken because the YWCA was inept, over-sensitive, misguidedly "flattering" and had wrongfully interpreted Secretary TSANG Tak-sing's words. Is this what Members intended to say? Very well, if Members intended to say so, an inquiry has to be conducted to find out what psychological factors had influenced the YWCA to have gone over the top in "flattering" and whether it had paid special attention to TSANG Tak-sing's remark because it was discussing with him the issue of its Club and had thus taken such actions after hearing this remark. There is a saying to this effect: Though I did not kill my neighbour, it was because of me that he died. And now the case is: Though Tak-sing did not dismiss Sai-kit, it was because of Tak-sing that Sai-kit left. This is pretty obvious. Therefore, we can clearly see from the whole incident that Secretary TSANG Tak-sing's remark was related to this outcome.

However, I have to get back to the remark made by Secretary TSANG Tak-sing, which I think should also be an area for inquiry. In my opinion, not only the YWCA should be investigated. Frankly speaking, the case of the YWCA is rather clear. As I said earlier, the evidence is irrefutable. However, the remark made by Secretary TSANG Tak-sing needs to be investigated, too. What areas should be looked into? Why was he seized by a whim and made that remark that day? This is something I still do not understand.

That day, I asked the Secretary whether he had looked into the incident. The Secretary made it very clear at the case conference that he had not looked into it and he had only received a letter. The letter, which was also mentioned by him at the conference, suggested him to pay attention to the relevant incident. In this regard, I do not know about his psychological state and underlying reasons, and whether he was infuriated after talking to the Rural Committee, thinking that the Rural Committee was complaining to him and so he had to handle the case; or whether he had really read the letter and still remembered its content (neither do I know why he found that letter so impressive); or whether he had received a report from colleagues in the Home Affairs Department, which was under his ambit, urging him to impose penalties on the staff of the YWCA for the extremely ridiculous acts of the two social workers.

What exactly happened? We do not know, and these are the areas requiring inquiry. Why was TSANG Tak-sing seized by a whim and made that remark to the YWCA that day which had the effect of exerting pressure? What were the reasons for that? These are unknown to me, and thus they have to be looked into.

The second area which needs to be investigated is — as can be seen from the motion today, besides the Secretary, the District Officer (Islands) was also involved — they need to be investigated, too. Why should the District Officer (Islands) be investigated? The evidence concerning this is also irrefutable. In the written warnings issued by the YWCA to the persons concerned, it was clearly stated that "one of the reasons was the disaster relief work had caused dissatisfaction to the Islands District Office". It was stated in writing why written warnings should be issued — precisely because the Islands District Office was dissatisfied. Second, a resident said the District Officer (Islands) had expressed to him his intention to query why the YWCA should "embarrass the Government while receiving government subvention". This was what a resident really said, and this can also be investigated. We might as well invite that resident to come here to have a chat.

Besides, it was pointed out in the second point of the post-meeting note made by the task force of the YWCA that "the District Officer (Islands) reflected to the directors of the YWCA that the two staff members had failed to show appreciation to the Government's allocation of funding to the department." This is put down in writing. Was the District Officer (Islands) asking the YWCA to appreciate the Government's allocation of funding? Actually, this is very

serious. If social workers must show appreciation whenever funding is allocated, where is their dignity? Many doctors, universities and social workers in Hong Kong receive funding from the Government. It would be a big problem if all of them have to show appreciation to the Government.

That day, at the case conference, a Member (I remember it was Mr CHEUNG Kwok-che) raised a question to the District Officer (Islands) — because the social workers were alleged to have committed an act of incitement behaviour — and asked him how he would interpret the word "incitement". The District Officer (Islands) said, "I do not understand what incitement means". I think he was obviously trying to be evasive in giving such a reply. Therefore, this has to be looked into as well. What had the District Officer (Islands) done behind the scene? While he said harmony of society as a whole had to be maintained, what he actually committed was an act of provocation because if he had, as he said, actually complained to the YWCA, suggesting it should show appreciation to the funding allocated by the government department, he should be taken as committing an act of provocation.

Therefore, the two incidents involving the Secretary and the District Officer mentioned above have to be looked into, while matters involving the YWCA were relatively clear. However, in the inquiry, we certainly should look into them in detail.

President, this is what the whole incident is about. If Members think that remark was proper — I remember Mr CHEUNG Hok-ming said just now that the remark was very proper — I will show Members another incident.

Just now, Mrs Sophie LEUNG described this incident as "a storm in a teacup" and it merely concerned an individual organization, and so there was no need for Members to ponder over it. However, just think about it, do Members remember would Members please try to recall another incident which also shocked Hong Kong. Fanny LAW was also compelled to resign as a result of an incident. What was that incident? What did she do? After she found her education reform criticized by someone at a seminar, she made a telephone call to the seminar. She had only made a telephone call — she did not do so in person The Secretary even appealed for harmony when he received an application for funding allocation — back then she made telephone calls to school principals and lecturers, asking if something had gone wrong and whether the person

involved should be dismissed when the Government received such criticisms. After that incident, the Government immediately set up an investigation committee. If Members regard this incident as a storm in a teacup, do Members still remember that that incident also gave rise to concerns about academic freedom in Hong Kong? Everybody took it seriously, and so did the Government. A committee was set up and its final conclusion read: "it is improper for someone like Mrs LAW to attempt to silence critics by addressing them personally or through their superiors, irrespective of the motive." Members said just now that the Secretary's remark was proper, but Mrs LAW's remark was regarded as improper back then. She too only made a remark, and she even only did so on the phone rather than in person, as in this case.

Now, the only conclusion I can make is that all of you or this society is very unfair to social workers. Everyone considers academic freedom important, and so do I. But does it mean it is not important for social workers to have the freedom to give full play to their professional autonomy in serving residents? Therefore, I hope Members will elevate the level of the discussion. In serving residents, social workers' mission is to enable the disadvantaged to voice out and organize residents to fight for their causes. If the Government interferes with their work in the name of funding allocation, thereby denying the disadvantaged of access to justice and professional services they are entitled to, society will, likewise, be greatly impacted. This is not only a matter of academic freedom but is also very important to our profession. Fanny LAW's contention back then that her attempt to stop criticisms was proper and reasonable was unacceptable to the committee, as stated clearly by the committee. Therefore, President, when the two incidents are compared, you will find how similar they are!

Therefore, why did Members say there was no need to set up an investigation committee? Mrs Sophie LEUNG said just now that we must not interfere with other people's family affairs using our manpower and resources. Buddy, is the KAM Nai-wai incident not also a family affair? She interfered with it, and she even did so by making use of what she called the "imperial sword". She even served as the Chairman of the investigation committee. She likes interfering with other people's family affairs the most, and then she described this incident as a family affair. This incident is not a family business; it is about the professionalism and autonomy of social workers and whether social workers can operate freely in serving residents. She then put harmony over everything, saying that harmony in the jungle should not be undermined.

However, what we want is not only harmony but also justice. President, harmony cannot be based on a high-handed method, neither can it be based on injustice. Thank you.

MR WONG KWOK-KIN (in Cantonese): President, I speak on the motion debate today on behalf of the Hong Kong Federation of Trade Unions (FTU).

President, the accusation made by some organizations and Members in the middle of last year that the Secretary for Home Affairs had interfered with the operation of a certain social welfare organization has aroused the concern of the media and the social work profession. Actually, as the people concerned had subsequently lodged a complaint with the Legislative Council Complaints Division, colleagues of this Council had already held case conferences arranged by the Complaints Division as early as in July and September last year to follow up the case. At the Complaints Division meetings, the responsible Members met with the individuals and organizations concerned, including the Hong Kong Young Women's Christian Association (YWCA), the Tai O Rural Committee and the social workers involved, as well as the District Officer and the Secretary for Home Affairs himself. At the meeting, the Secretary for Home Affairs clarified that he had absolutely no intention to interfere and had not made any interference.

Subsequently, the Legislative Council Panel on Welfare Services also held a special meeting on 28 September 2009 to receive views from the industry on the corporate governance of subvented non-governmental organizations (NGOs). At the meeting that day, a member requested that the Government set up an independent commission of inquiry. At that meeting, I already indicated that I could hardly support the request because there was not any evidence to substantiate the accusation. Therefore, I already indicated back then that I could give consideration to discussing issues relating to the social work profession and the funding for and management of NGOs from the policy perspective, but if the inquiry would only be focused on the so-called interference by the Secretary in the absence of any new and strong evidence, I would consider this only a waste of resources and time. At the subsequent meeting of the Panel on Welfare Services on 14 December, I reiterated my position and opposed the setting up of a select committee by the Legislative Council to inquire into the incident in the absence of any new evidence and circumstances, for the incident would thus drag on indefinitely.

Regarding the motion moved by Mr CHEUNG Kwok-che today, although many Members who supported it said they hoped to find out the truth, the wordings of their speeches were lopsided. It appears that Members have already made a conclusion and an *ex parte* accusation, with the incident labelled as the so-called "river crab" incident. This has inevitably given others the impression that this motion is targeted at a certain person.

President, as the incident does not have any new developments, the position taken by the FTU in voting today will be the same as that on 8 January. We will oppose the setting up of a select committee by the Legislative Council to inquire into this isolated incident. Actually, this so-called "interference incident" has already been discussed thoroughly by the Complaints Division, Panel on Welfare Services and House Committee of the Legislative Council, and all the positions and views to be expressed have actually been discussed. Neither have I heard any new evidence and developments today. Therefore, the FTU can hardly change its position to support Mr CHEUNG Kwok-che's motion.

With these remarks, President, I oppose the motion.

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

MR PAUL TSE (in Cantonese): President, after listening to all Members' remarks, I would like to add a few words. Essentially, I have made six observations. I hope these observations can better clarify the incident and explain the position I would take during the voting later.

President, Mr LEE Cheuk-yan said just now that we have to rewind our memory, that is, to recall past incidents, and he cited the incident involving Fanny LAW. I believe we need not recall such a remote incident; we can just take a look at the KAM Nai-wai incident, which is already a very good example. Even up till now, I still stress that the KAM Nai-wai incident should not be investigated. Similarly, this case is another KAM Nai-wai incident because in this case, there is a defendant but no plaintiff, too. I have already said at the House Committee meeting that many people would regard Mr TSE, the social worker, as the plaintiff in this incident, but actually, after analysing the whole incident, President, the real plaintiff should be the Hong Kong Young Women's Christian Association (YWCA). Only the YWCA can possibly become the

plaintiff in this incident because even if everything claimed by Mr CHEUNG Kwok-che is true, only the person-in-charge of the YWCA, not the relevant social workers, is affected and pressurized as a result of this accusation. Under such circumstances, conducting an inquiry into the incident is only repeating the KAM Nai-wai incident. Similarly, there is a defendant, Secretary TSANG Tak-sing, and there is no plaintiff to fight for rights and interests in this incident.

President, many Honourable colleagues mentioned the Tai O Rural Committee, the YWCA, the select committee, the social workers and the so-called DO, Mr LAM Saint-kit. All of them have a peripheral relationship with the incident but are not substantially related to the accusation made in connection with the incident. The real issue is what the Secretary actually said back then and how the listeners felt and whether a certain decision was made because of their understanding of this incident, so that the real plaintiff, that is, the YWCA, felt pressurized. This is the crux of the whole incident.

We have listened to the speeches of many Members. Moreover, this Council has already made lots of efforts, including repeatedly mentioning this incident at the Complaints Division, the Panel on Welfare Services and the House Committee. Coupled with the extensive coverage and discussion by the community and the media, the incident has already been made very clear, and there is no more crucial fact which has not yet been presented for discussion. Under such circumstances, I have to reiterate that this is only a repetition of the KAM Nai-wai incident. Even if we can prove, after conducting an inquiry, that all the details were true, there is still no case to answer. Then, why do we still have to waste money to inquire into this incident? Do Members have so much time to spare that they want to set up a select committee similar to the one set up to investigate the KAM Nai-wai incident?

President, after examining Mr CHEUNG Kwok-che's motion from a technical perspective, I found that the inquiry he called for was confined not only to the details of this incident. Upon carefully examining his wording, I found that besides his call for finding out the truth about the incident involving the Secretary, he also hoped that an inquiry sorry, let me take out the relevant document first because I do not want to quote him incorrectly. The second point of his call for inquiry was that he even requested that some facts be clarified. Besides hoping to find out the truth, he also wished to clarify the facts, that is, to allow the Secretary to clarify some facts. In other words, he would like to give the Secretary an opportunity to give an explanation. The third point of his

request was to gain an understanding of what had happened after the flooding in Tai O. It seems our inquiry is going further and further. Is it necessary to add a fourth point inquiring about how the flooding happened? Should the Legislative Council spend resources and manpower on this kind of inquiry? If it should, the incident will drag on indefinitely.

President, I would like to reiterate that the inquiry mechanism of the Legislative Council should only be activated when significant public interests are involved. Certainly, there are two possibilities; first, when there are problems with government policies and systems, such as the short-piling incident. We had to use our resources to conduct an inquiry, which was very worthwhile. The second possibility is when individual cases reflect that there are policy flaws or some major policy blunders. These are certainly isolated cases, but they may still be investigated because they reflect the existence of policy blunders. However, is this incident under this category? As I said just now, there is not even a *prima facie* case, then why do we have to set up a select committee to carry out an inquiry? I have also mentioned the KAM Nai-wai incident just now. I have to reiterate that this is a repetition of the KAM Nai-wai incident.

Actually, as with the Fanny LAW incident, which was mentioned by Mr LEE Cheuk-yan just now, we should not only describe the incident but also give an account of the facts, that is, the persons being pressurized at that time, the course of the incident, the persons being targeted, what happened and so on. All these differ from case to case. Therefore, we should not only say "Fanny LAW" because the incident happened back then was very different and the people being targeted were also very different. This time we have to distinguish clearly what the facts are and who the plaintiff is. All of these are very crucial. Besides, we found the Secretary might sometimes make a couple of relatively personal and sentimental remarks when replying to questions raised at Panel meetings or Council meetings, so much so that we could not help asking him why he did so. In spite of this, does it mean the persons involved felt pressurized, and it is worthwhile to set up a select committee for conducting an inquiry?

There is due proportion in everything. We cannot conduct an inquiry into every minor mistake or every slip of tongue. This way, the entire government organ can simply not operate. What is more, all officials will not be able to communicate with Members in private. Doing so will not encourage officials, Members or the persons involved to engage in more frequent communication and contact. On the contrary, all officials will not dare to say anything or do anything as a result. Is this what we would like to see? All the factors

mentioned above are our major considerations in deciding whether we should exercise the power of the Legislative Council to inquire into this incident.

Besides, some Honourable colleagues said social workers are very important and we should not practise favouritism because social work is a very important profession. I absolutely agree with this point. Moreover, I highly respect social workers who serve the community of Hong Kong, and I am not saying that the education sector should receive more protection while social workers do not need protection. This is absolutely not the case. If social workers find their professionalism being hindered and interfered with during their discharge of duties, we should definitely conduct an inquiry or even censure such behaviour. However, instead of adopting this mechanism, other approaches should be used to censure such behaviour or conduct an inquiry.

We should not adopt a broad-brush approach by including every single act of a social worker in the scope of his profession, saying that this incident has in general caused interference with and exerted pressure on his profession. We cannot say so. Every act *per se* may involve a private act, and some acts may have no relevance to the incident or may only have a peripheral relationship with it. Insofar as this incident is concerned, putting aside what happened when the case was being handled by the relevant social worker, will his background, language or other aspects — I am purely talking about the possibilities, not commenting — cause certain people to be sceptical about his political stance or background? This is another issue. However, we cannot exaggerate everything. We cannot take some of the remarks made by the Secretary as an interference with the social work profession. These are two separate issues.

Just as with the case of solicitors like us, each of us may have our own political orientation and background. For example, I have my own way of handling cases, but it does not mean that every act or professional judgment involving the handling of cases should be taken as an indication of political pressure imposed on the profession of solicitors and barristers as a whole. These are two separate issues.

President, some Honourable colleagues have expressed their views just now. For example, Mrs Sophie LEUNG said we should make careful use of our resources, and Ms Miriam LAU also gave an account of the entire incident, and there is no need for me to repeat them. Despite all these facts, the relevant official should pay more attention to his behaviour. I agree with this point and I think this can be reviewed. However, as I said just now, we should not hinder

the relevant official's effort to enhance communication with the public and colleagues. I totally disagree the proposal of immediately raising the issue to a higher plane of principle by activating this mechanism in the Legislative Council again because of this incident. In my humble opinion, it is totally inappropriate for us to go so far.

In this incident, even if some people have really made a mistake, they might still be the board of directors of the YWCA. Are they too fragile and too vulnerable? Or to put it in Mr LEE Cheuk-yan's words, are they excessively "flattering"? This is also possible, and I do not rule the possibility out. However, if the relevant social worker or social worker organization considers that someone should be held accountable for or give an account of this incident, then it should be the YWCA. Was unfair dismissal, so to speak, involved at that time, that is, were the relevant persons unjustly dismissed? This is a matter of seeking justice against the appropriate perpetrators and collecting debts from the right debtors. The Secretary should not be involved. Neither should the incident be brought to this Council and exaggerated to such an extent that it has become another KAM Nai-wai incident.

Thank you, President.

MS AUDREY EU (in Cantonese): President, on behalf of the Civic Party, I speak in support of Mr CHEUNG Kwok-che's motion.

President, Mr Paul TSE said in his remark just now that an inquiry should not be conducted because there was only a defendant but not a plaintiff in this incident, and only the Hong Kong Young Women's Christian Association (YWCA) could become the plaintiff. As a lawyer, Paul TSE should know that very often, the person being pressurized might not be willing to tell the truth, but we can often find out a lot from other evidence, particularly the documents we found at that time.

President, this incident is not a family affair, and neither is it simply about what remark the Secretary made at a particular time. The issues involved are indeed related to the system and government policies. President, the Civic Party absolutely supports that the Home Affairs Bureau must have a policy to foster harmony, and there is no problem about it. It is a good thing for any government officials or organizations to hope to foster social harmony. However, should dissenting voices be suppressed in the name of harmony — this

is why the expression "river crab" is used sometimes — and should the influence and power arising from funding allocation be used to suppress dissenting voices and achieve false harmony? These are precisely the areas which have to be investigated.

This incident actually involves a social worker who had been working at the YWCA for years. Members can find from his background that he had performed well at his job all along and there was not any other problem with him. Neither was he incompetent at his job or lacking in working experience in this field. But what has caused him to be almost dismissed and subsequently transferred, to a place without any vacancy? He was transferred to the Western District, where there is actually no such vacancy. Why did this happen? This has something to do with the policy of harmony promoted by the Home Affairs Bureau.

I would also like to remind Mr Paul TSE that the problem is not only about a remark made by the Secretary because Mr CHEUNG Kwok-che's motion mentions not only Secretary TSANG Tak-sing but also LAM Saint-kit, the District Officer (Islands). From the documents available at that time, Members may find that the written warning issued by the YWCA to Mr TSE Sai-kit has even mentioned: "When serving at the Tai O Community Work Office, you aroused great dissatisfaction among the Rural Committee and the District Office in Tai O and caused a breakdown of relationship", and then "we have received four complaint letters from the relevant parties since November 2008 the management and the independent investigation committee have advised you repeatedly that you need to make immediate efforts to mend the relationship with the Rural Committee and the District Office reflect on yourself and maintain good communication with various parties in the community, but you must remind neutral and be committed to building harmony in the community again".

As for the specific reasons for creating disharmony, we can find this from the complaint letters and minutes of meetings. For example, at the meeting of the task force on 12 January, the reasons for the Tai O Rural Committee to lodge a complaint against the Tai O community task force were mentioned, and there were up to 11 reasons. LEUNG Yiu-chung has read out many of them, and I am not going to repeat them. However, some of the reasons are indeed baffling. For example, one of the accusations relating to disharmony was "having close contact with Legislative Council Member LEUNG Yiu-chung", and another one was "organizing residents to participate in lodging a complaint with the Legislative Council Complaints Division" and also "bad-mouthing Tai O". In

the face of these accusations, one would feel that this is precisely where the problem lies, should a professional social worker be criticized for "badmouthing" or causing disharmony in the community as a result of helping residents lodge complaints to express their discontent to the authorities in power — be it the District Officer, the Rural Committee or other organizations or government departments. In particular, when some social welfare organizations are funded by the Home Affairs Department, which is in possession of enormous power, will social workers easily feel that their professional autonomy is being threatened?

President, this point is closely related to the Fanny LAW incident mentioned by LEE Cheuk-yan in his speech just now. Back then, the implementation by the relevant teaching staff of the Hong Kong Institute of Education (HKIEd) of small-class teaching was out of sync with the government policy at that time. As a result, the then Permanent Secretary for Education and Manpower, Fanny LAW, telephoned the Dean of HKIEd to complain against those teaching staff, thus affecting their teaching and professional autonomy.

By the same token, this explains why did LEE Cheuk-yan said in his speech just now there was no problem for the Home Affairs Bureau to have a policy on harmony but problems would arise if this policy was used to accuse certain social workers of helping residents lodge complaints or even go to the Legislative Council to lodge complaints, and such acts are regarded as "badmouthing" or causing disharmony in the community, or even creating disharmony in the community if complaints were made to a certain Member.

Therefore, this is not simply about the Secretary making a remark or two at a certain stage but is about the entire funding mechanism. Will the influence of the Home Affairs Bureau and the District Officer in particular, and the views of the local Rural Committee pose any threat to or interference with social workers? Paul TSE said just now that one should seek justice against the appropriate perpetrators and collect debts from the right debtors. President, this incident definitely involves not only the Secretary and the YWCA, but also whether the entire Government's policy on harmony will subject social workers to dismissal, transfer at any time or to other unnecessary warnings, harassment or pressure in the course of serving residents. This is not conducive to social work services as a whole and social harmony will actually be affected as well. Therefore, President, based on a broader principle and scope, we should look at this incident this way instead of regarding this as a family affair or a case without a plaintiff, thereby dismissing it lightly.

President, the Panel on Welfare Services and Complaints Division of the Legislative Council have indeed discussed this incident, and I was also present in the redress process. President, many people from the Rural Committee were also present that day. They were full of grumbles and grudges, saying that this Council had not given them enough time. They either found lots of smearing or there were not adequate opportunities for the relevant parties to explain why the social workers were regarded as undermining the harmony of the Tai O community. President, the present situation involves not only whether or not there is new evidence, as mentioned by Honourable colleagues. Although we have examined this incident, the person concerned really thinks that he has not been given enough time to speak his mind and present all the evidence. As Members of the Legislative Council, we should be concerned about major incidents in society and when serious accusations are made Ms Miriam LAU said during her speech just now that this is a very serious accusation, with which I agree. President, I think when both parties have different views on the incident, we are obliged to provide a platform and allow all parties to appear and speak their minds on public occasions in order to find out the truth. Therefore, President, we from the Civic Party support this motion requesting the setting up of a select committee to conduct an inquiry. Thank you, President.

MR TAM YIU-CHUNG (in Cantonese): President, the motion today requests the Legislative Council to set up a select committee to inquire into the so-called "professional autonomy of social workers of the Hong Kong Young Women's Christian Association (YWCA) Tai O community development team". The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) opposes this motion.

The case referred to in this motion involves the transfer of a staff member of the YWCA Tai O Community Work Office, which was thoroughly discussed at a meeting held by the Complaints Division on 15 July last year and a three-hour case conference held by the Complaints Division on 18 September last year. I also attended the case conference and listened to the views of the deputations, including the Hong Kong Confederation of Trade Unions (CTU) and the Tai O Rural Committee, which was involved in the incident. Although they had expressed many views, I did not hear any further request for expressing views, though they did mention some unpleasant events at the conference. Besides, we had also listened to the statements made by the YWCA and government representatives, including the Secretary for Home Affairs and the

District Officer (Islands) himself. The Legislative Council Panel on Welfare Services also discussed the case at its two-hour special meeting on 28 September last year. I think this case has already taken up quite a lot of discussion time of this Council. Besides, the Chief Secretary for Administration also responded to a Member's oral question on this case at the meeting of this Council on 21 October. It is evident that the case has already gone through a lengthy and detail examination. Therefore, it is indeed surprising that this case was raised again at a meeting of this Council after the House Committee had indicated that no follow-up action would be taken. If a case like this one has to be discussed repeatedly, based on the calculation that there is such an enormous daily caseload and we have only 55 Members, I believe even increasing the number of Members to 550 would still not be sufficed to cope with such a huge workload.

Certainly, I also heard some Members call for a committee of inquiry to be set up because they believed that there was a major conspiracy behind this incident, and that it was very complicated and somebody was subject to a major persecution and so on. They even put many different backgrounds and irrelevant examples in the same category for comparison. Some people even said the District Officer (Islands) had engaged in provocation. However, as far as the District Officers I have known are concerned, they would not engage in provocation; they would only strive for achieving balance because they took community harmony most seriously and were most afraid of making things too complicated. If the District Officer was said to engage in provocation, from my experience and insofar as this case is concerned, I do not see that he would have done so.

Summing up the views of various parties and the information provided by them, we can see that the allegation against the Administration for interfering with the autonomy of the social work profession is unsubstantiated. The internal manpower deployment of the YWCA should entirely be taken as an administrative arrangement made by an NGO. This Council should in no way interfere with it.

The responsible staff of the YWCA, which is the organization involved in the incident, has repeatedly indicated at the case conference that during their meeting with government officials, they did not have a feeling that the Government requested or hinted the organization to take any action. Subsequently, the YWCA also wrote back to Members, stressing in various parts that regarding the transfer of the relevant staff, the handling of "the entire incident

was not subject to any pressure exerted by government departments", and this is the content of their written reply to this Council. During their meeting with members of the case conference, the Secretary for Home Affairs and the District Officer (Islands) also clarified that they had never expressed any view on the manpower deployment of the YWCA. Therefore, I think their clarification and the YWCA's response are perfectly consistent.

Different community organizations may sometimes be in conflict with each other due to differences in their approaches and culture. In reality, the conflict between the YWCA and the Rural Committee has been in existence for a long time — we can tell this is a fact from their correspondences and various other aspects, and Mr CHEUNG Hok-ming has also pointed this out earlier — the Secretary for Home Affairs also indicated that he hoped the two organizations would co-operate with each other and work together for the well-being of Tai O residents, and I think both of the YWCA and the Rural Committee should be expected to do so. I think this is applicable to both the YWCA and the Rural Committee. Therefore, I think there should not be any question of whether pressure has been exerted.

As for the content of the motion, I also think there are some self-contradictions. The scope of the inquiry as requested in the motion covers two points: first, to investigate whether government officials have failed to promote harmony among community organizations in Tai O; and second, to investigate whether the Secretary has exerted pressure on the President of the YWCA and interfered with the professional operation of social workers. These two requests are basically self-contradictory. Put seriously, they would even create a trap. Mr CHEUNG Kwok-che indicated at the case conference that the Home Affairs Department should follow up the conflict between the Tai O Rural Committee and the relevant social worker in order to soften their relationship. May I ask if a government official made a personal request for the Rural Committee and the relevant social worker to co-ordinate and improve their relationship, as he suggested, would become interference with the professional autonomy of social workers, as referred to in the motion? The actual situation now is the government official has never expressed any dissatisfaction to the leadership of the YWCA regarding the performance of the Tai O social worker team, but the issue has already been exaggerated to such an extent that the government official was accused of interfering with the profession. Should the Government directly approach the social worker team, would it be regarded as launching "political suppression"?

Therefore, the allegation raised in the motion today is very serious but is not founded on facts. As a responsible Member, one should not abandon the scientific spirit required of a professional and insist on — to put it more seriously — blasting criticisms at government officials to bring them into disrepute in disregard of the facts. The DAB opposes setting up a select committee to inquire into this incident.

Thank you, President.

MS CYD HO (in Cantonese): President, I speak in support of Mr CHEUNG Kwok-che's motion, agreeing that a select committee of inquiry should be set up to follow up this incident.

Many Members have mentioned the disclosed information on this incident in their speeches just now, and therefore I do not intend to repeat it. However, I have to clarify that there is a victim in this incident, and that is the veteran social worker, Mr TSE Sai-kit, whom the YWCA initially intended to dismiss. Certainly, following the escalation of the incident, he was transferred instead of dismissed. However, this transfer was actually very weird and suspicious because Tai O is quite remote and it is very difficult to find social workers who are willing to work in remote areas. Mr TSE had served there for a long time, but after Mr TSE and his colleague were transferred, the YWCA was actually unable to find full-time social workers to fill the vacancies. Nevertheless, Mr TSE was transferred to the Central and Western District, where there was no lack of social workers. Moreover, after his transfer to the new post in the Central and Western District, there seemed to be no urgent task awaiting him. Therefore, this transfer has cast great doubt in the minds of many. This is the first point. In this incident, this social worker is one of the victims. Tai O residents are also victims because there is no professional social worker there to organize them and they have lost an experienced social worker who used to provide social services for them.

President, actually, social workers are not welcome by government officials everywhere because obviously they will organize residents to launch revolts and act against government officials, and they are professionally trained to fight for the rights and interests of the underprivileged. Therefore, they are often in confrontation with government departments. In a civilized society, everyone knows the importance of equality and justice, and everyone knows that

to achieve social stability, a fair redress channel to allow the underprivileged to voice out is required. Therefore, a civilized government will put in a large amount of money and resources in higher education and train a large group of social workers, as the administration of Hong Kong did in the 1970s. However, this group of social workers had brought a serious headache to government officials because some of them were quite radical. For example, some of them joined the rooftop dwellers of the Kingland Apartments in confronting the Housing Department or the relevant policy bureaux; a social worker had even entered the official residence of Secretary Michael SUEN (who was responsible for housing policies and affairs at that time).

However, a government with breadth of mind understands that the underprivileged need social workers to explain clearly to them their rights and interests and help them fight for reasonable and fair treatment under the system, and thus it will still put in resources to train social workers. However, a narrow-minded government may have a different view. There is an English idiom to this effect: Why feed a dog which will in turn bite your hand? Social workers, journalists and Members of the Legislative Council belong to the group of people considered detestable by government officials. However, thanks to these people, the underprivileged in society can receive assistance and have the opportunities to voice out under the system.

President, this incident involves professional autonomy, which is one of the elements that Hong Kong is rather proud of. All professions in Hong Kong, including the legal, accounting, education and social work professions, treasure their professional autonomy and they serve the community in accordance with their professional code of practice rather than the preferences or inclinations of officials. Therefore, professional autonomy is vitally important and is a matter of public concern. Any alleged exertion of pressure by officials to interfere with professional autonomy definitely warrants the setting up of a select committee of inquiry to look into the matter thoroughly. Besides this case involving Mr TSE of the YWCA, other cases involving erosion of professional autonomy might also emerge gradually in the social services sector.

Therefore, this case can be compared to a window broken by stones thrown by some unruly kids. If no one would come out to pursue responsibility and mend the window after it was broken, these unruly kids would continue to throw stones until all the windows in the neighbourhood were broken because they had fun doing it. However, if we adopt a strict and serious attitude in following up

this case and are determined to pursue responsibility, we will be able to stop professional autonomy from being undermined.

President, let me cite other examples to show why I think the social services sector has been constantly pressurized by the relevant authorities. Just take a look at the Urban Renewal Authority (URA). Insofar as legislation is concerned, it has acted in a very civilized manner because it is clearly stated in the law that a team of social workers shall be employed to help residents affected by urban redevelopment and explain to them their rights and interests. However, many social workers told me that they were actually under pressure. The social worker team employed by the URA only dared to visit the affected districts to call on residents to move out and sell their flats expeditiously and pay home visits in the affected districts to explain to the residents their rights and interests. However, they would not dare to lead residents onto the street for demonstrations and protests because if they do so, they must put on face masks or paper plates on their faces; otherwise, the Hong Kong Housing Society or the URA will, based on its videotaped information, exert pressure on the organizations to which these social workers belong. Therefore, the social services currently provided in connection with urban renewal have given people a strange feeling — while the services provided by the team employed in the relevant districts can barely meet the minimum requirements of the URA, the team not employed travel to other districts to serve the residents there during their spare time.

President, the situation confronting Oxfam after the funding application for the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) was approved on 16 January illustrates another situation in which pressure might possibly be exerted. Oxfam provided funding support for the Hong Kong Sustainable Agriculture Association in the previous year to study the problem of poverty arising from major infrastructure projects, one of which was the XRL. However, it was subsequently revealed that Oxfam might have provided funding support for political activities against the XRL. Actually, as all of us know, Oxfam is an organization engaged in poverty alleviation, and it is actually part of its regular programme to provide funding support for the Hong Kong Sustainable Agriculture Association to study the issue of poverty. However, after the XRL became a rather controversial and polarized issue, the funding support led to the dismissal of two of its senior staff members. Once again, we can see that staff members of a social welfare organization who were originally neutral and professional might face pressure and dismissal because of

certain orientations of officials and the Government. If these incidents recur, social services will be continuously politicized and will only become a tool of the Government.

Another reason why this incident should be thoroughly looked into is that district affairs are actually heavily involved in political wrestling and bias. Insofar as this situation is concerned, I believe social workers who are members of District Councils or engaged in affairs related to District Councils may have this impression or experience. Quite a number of civil servants are very sensitive to the pro-democracy camp, and thus having frequent contact with LEUNG Yiu-chung may already be seen as one of the crimes committed by a social worker. But what if he has close contact with people from the pro-Government camp? Will this promote harmony? Things like these and biased orientations have already emerged one after another at the level of community services.

Therefore, we should take the opportunity arising from the incident to clarify these issues and draw up a set of clear code of practice for civil servants who should originally be political neutral, stating clearly how they can maintain impartiality when faced with people from different groups at the district level and adopt a people-oriented approach by giving top priority to residents' benefits and co-operate with different political parties and groupings.

President, I know the Secretary is already very co-operative this time and he has also responded to Members' follow-up actions very proactively. He even attended the case conference held by the Legislative Council Complaints Division in person. This was rarely seen in the past because these complaint case conferences were usually attended by officials responsible for technical issues but rarely by Bureau Directors. Therefore, this merits our recognition. However, this case has also enabled us to see some shortcomings of the Legislative Council Complaints Division and Panels, including time constraints and the constraints on the power to obtain documents.

Therefore, only by setting up a select committee of inquiry can a breakthrough be achieved and more documents be obtained so that the truth of this incident can be revealed. Therefore, President, I support Mr CHEUNG Kwok-che's motion requesting the setting up of a select committee of inquiry.

MR RONNY TONG (in Cantonese): President, originally, I did not intend to speak, but after listening to Mr TSE's speech, I think I can provide some information to complement the remarks made by our party leader just now.

President, the first point I would like to make is — as all of us can see from the newspapers yesterday and today — not everyone in this world tells the truth. In order to find out the truth, one really has to make efforts to listen to people's words or testimonies sometimes. Someone asked, "As he has already made a denial in the letter, what else is there to inquire?" If things were so simple, I believe I would not have to serve as a Member and Members would not need to attend meetings here, and neither would there be any disharmony or even deception in this world. So far, all the requests made by the Legislative Council for inquiries to be conducted can be attributed to apparent signs that the truth is yet to be revealed. As Members of this Council, we have the duty to conduct a thorough inquiry to find out the truth rather than immediately backing off when someone makes a written or verbal denial. I think Members should not behave in this manner.

President, the second point I would like to make is the Government shall be accountable to the Legislative Council in accordance with the Basic Law. Regarding Mr TSE attempt to associate the matters to be investigated with the KAM Nai-wai incident just now, after thinking about it for quite a while, I am still at a loss as to how the two are related. President, the primary function of the Legislative Council is to monitor the operation and conduct of the Government rather than the private lives of Members. This is the first point. The second point is whether a plaintiff is required in monitoring the Government. Sorry, President, I do not consider a plaintiff necessary. I think monitoring the Government is just as it is. Do we really need someone to knock on the door and complain to this Council before we exercise our power to discharge our function? Should this be the case, I think the function of this Council will likewise be deliberately played down.

President, the most important point is Article 146 of the Basic Law. I do not know whether Honourable colleagues have mentioned just now that this is a major factor which we must understand. Article 146 states that "Voluntary organizations providing social services in the Hong Kong Special Administrative Region may, on their own, decide their forms of service, provided that the law is not contravened."

President, the provision that reads "..... may, on their own, decide their forms of service", is the most crucial. If some voluntary organizations prefer, in any event, operating in disharmony and the Government interferes with them, the Government should be regarded as breaching the Basic Law; or if some voluntary organizations adopt a certain approach and some people interfere with them on the ground that such an approach may cause disharmony in society or they find it intolerable, they might also be regarded as breaching the Basic Law. If Bureau Directors or government officials defy Article 146 and make irresponsible remarks about this provision, which seeks to protect the approach adopted by voluntary organizations engaging in social services, the Legislative Council should also exercise its powers to find out the truth.

President, I do not mean to say that the truth will definitely suggest that the Government is wrong. This may be an opportunity to do the Secretary justice. Those of us who have read the newspapers may also know that many public opinions have hinted, and many people have already concluded, that the Secretary is wrong. Irrespective of what explanation he would give, he would still not be able to explain it away. Should an inquiry be conducted, the Secretary will actually get an opportunity to clarify, seek justice and allow us to find out the truth. If the Secretary has really not erred, that would be very well; if he has erred, the Legislative Council has the duty to take follow up actions to find out how the mistake can be rectified at the policy level. President, this is also a function of the Legislative Council.

The fourth point is many Honourable colleagues asked why an inquiry would still be required even after meetings and discussions had been conducted. President, this is precisely why the Legislative Council (Powers and Privileges) Ordinance is needed to confer on us the power to thoroughly investigate the incident and summon witnesses. If all incidents are left to vanish into obscurity every time meetings and discussions have been held, as it is considered that there is no need to find out the truth, we actually do not need any of the power we possess now, and neither do we need the Legislative Council (Powers and Privileges) Ordinance. Although this piece of legislation confers powers on us, it does not mean we must exercise the powers. However, as and when necessary, and with cases involving incidents concerning whether or not the Government has acted properly or interfered with the operation of community organizations or even possibly breached Article 146 of the Basic Law, as I have mentioned just now, this is precisely when we should exercise the powers conferred on us. In exercising such powers, we should not only consider whether the incident is a big or small matter. I think all incidents involving the

Government are big matters, and are pressing issues affecting the people of Hong Kong. After all, our duty is to monitor the Government in the hope of improving the quality of its administration. If the quality of the administration of the Government is poor and the Government is found interfering with society in exercising its power, thereby affecting the rights vested in some organizations, doing things it should not have done, or even causing certain social workers to feel greatly aggrieved, thereby directly impacting the general culture and attitude adopted by social services organizations, I think this is the right time for us to exercise the powers conferred on us by the law.

President, I hope Honourable colleagues will not only adopt the political perspective and consider that everything said by the Government is right and should be defended. Instead, they should consider whether or not this incident should be thoroughly investigated to find out the truth from the perspective of the responsibilities assumed and functions performed by the Legislative Council.

Thank you, President.

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

(No Member indicated a wish to speak)

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, Mr CHEUNG Kwok-che has proposed to set up a select committee to inquire into the alleged interference with the profession of social workers on the part of the Secretary for Home Affairs and the District Officer (Islands).

Regarding this proposal, the Government's position has been very clear all along and that is, it is unnecessary to form a select committee to conduct an inquiry. We have also noted that the House Committee of this Council did not support the establishment of a select committee in its meeting held on 8 January this year.

As a matter of fact, Honourable Members have held detailed discussions on the relevant incident in various meetings of this Council, including a meeting of the Panel on Welfare Services and the case conference held in September last year. On that day, the case conference was attended by representatives of the Hong Kong Young Women's Christian Association (YWCA) and the Tai O Rural

Committee and others. In the meeting of this Council held on 21 October last year, I had also given a reply to an oral question asked by an Honourable Member about the same issue.

It is alleged in Mr CHEUNG's motion that the Secretary for Home Affairs, before understanding the real facts, exerted pressure on the President of the YWCA and interfered with the operation of the profession of social workers. This allegation runs counter to the facts.

In the case conference held by this Council on 18 September last year, the Secretary for Home Affairs gave a clear account to Honourable Members on the circumstances of his meeting with the persons-in-charge of the YWCA in January the same year. The meeting was proposed by the YWCA for the purpose of introducing its development plan. During the meeting, the Secretary for Home Affairs never expressed any comment on the work or performance of individual social workers of the YWCA. Neither had he mentioned any individual. While mentioning the receipt of a copy of a letter written by the Tai O Rural Committee to the YWCA, he only expressed the wish that the YWCA and the Tai O Rural Committee could work together to promote the well-being of Tai O residents and establish a harmonious community. This is consistent with the effort made by the Home Affairs Bureau to foster harmony and does not involve any political interference or exertion of pressure on the YWCA.

It is also alleged in the motion that the District Officer (Islands) failed to promote harmony among community organizations. In fact, the District Officer (Islands) and the staff of the Islands District Office (DO) have been maintaining close communication with the community and have organized community participation programmes of various kinds to promote social harmony in Tai O. When Tai O was struck by floods and landslides in 2008, in addition to actively co-ordinating the rescue operations of various government departments, the DO also liaised with various groups, organizations and individuals in the district, such as the Tai O Rural Committee, the relevant District Council and District Council member, village representatives, a social work team of the Neighbourhood Advice-Action Council and the Tai O Community Work Office of the YWCA, to engage members of the community in participating in the rescue operations, thereby consolidating their sense of belonging to the community.

Regarding the complaint involving social workers of the Tai O Community Work Office of the YWCA, the District Officer (Islands) and the management of the YWCA held a meeting on 13 January last year, during which the latter took

the initiative to bring up the complaint made by the Tai O Rural Committee against its Tai O Community Work Office. In response to the questions raised, the District Officer (Islands) reflected to the management of the YWCA certain views put forward by some community groups and individuals on the work performance of its Tai O Community Work Office. However, he had not advanced any view on the work performance of the social workers serving the Tai O Community Work Office.

In the case conference held by this Council on 18 September, the District Officer (Islands) expressly stated that he absolutely had not made any remark like "failing to extend appreciation to the government department allocating funds".

President, the SAR Government understands Honourable Members' concern about the professional services rendered by social workers. As always, the SAR Government will support the work of professionals, including social workers, in serving the community in accordance with their professional skills and conduct. Taking the social worker sector as an example. We have an excellent team of social workers which strive to serve the public, as well as co-ordinating and solving conflicts. The Government will continue to work with them to serve the public.

Concerning today's motion, Honourable Members have held in-depth discussions in different meetings held by this Council. This incident has been discussed numerous times and there is no evidence to prove that the Bureau Director or the District Officer concerned had interfered with the operation of the profession of social workers. Under such circumstances, the SAR Government holds that there is no need for this Council to form a select committee.

With these remarks, President, I implore Honourable Members to oppose the motion.

PRESIDENT (in Cantonese): I now call upon Mr CHEUNG Kwok-che to reply.

(Mr James TO raised his hand in indication)

PRESIDENT (in Cantonese): Mr James TO, what is your point?

MR JAMES TO (in Cantonese): President, I wish to speak.

PRESIDENT (in Cantonese): Mr James TO, as far as I know, before the mover of the motion has replied, I cannot disallow other speeches made by Members. However, we have a long-established practice. Just now, I asked time and again if any other Members wished to speak. After no other Member indicated a wish to speak, I then allowed the public officer to speak and ask the mover of the motion to reply. Now, you request to speak. I will also allow you to do so, but hopefully, you can avoid doing so as far as possible in future. It is because if you are allowed to speak, other Honourable Members can also speak after you, and then I cannot but disallow the public officer to respond to the speeches made by Members again. Should that happen, the rules we have all along been adopting in motion debates will exist in name only. I would like to draw your attention to this point.

MR JAMES TO (in Cantonese): President, my speech will not arouse great controversy. However, I have some viewpoints which have never been mentioned before. I would like to raise them now, so that the Government and other people can learn a lesson from them.

President, I have no intention to mention this incident in particular. However, I find that, as a matter of fact, the operation of social workers will occasionally be affected by the practice of some government officials, who may not have acted out of malicious intent — I dare not say if this incident was attributed to malicious intent or goodwill — even though the incident might not have anything to do with malicious intent, there is still a chance for the operation of social workers to be affected. I only wish to share with Members my viewpoints from the perspective of security, so that Members can have some ideas about the situation.

In fact, over the past few years, particularly about four to five years ago, some outreaching social workers have encountered certain circumstances. Of course, they will grasp a lot of information on crime. Why is it so? It is because they are responsible for providing counselling services for youngsters at risk or collecting intelligence, so that they can use such information to provide counselling services for youngsters at risk skillfully. However, under certain circumstances, police officers on the district level (such as those under the Narcotics Bureau or the Criminal Intelligence Bureau) will seek intelligence from

outreaching social workers or even ask them to provide some very concrete information. For example, they might wish to know if a certain person has any plan to kill someone, whether a certain person has joined the triad society or where drugs are available for sale.

President, I am saying this with an intention to indicate that police officers have not acted out of malicious intent. It is just that they think that, being police officers, they should make every effort to collect intelligence. As outreaching social workers have already grasped some intelligence, they should seek information from them as far as possible. However, once the youngsters at risk or clients of outreaching social workers find that the relationship between police officers and social workers is very close, they will doubt if social workers have disclosed their secrets to the police. As a result, their relationship with social workers will change, making the task of outreaching social workers more difficult in future. In fact, society will also be impacted as a result.

President, let me draw a conclusion briefly. Sometimes, public officers or government officials do not quite understand the basic values and concepts of outreaching social workers or their operation, or even the values of social workers to society as a whole. As such, some problems may be resulted. In fact, even if this incident is investigated, we might still not be able to find out any malicious intent in the end. I think we can learn a lesson and gain some experience upon completion of the investigation, so that we will not commit the same mistake again, cause confusion, arouse others' suspicion, and, what is more, cause grave concern to the social worker sector. I think this is a direction which we can follow.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Chief Secretary for Administration, do you wish to speak again?

(The Chief Secretary for Administration shook his head to indicate that he did not wish to speak again)

PRESIDENT (in Cantonese): I now call upon Mr CHEUNG Kwok-che to reply. This debate will come to a close after Mr CHEUNG Kwok-che has replied.

MR CHEUNG KWOK-CHE (in Cantonese): President, today, I have to pay tribute to social worker TSE Sai-kit for his perseverance with his profession. He has been working in the Hong Kong Young Women's Christian Association (YWCA) for 10 to 20 years. He loves his organization. That is why subsequent to the occurrence of the incident, he first resigned from the organization before he lodged a complaint to the Complaints Division, and revealed to the public the whole incident involving interference with the professional work of social workers. The incident has been followed up in the past ten months and so. The discussion about the incident has caused society, the social work sector, the legislature and the Government to face squarely the conduct involved this time around. Here, I would like to salute to my co-worker TSE Sai-kit, who is now sitting at the public gallery to share our discussion about the incident.

Mr Paul TSE said earlier that a plaintiff was absent in the case. If there were a plaintiff, it would have been the YWCA. However, I would like to clarify one point. When it comes to the professional autonomy of social workers, it must have much to do with individual social workers. In that case, TSE Sai-kit will be the plaintiff, because it was he who lodged a complaint about the incident to the Complaints Division of the Legislative Council.

Some Members mentioned earlier that social workers should be tolerant and refrain from playing things up in disputes. I would like to tell Members that social workers work hard for the well-being of the disadvantaged group. More often than not, out of the concern of the well-being of the disadvantaged group, we will rather endure humiliation in order to carry out an important mission and refrain from playing things up. As long as the disadvantaged group can gain benefits, we will consider our mission accomplished. However, this time around, we think that the bottomline of our values is being challenged. On the premise of safeguarding the autonomy of our profession, I think we as social workers should speak up.

I think we need to examine why the whole incident will suddenly come to light. Actually, we can see from some documents that according to some analyses conducted by members of the Tai O Social Work Team (the Team),

residents suffered serious losses after the two floods but government departments and the Rural Committee were relatively slow in response. As a result, residents initiated and organized a series of activities of their own accord, which include holding meetings for airing grievances, meeting Members of the Legislative Council and the Complaints Division, liaising with the media, and even leveling an avalanche of criticisms against the District Officer in phone-in programmes. All these actions have caused dissatisfaction to the District Officer and the Rural Committee. This internal analysis was made after the two rainstorms.

In my view, it takes more than one day for a river to freeze to a depth of three feet, which means the incident in question is not simply an isolated case. In a letter written by the Rural Committee to the YWCA, it is said right at the beginning that, "The office of your association has been established for three decades, during which we have seen a number of persons-in-charge, but their performance has all along remained unchanged, and they keep confronting this Committee." This shows that there have actually been long-standing conflicts between the Rural Committee and the team. The Rural Committee does not have a deep understanding of the work of social workers, otherwise, it would not have the impression that the performance of the YWCA has no significant change.

In a recent example cited in the letter, it read, "The office (that is the Team) organized residents' gatherings with individual Members of the Legislative Council, who belong to certain political parties, and a small number of residents, instead of taking positive actions to assist residents to discuss with the authorities concerned on the follow-up arrangement". Actually, every one can organize residents' gatherings and meetings for airing grievances. There is no harm in airing grievances. Why only positive actions are considered feasible, and the use of non-positive approaches to highlight the problem is considered infeasible? I believe it has something to do with the established practice of the Rural Committee, which considers that more harmony can be achieved, as government officials will look after them as well as the residents. In their view, it would not be in the interest of residents to stage confrontation. Though different strategies have been applied, both parties might share the common goal of working in the interest of residents. Some people might prefer waiting for the Government to take action, and only called the authorities to discuss the issue when the Government failed to take action. However, some residents might not want to wait, and they chose to hold residents' gatherings to make known their complaints

and let the media know. Hence, in my view, the parties concerned were merely adopting different approaches. Why would this lead to conflicts?

We notice earlier that the office has been established for 30 years, but its performance is still considered unsatisfactory. In my opinion, this deep-rooted problem must be solved by the three parties involved, namely, the YWCA, the Rural Committee and the District Office. Even the Chief Secretary for Administration says that one of the duties of the District Office is to act as a mediator and identify disharmony in the district. The office should then facilitate communication by all means to turn the situation from extremely inharmonious to slightly inharmonious, and then from slightly inharmonious to harmonious. But how much has been accomplished? We do not see any.

Furthermore, I think the escalated action taken by the Rural Committee has caused the organization concerned to take certain action in response. There is a post-meeting note in the document, which read, "The two social workers have repeatedly taken actions to undermine harmony in the community, which is resented by members of the Rural Committee and residents, and we vehemently request the immediate replacement of these two staff members." I really find such a tone over the top, which constitutes an interference with the internal operation of the organization concerned. There is nothing wrong with the social workers reflecting the case, if the organization does not do so. Judging from this, justice cannot be done in several aspects if the whole incident is not clarified.

We can also see that TSE Sai-kit has been working in the Team for many years, and he just received a commendation from the organization in February 2009. Actually, the whole team was commended. Some residents had also sent a commendation letter to the organization to pay tribute to the efforts the team made during the two floods. Actually, they deserve the commendation. Should they turn down the commendation? However, it is evident from the letter issued by the Rural Committee, the discussion held between the District Officer (Islands) and the organization concerned, and a remark made by the Secretary for Home Affairs that the organization was under pressure from all sides. What was the organization requested to do? As the Rural Committee said, it was requested to replace the two staff members. Hence, though the observation period of the two staff members still have three months to go, they were removed from their posts immediately. Obviously, certain values held by the social work profession have been interfered, and since our co-workers could

no longer bring their professionalism into play in the district, they could only bid farewell to the residents who appreciated their efforts.

Is the incident actually like this? If we do not conduct an investigation to ascertain the facts, the incident will subsequently vanish into obscurity. Various parties will naturally have their own views and consider their views correct. Hence, in my view, if no investigation is conducted on the incident, the incident will not come to an end. Many Members mentioned earlier that the select committee would have the power to make the persons concerned to tell the truth, and the truth of the incident could thus be uncovered, so that the public would know who was right and who was wrong. We can thus learn a lesson from the incident and avoid repeating the same mistakes.

Indeed, I can foresee the outcome of the voting on this motion. But why am I still insisting on proposing a discussion on this at the meeting of the Legislative Council? Some colleagues pointed out that, over the past ten-odd months, I had already expressed a lot of views on different occasions and at different meetings, and I should have known the outcome, and they queried why I had to discuss the incident here. This rightly reflects the spirit of perseverance of social workers in accomplishing their mission. They will do something which they still prefer to do though they know only too well that it will not be passed, should something unexpected happen.

Since the incident was made public, friends from various professions told me that these incidents occurred from time to time in their professions. They said they admired the social worker concerned for he dared to come forward to tell the truth to let society know some people were so doing such things, thus causing various professions to do some self-reflection. In fact, when certain universities are awarded the bid for conducting surveys and researches for the Government, some professors are terrified that they may be appointed to conduct the research because government officials would often show concern about the results of the research, or even suggest holding discussion in advance. This is invisible pressure. Hence, it is difficult to maintain the independency of a research report. Just now, Mr LEE Cheuk-yan raked up the incident involving the interference with the academic autonomy of a lecturer of the Hong Kong Institute of Education by the Permanent Secretary of the Education Bureau. I believe the two incidents are identical, for they make it possible for society to gain a better understanding of things in this aspect.

President, the "river crab" incident occurred this time around has led social workers to show more concern about their professional ethics and have the courage to say "no" to interference and possible interference. What is more, they are found taking the initiative to discuss and share the core values of the social work profession with outsiders. The management and the Board of Directors of the YWCA have gained a thorough understanding of the incident to avoid falling into the trap of interfering with the work of the profession. I know that one of the parties involved in the incident, the YWCA, has improved its communication with its front-line staff, and the Chairman of the Board of Directors has also heeded the advice to withdraw from the battlefield at the last minute according to the YWCA constitution.

However, the two social workers, who play a key role in the incident, are subject to criticisms. Have they done anything wrong? If they have, what wrong have they done? Has the Tai O Rural Committee made irresponsible complaints against the two social workers? Has the District Officer (Islands) and the Secretary for Home Affairs deliberately or inadvertently interfered with the work of the profession? I am definitely eager to know the truth of the whole incident.

As the saying goes, one should learn from one's mistake. However, if we do not know the truth of the incident, how can we gain experience from our failures? Hence, I urge Honourable colleagues to support the establishment of a select committee to inquire into the interference with the professionalism of social workers on the part of the Secretary for Home Affairs and the District Officer (Islands). Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHEUNG Kwok-che be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr CHEUNG Kwok-che rose to claim a division.

PRESIDENT (in Cantonese): Mr CHEUNG Kwok-che has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted for the motion.

Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHIM Pui-chung, Prof Patrick LAU, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO and Mr WONG Sing-chi 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, 22 were present, three were in favour of the motion and 19 against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, 13 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 negatived.

(Motion scheduled to be moved at this Council meeting)

PRESIDENT (in Cantonese): Motion for adjournment.

I have given permission under Rule 16(2) of the Rules of Procedure for Ms Starry LEE to move, at today's Council meeting, a motion for adjournment for the purpose of debating the collapse of a building on Ma Tau Wai Road on 29 January 2010, and how to enhance the safety of old buildings immediately to prevent the recurrence of similar tragedies.

The mover of the motion and other Members each may speak up to 15 minutes.

Members who wish to speak will please press the "Request to speak" button to indicate their wish.

I now call upon Ms Starry LEE to speak and move her motion.

MOTION FOR THE ADJOURNMENT OF THE COUNCIL

MS STARRY LEE (in Cantonese): President, I move that this Council do now adjourn.

President, last Friday, that is, on 29 January, a 55-year-old building of six storeys at 45J Ma Tau Wai Road collapsed in a matter of seconds and it shocked all people in Hong Kong. First of all, I would like to pay my deepest condolence to the four deceased victims in this incident and wish the two injured

early recovery. I also hope that the 130 or so victims from more than 60 households in the incident will return to normal life as soon as possible. I would also like to pay my respect to the firemen and rescue teams that participated in the rescue.

After the incident, many people may ask: How could this kind of building collapse incident happen in a metropolitan city like Hong Kong? And how could it be such a complete collapse? Those who visited the incident site could see that a large part of the concrete that collapsed on that day had been shattered. Indeed, even one single incident like this is too many and cannot be tolerated. We do not want to see the recurrence of similar incidents. I visited the site immediately after the incident and then requested the President to allow this adjournment debate. Today, representatives from the Development Bureau, Home Affairs Bureau as well as Transport and Housing Bureau are also attending this meeting.

In fact, inter-bureau and inter-departmental efforts are really needed when it comes to building management and safety. Even if the building structure is safe, but without satisfactory management, the residents can still not live in peace and contentment. I hope both the Government and the public would learn a lesson from this incident, and I especially hope that inter-bureau and inter-departmental meetings can be frequently held by the Government to specifically discuss and study how building safety can be ensured.

Now that something as disastrous as a fatal building collapse has really happened, I am very much worried that later when the community's concern over the issue has diminished, the Government's attitude will remain the same. The problem of dilapidation of old buildings will still be a time bomb in our city, and both the Government and the public will fail to learn a lesson from this incident. Indeed, we do not want to see more building collapse incidents happening.

Firstly, I would like to talk about the remedial work to be carried out after the building collapse incident. The first task is certainly to deal with the affected residents. Most of them are tenants, and they are mainly new immigrants, elderly people and ethnic minorities taking up low-pay jobs at the grass-roots level. They choose to live in To Kwa Wan mainly because the rentals of the old buildings in that area are lower. Perhaps some of them are working in that area and their children are also going to the schools there. Therefore, it is understandable that they requested *in situ* rehousing after the

incident. I strongly hope that the Transport and Housing Bureau will sympathize with them and handle the issue under the principle of "special arrangements for special cases". Even if their assets or incomes slightly exceed the limits for public housing application, the authorities may adopt a lenient approach and provide them with *ex gratia* rehousing to public housing. The Chinese New Year is just two weeks away. I saw on television that they have moved to interim housing flats, and I really think that this arrangement is not very satisfactory. I hope the authorities will promise to complete the rehousing arrangements before the Chinese New Year so that they can spend the New Year in their decent homes.

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

Moreover, I have to say that the authorities should not forget about the residents of the buildings at 45A, B, C and D Ma Tau Wai Road, who have not been asked to evacuate. Putting ourselves in their shoes; if Members are forced to live there, will they be worried? When they go back home, they may see a lot of cracks which will remind them of the building collapse incident. Please provide the residents with one more option. If they do not want to continue to live in the buildings mentioned above, I hope the authorities will arrange for them to move to interim housing on *ex gratia* basis and then arrange for them to move to public housing flats as soon as possible. As for those residents who have to be evacuated temporarily, if they still do not have any choice and are forced to live in those buildings after the completion of reinforcement works, it would be rather disappointing. I hope the authorities, when making *ex gratia* rehousing arrangements, will not omit this group of temporarily evacuated residents and the residents of the same block of buildings at 45 Ma Tau Wai Road.

To release the worries of the residents, Secretary Carrie LAM promised on the day of the incident that the Buildings Department would send 40 teams to inspect the 4 000 buildings aged over 50 in Hong Kong within the next month to ensure the structural safety of old buildings. We have made some calculations on this. As there are 40 teams, it means that each team has to inspect 100 buildings. There are 30 days in a month, so each team has to inspect three buildings each day. Tests may also have to be conducted when necessary. Indeed, the schedule is very tight. But in order to release the worries of the residents, apart from inspecting the external walls and common parts as usual, the

Buildings Department teams should enter the buildings or flats for further inspection if they discover on suspect that there are structural alterations during the inspection process. I hope the Secretary will urge the Buildings Department to do so with a view to making the inspection work more meticulous as well as releasing the worries of the residents.

The main purpose of conducting this adjournment debate today is to consider how to prevent the recurrence of building collapse tragedies. This is a very complicated issue. Firstly, there are numerous old buildings in Hong Kong. Now we have 16 000 private buildings aged over 30 across the territory and the number is expected to rise to 26 000 in 10 years. It means that each year there will be 1 000 more. Besides, the sale of individual storeys or flats in a building is probably a unique practice in Hong Kong. I would like to especially point out that neither the deeds of mutual covenant (DMCs) of the old buildings nor the existing laws require owners to set up a maintenance fund, and this is an indirect factor for serious building dilapidation in old districts today.

Thirdly, the management of old buildings involves many departments. The Buildings Department is responsible for monitoring building structure whereas the Electrical and Mechanical Services Department (EMSD) is responsible for electricity installation. Regarding water leakage which has often been the subject of residents' complaints, it should be followed up by the Food and Environmental Hygiene Department (FEHD). As for building management, it is within the area of work of the Home Affairs Department (HAD). There is a lack of co-ordination between these departments, and I cannot see which department is now co-ordinating the entire project concerning the management of old buildings in old districts. After the building collapse incident, the media have extensively commented. *Hong Kong Economic Journal* published an editorial on 1 February, suggesting that the Government should consider establishing an old buildings authority. At this stage, I am not yet ready to support the establishment of an additional authority by the Government to handle the issue of old buildings. However, we all understand very well that the management of old buildings involves many bureaux and departments. The Development Bureau came to this Council earlier to request for a new commissioner for tree management. I believe that the management of old buildings is even more complicated than that of trees. Specially assigning a person to work as a co-ordinator between different departments may be one of the areas of work of the review.

The issue of old buildings has become so complicated because people living in the old districts have been faced with too many problems that they do not know how to handle. Even if they have the intention to deal with the problems, they are not capable of doing so. I have worked as a District Council member in an old district for nearly 10 years and have dealt with so many problems faced by the residents there. I would like to share with Members the problems they mainly faced. First, ceiling leaking. Members may think that water leakage is probably a problem with their own flats, so why do they not fix it themselves? In fact, they are willing to fix the problems but just because they are not able to identify the source of the problem. Usually the source is the partitioning of the flats. Even if repair works have been completed, the ceilings peel off again shortly afterwards. I have come across many cases where the residents have to use basins to collect the water leaking from the ceilings, and these cases are very common. The worst case that I have come across is that half of the flat of an elderly man was covered by rubbish bags because he said that he was not able to collect all the water leaking from the ceiling with the basins. We can imagine how serious the leakage was. Let us think about this. If we have no alternative because of financial abilities and are forced to live in these buildings, are these buildings really suitable for living? Should there be better ways to deal with the leakage problem? Basically, the chance for the office currently responsible for handling the leakage problem to find is less than 50%. If current approach continues to be adopted, it will basically fail to solve the residents' problems.

The second problem faced by the residents is the problem of unauthorized building structures. In old districts, when we look up, we will see unauthorized building structures everywhere. There are unauthorized structures on rooftops and open yards are occupied by shops. On the external walls, there are flower racks, flower cages and signboards. Even if the owners want to handle the problem, they cannot really do so on their own because it is the responsibility of the Buildings Department to take care of unauthorized building structures at present. My previous encounters with the Buildings Department told me that it is absolutely not a people-oriented department. They only perform their duties according to their own perspectives and are often unwilling to attend residents' meetings to explain why they have issued the orders. They are only willing to deal with the unauthorized building structures that pose immediate danger. I have learnt from many of my past experiences that different sections of the Buildings Department may issue several orders for the same building within a short period of time, which irritated many owners. Moreover, a lot of owners are so familiar with the rules that they know that repair orders are only used to

punish some obedient owners because it usually takes three to five years for a repair order to be executed. Having realized this, many owners just ignore the orders. They regard paying fines as paying rents, and they are even lower than rents.

The management problem is another thing that the residents of old buildings are passed by. The collapsed building on this occasion is actually a building with "four NOs", that is, no owners' corporation, no management, no maintenance and no security. Have Members noticed that many crime cases often happened in these "four NOs" buildings before? The earlier incidents in which some people dropped bottles containing corrosive fluids also happened in "four NOs" buildings. Is this just coincidence? It is not. Somebody has precisely taken advantage of the security loopholes in these buildings and more crimes have taken place there. Apart from the dropping of acid bombs, there is also the problem of one-woman brothels. We can find one-woman brothels in many "four NOs" buildings, including the collapsed building and the one opposite to my office. Now I know it very well that there is always an incense stick burning outside a one-woman brothel. I did not know that before. Such brothels are so common in the old buildings due to the lack of security facilities. But these "four NOs" buildings do not only exist today, nor did they exist at the moment of building collapse. They have existed in the communities for nearly 20 years. In fact, the Government's continued tolerance of their existence is in a way tolerating crimes in these buildings. I hope the Government can really learn a lesson this time and consider how to address the problem of these "four NOs" buildings.

In fact, according to the Building Management Ordinance, the Secretary for Home Affairs has the right to require the Tribunal to make it mandatory for these buildings to set up owners' corporations or to appoint management agents to deal with matters concerning building management. For buildings aged over 10 years, if the owners refuse to set up owners' corporations despite much lobbying effort, or if they have received many orders issued by the Buildings Department but have not yet taken any action, I think, for the sake of public safety, I think the Government should make it mandatory for these buildings to ensure proper building management.

However, even if a building has set up an owners' corporation, it does not mean that everything will be fine and all the problems can be solved. We know it so well that buildings with owners' corporations could still have many conflicts. Many owners' corporations which are not operated in compliance with Cap. 344

of the Laws of Hong Kong still exist. For instance, it is often heard that there is no channel for residents to lodge complaints about tender rigging related to maintenance works. Therefore, I suggested earlier that the Home Affairs Bureau should set up a building affairs tribunal to provide residents with an easy channel to address the conflicts concerning buildings so that they do not have to go to the Lands Tribunal at every turn. For residents in old districts, it is basically impossible for them to go to the Lands Tribunal to fulfil the requirements of Cap. 344.

Indeed, old buildings have many problems, which cannot be solved by merely relying on government departments. It is not possible for the Buildings Department to inspect so many old buildings throughout the territory day by day, nor is it possible for the Home Affairs Department to provide sufficient professional support for more than 100 000 buildings in Hong Kong. Therefore, the key to the problem lies in the owners' assurance of proper management. We have requested the Government earlier to establish a licensing system for property management companies with a view to monitoring their quality and further protecting the interests of small property owners through professional management.

There are really too many issues that we need to talk about. Today the bill on mandatory window and building inspection is tabled for First Reading in this Council by Secretary Carrie LAM. This issue has been discussed for long, and a lot of discussions in the communities have been triggered by the building collapse incident. In fact, another issue concerning old buildings is serious partitioning. However, the bill proposed this time does not require the inspection of the internal structure. I have considered requesting the Bureau to extend the scope of inspection to the building structure, though this may not be able to solve all the problems. Will the Bureau take corresponding actions according to the inspection results? Or, should the owners still deal with the problem of unauthorized building structures through the Lands Tribunal? Can the Buildings Department issue orders to the residents to deal with the unauthorized structure problem with residents carrying out repairs?

Hence, extending the scope of inspection should not be the only task at present. Regarding the alteration of internal structure, I believe that we cannot solve the problem only by inspecting windows and buildings without monitoring the source. In fact, the problem of unauthorized internal structures is one of the main factors that caused the building collapse incident.

Deputy President, there are so many problems concerning old buildings to be discussed, but I am not going to talk about them one by one. Honourable colleagues can have detailed discussions on the issue later today (*The buzzer sounded*)

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

MS STARRY LEE (in Cantonese): I so submit.

Ms Starry LEE moved the following motion: (Translation)

"That this Council do now adjourn for the purpose of debating the following issue: the collapse of a building on Ma Tau Wai Road on 29 January 2010, and how to enhance the safety of old buildings immediately to prevent the recurrence of similar tragedies."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That this Council do now adjourn.

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, first of all, on behalf of the SAR Government, I would like to once again extend my deepest condolences to the families of the deceased and injured and to other affected residents in the disastrous building collapse incident on Ma Tau Wai Road, in Hung Hom last Friday, which caused four deaths and two injuries.

As I said when I moved the Second Reading of the Buildings (Amendment) Bill 2010 a few hours ago, this incident has once again aroused public concern over the problem of building dilapidation in Hong Kong. It has also reminded us that we have to do our best to enhance building safety and prevent the recurrence of similar incidents.

Ms Starry LEE immediately proposed the adjournment of the Council today for the purpose of debating the issue and her proposal was allowed by the President; without doubt, this shows Members' concern for this incident. In today's debate, I believe that Members will express incisive views on all issues

relating to dilapidated old buildings. As Members can see, the Under Secretary for Transport and Housing and the Under Secretary for Home Affairs are attending this meeting with me, though I know that they will not speak today, but their attending this meeting and listening to our views will help them understand better the tasks to be carried out by us in the future.

Building dilapidation is actually caused by many factors. It is not only a matter of building structure but also a matter of building management as mentioned by Ms LEE just now. It could also be related to the housing demand, which is a deeper-level issue. The SAR Government is very concerned about the problems reflected by the incident, over which the Chief Executive has also expressed deep concern. Apart from immediately requesting all bureaux and departments to take effective remedial actions, he has also requested us to handle this important issue in a serious manner. I know that at least three Legislative Council Panels, that is, the Panel on Development, the Panel on Housing and the Panel on Home Affairs, have proposed to discuss the issue at the coming meetings.

I had worked as the Director of Social Welfare for more than three years and I was the Permanent Secretary for Home Affairs for a short period of time. Now as the Secretary for Development responsible for building safety, I can say that I have looked at the problem of dilapidated old buildings from different perspectives. I totally agree with Ms LEE that inter-bureau and inter-departmental efforts are needed for this problem, which can only be solved through the joint efforts and determination of the Government as a whole.

But first of all, let me take some time to account for the follow-up work that we have carried out in this building collapse incident. The collapsed building was located at 45J Ma Tau Wai Road and its occupation permit was issued in September 1955. In other words, that building was nearly 55 years old. It was a reinforced concrete building of six storeys tall and there was one flat on each storey.

After the incident happened on that day, our professional colleagues from the Buildings Department inspected all the buildings nearby in the shortest possible time and took follow-up actions speedily to ensure the safety of the residents in the adjacent buildings.

The scope of the immediate inspection work undertaken on that day covers the buildings at 43, 43A to 43J and 45A to 45H Ma Tau Wai Road as well as

those located at 2 to 8 Hok Yuen Street and 1 to 24 Chun Tin Street at the back. After inspection, the engineering staff considered that the buildings at 45G and 45H were dangerous and ought to be closed, and steel supports had to be installed at the site of the collapsed building in order to reinforce the adjacent building at 45H. The reinforcement works are now underway, and they will probably be completed between 10 days and two weeks.

Since the building at 45H has been seriously damaged, the installation of steel supports may be risky. Hence, for the safety of the residents nearby, the Buildings Department has decided to temporarily close the buildings at 45E and 45F and the newer building at 49 on the opposite side, including its ground floor, a shop on the first floor as well as each of the flats on the second to the fifth floors until the completion of the reinforcement works. I would like to particularly point out that the closed buildings do not have any structural problems but we want to reduce the risks that the reinforcement works at 45H may pose to these residents. Suitable arrangements have been made for the residents.

The Buildings Department and the police are carrying out investigation work together with a view to finding the cause of this incident. The Buildings Department will investigate the incident on three fronts. Firstly, we will examine the repair, addition and alteration records of the buildings concerned. Secondly, *in situ* evidence will be inspected and samples will be taken for laboratory tests. Thirdly, we will look for eye witnesses to provide us with information. Once we have the investigation results, the government departments concerned will surely affix responsibilities. However, before we have any substantive evidence and investigation findings, the public should not make any meaningless speculations or draw conclusions about the incident.

Various departments have tried their best to cater for the needs of the affected residents. The emergency co-ordination centre activated on the day of the incident by the Kowloon City District Office is still in operation today and the affected residents have immediately been provided with a temporary place to stay and basic necessities. The District Office has also offered emergency financial assistance to eligible residents. Besides, a number of charitable groups and organizations have provided emergency aid to the residents for them to buy basic necessities and meet their urgent needs before the Chinese New Year.

The Social Welfare Department (SWD) has provided the residents with counselling services and followed up their welfare issues, such as providing them with meal allowance. For individual families with special needs, the SWD has also tried its best to offer support, for example, helping families in need to send their children to school and assisting families of the deceased in applying for their family members on the Mainland to come to Hong Kong for the funerals.

The Housing Department has also arranged interim housing flats for the residents as temporary homes and provided them with basic facilities such as water, electricity and furniture. After verification of eligibility, the Housing Department will make housing arrangements for the affected residents as soon as possible.

As Ms LEE has just reiterated, on the day of the incident, I immediately announced that in order to release the worries of the owners and residents of buildings of similar age as well as the general public about the safety of these buildings, starting from this Monday, the Buildings Department through setting up 40 ad hoc teams, would work intensively to inspect all the 4 000 or so buildings completed before 1960. For other words, buildings aged over 50. The inspection work is expected to be completed within one month. Each ad hoc team comprises a technical staff and an experienced professional, who may be a building surveyor or a structural engineer. After the inspections, the buildings will be divided into four categories and necessary follow-up actions will also be taken. The four categories are as follows:

- (1) emergency works are required for the buildings;
- (2) based on the conditions of the buildings, only repair or investigation orders need to be issued;
- (3) the buildings are not seriously dilapidated and letters of advice instead of repair orders will be issued; and
- (4) the building conditions are satisfactory and no further action is required.

The inspection mainly focuses on the common areas as well as the external walls and the areas outside the buildings. The Buildings Department professionals will inspect carefully and use their professional knowledge to analyse the conditions of the buildings. Sufficient inspection time will be

efficiently allocated according to the different conditions of individual buildings. If there are any unusual signs or conditions, the professionals will take further follow-up measures, which include entering the flats for inspection as mentioned by Ms Starry LEE just now. If obvious and unusual alterations are found in individual flats by the Buildings Department officers, follow-up actions will also be taken.

This inspection action will allow the Buildings Department to have a clearer picture of the conditions of those buildings so that appropriate follow-up actions can be taken. However, I must emphasize that carrying out this action does not mean that this group of a few thousand buildings have actual problems. In fact, as these buildings are relatively older, many of them were already inspected and issued repair orders by the Buildings Department. Of course, building safety depends on how the owners use, repair and maintain the buildings, and whether alteration and renovation works have been carried out with a certain period of time. Before the completion of the investigations, we are not able to make accurate estimations. However, we believe that many of these buildings are reasonably safe.

In fact, within the first two days of the inspection, the Buildings Department officers have inspected a total of 362 target buildings, none of which has been found to belong to the first category that I have just mentioned, that is: emergency works are required. The issue of repair orders or letters of advice is required for some of the buildings, and follow-up actions will be taken by the Buildings Department.

If necessary, we will assist the owners concerned in carrying out maintenance works. For instance, we will consider including the buildings in the list of Category 2 target buildings of the Operation Building Bright and providing grants as well as one-stop technical assistance to the owners in need.

The subject of today's adjournment debate is how to enhance the safety of old buildings to prevent the recurrence of building collapse tragedies. In view of this, I would like to account for the Government's previous efforts in building safety. Building safety is a rather complicated issue. From unauthorized building works to building dilapidation, it covers a wide scope of matters. The Government has spared no effort in improving building safety in Hong Kong through a combined approach of law enforcement, assistance, publicity and education.

To allow Members to understand more comprehensively the law enforcement and assistance work done by the Government in the past and its effectiveness, I have prepared some supplementary statistical information, which has been distributed to Members through the Secretariat.

We can see from the statistics that, in the past 10 years, the Government made a lot of efforts in combating the problem of unauthorized building structures, encouraging owners to carry out repair works as well as providing them with financial and technical assistance. The submitted supplementary statistical information consists of 14 lists, among which Lists 1 to 10 are the records of our enforcement work while Lists 11 to 14 are concerned with the assistance that we have provided to owners. What are the messages behind these figures? Firstly, the problem of old buildings is very serious in Hong Kong and it will probably become increasingly serious along with the ageing of buildings in Hong Kong. Now we have a total of 40 000 private buildings, of which nearly 4 000 are over 50 years old. It means that less than 10% of the buildings are aged over 50 at this moment, but it is estimated that 500 buildings will become 50 years old each year in the future. Though a 50-year-old building may not necessarily have problems as it usually depends on whether there is suitable maintenance and repair. Yet, most buildings in Hong Kong, especially those concrete buildings, were designed to last for 50 years. According to the records of the Buildings Department, 20% of the repair orders in the past were issued in respect of buildings aged over 50. These figures have conveyed another message, that is, addressing the problem of old buildings, is a large-scale project using substantial public resources and putting a lot of pressure on the Buildings Department. It is a problem that cannot be handled by the Government alone. At the same time, we must enhance the awareness of building safety and require owners to take responsibility for the safety of their own buildings. Since flatted buildings are so common in Hong Kong, owners must be dedicated to the same cause to co-ordinate and carry out repair works through mutual organization and awareness enhancement.

I hope this incident has not only aroused public concern but also encouraged owners in the territory to attach greater importance to their responsibilities as owners to repair buildings. Behind these figures, there is also a professional team which has all along been working silently with enthusiasm and commitment over the past years. Behind these cold figures, we can see our professional Buildings Department colleagues keep carrying out inspection, law enforcement, advisory and supporting work in Hong Kong. After the incident,

some people said that the building surveyors from the Buildings Department did not have sufficient professional knowledge to supervise the building surveying work. I really cannot agree with them. In fact, we have a very professional team composed of building surveyors, structural engineers, technical staff as well as logistics staff from the Buildings Department to carry out building surveying work and monitor building safety in all parts of Hong Kong. Regarding Ms Starry LEE's allegation that the Buildings Department colleagues fail to perform their duties in a people-oriented manner, I also have much reservation.

Moreover, I would like to take this opportunity to highlight the Development Bureau's efforts in respect of building safety in the past few years. It has always been one of our major tasks to promote the repair and maintenance of old buildings. In terms of policies, I can say that we have never stopped introducing new measures for building maintenance.

As a regulator, the Government must provide a legal framework to meet the needs of social development in a timely and appropriate manner. In November 2007, I introduced the Buildings (Amendment) Bill 2007 on the introduction of the minor works system into the Legislative Council with a view to providing owners with a legitimate, simple, safe and convenient channel for carrying out minor works. It is because we know that if we continue to adopt the complicated procedure which required the appointment of authorized persons and submission of applications to the Buildings Department in advance for both major and minor works, we would not be able to encourage more owners to carry out building repair works safely. After the Bills Committee's scrutiny for more than half a year, the Buildings (Amendment) Ordinance 2008 (the Amendment Ordinance) was enacted by the Legislative Council in June 2008.

Afterwards, based on the provisions of the Amendment Ordinance, we made a number of subsidiary legislation, which were introduced into the Legislative Council in April and October 2009 respectively. Two subcommittees were set up by the Legislative Council to scrutinize the two sets of regulations, and amendments were made by the Government in light of the comments of Members. The last regulation was passed in December 2009, and in the same month, that is, December 2009, we immediately commenced the registration of minor works contractors. Now, we are encouraging early registration of minor works practitioners so as to facilitate the full implementation of the Minor Works Control System this year.

Following the introduction of legislation on the Minor Works Control System, we will implement the mandatory building and window inspection schemes. The legal provisions on the schemes are listed in the Buildings (Amendment) Bill 2010 that I have just introduced into the Legislative Council today.

We will work closely with the Legislative Council for the early scrutiny and passage of the Bill. While making legislative amendments, we considered very seriously if our assistance to owners is adequate. At that time, we noticed that the repair works would become a heavy burden for elderly owner-occupants. Therefore, we launched the \$1 billion Building Maintenance Grant Scheme for Elderly Owners in 2008 to help elderly owner-occupants with financial difficulties carry out repair and maintenance works in their flats. Eligible elderly owner-occupants aged 60 or above are entitled to a maximum grant of \$40,000 within a period of five years. This is precisely a people-oriented measure, which will hopefully lay a good foundation for the coming mandatory building and window inspection and repair schemes. The Building Maintenance Grant Scheme for Elderly Owners covers an extensive scope of works, which include the maintenance works for the self-occupied flats of elderly owners and the common areas of the buildings such as repairing spalled or cracked reinforced concrete, repairing defective finish and mosaic tiles on external walls, and replacing broken windows. The grants can also be used to repay the loans for building maintenance provided by the Buildings Department, the Urban Renewal Authority (URA) and the Hong Kong Housing Society (HKHS) borrowed by the applicants.

As at 31 January this year, we have approved about 5 000 applications for building maintenance grants for the elderly. The total amount of approved and to be approved grants is about \$180 million. In other words, more than \$800 million is still available for application by elderly owners who would have to carry out building repair works after the implementation of mandatory building and window inspection schemes.

In 2009, in order to promote building safety and create more job opportunities for the construction sector, the Government launched the \$2 billion Operation Building Bright with the HKHS and URA to provide grants and one-stop technical assistance for the owners of about 2 000 old buildings, including those without owners' corporations, to help them carry out building repair works. The Operation has no requirement for asset or income means tests. Owners of the flats in the target buildings, including those of the

residential and commercial flats, can receive a grant amounting to 80% of the repair expenses, subject to a ceiling of \$16,000. Elderly owner-occupants aged 60 or above are entitled to a grant for covering the full amounts of repair expenses, subject to a ceiling of \$40,000.

Since its launch, the Operation Building Bright has won the support of owners and people from all walks of life, including Legislative Council Members. So far, the Operation has handled 1 020 buildings with owners' corporations and another 603 buildings (including those without owners' corporations), the owners of which are not capable of organizing the repair works themselves. If necessary, the Buildings Department will consider repairing the buildings for these owners first and recover the expenses after deducting grants from the Operation.

Deputy President, everybody wants to have a cosy home. For many people in Hong Kong, buildings are the most important asset in life. I believe you of all would agree that it is the fundamental and undeniable responsibility of owners to ensure the safety of their own buildings. In fact, if owners fail to fulfil these responsibilities properly, they have to take heavy responsibilities for making compensation in case of any death or injury caused. I know that many Members are going to speak today, and I believe there will be a lot of positive suggestions that require our follow-up actions in the future. My two colleagues and I will listen carefully, and I will give my response later.

Thank you, Deputy President.

MR WONG KWOK-HING (in Cantonese): Deputy President, last Friday, that is, in the afternoon of 29 January, a six-storey building on Ma Tau Wai Road, To Kwa Wan collapsed in a matter of seconds, leading to a tragedy with four deaths and two injuries. Such accidents were rarely seen in the history of Hong Kong. We were having a Finance Committee meeting on that day. When I heard the news, I was greatly shocked and saddened. Hence, I wrote immediately to the Legislative Council Secretariat, requesting that the Panel on Development should hold a special emergency meeting to address the issue. The day after the tragedy, that is, last Saturday, I met Secretary Carrie LAM during an inspection visit. I requested her to hold an inter-departmental meeting as soon as possible to address the issue, and her response was positive.

That day, Secretary Carrie LAM told us that the authorities had taken very special emergency measures, mobilizing the Buildings Department to set up 40 ad hoc teams comprising several hundred people to carry out emergency inspection on 4 000 old buildings from 1 February onwards. Of course, I welcome the action.

This Monday, that is, on 1 February, the Legislative Council Panel on Housing meeting held a meeting. As Chairman of the Panel, I proposed that attending members, officials and groups should stand up and observe one minute of silence to express that we mourn with deep grief the residents who unfortunately died in the incident. At the meeting, we also requested the housing authorities to report to the Legislative Council Panel on Housing the latest progress on rehousing the affected residents.

Deputy President, the Secretary for Development moved the Second Reading of the Buildings (Amendment) Bill 2010 today. Though the Bill has been introduced a bit too late, I still welcome it. I hope our Honourable colleagues will start scrutinizing the Bill as soon as possible so as to speed up the scrutiny process and facilitate the early commencement of the Ordinance, to ensure the personal and property safety of the residents through the enhancement of building maintenance and safety.

Deputy President, I fully support this adjournment debate moved by Ms Starry LEE today. Regarding this debate, I would like to discuss several points that are worth thorough examination by us and the Government. First of all, I want to talk about the inspection criteria of old buildings. Should these criteria be reviewed and a more scientific and stringent benchmark that is more able to alert be formulated? Deputy President, all six storeys of the old building collapsed within seconds, as if it was the result of a magnitude 7 earthquake. However, as requested by the Buildings Department, building inspection and repair works were carried out on this building in 2004. In early January, just before the incident, the building received yet another repair order from the Buildings Department. Yet, in late January, the astonishing building collapse incident took place, which is an accident that has never happened before in the history of Hong Kong. Hence, I have to ask: Why did the Department fail to alert people to a collapse after the inspection? Why did it fail to observe that the building had a risk of sudden collapse? Why?

It is even more worrying that thousands of buildings in Hong Kong are as old as the collapsed building. As the Secretary just said, several thousand

buildings needed inspection. These buildings are the time bombs in the urban areas and they may go off at any moment. In this regard, even though the Buildings Department is now carrying out emergency inspection on the 4 000 buildings aged over 50, we still have to ask: Can the inspection criteria currently adopted by the Buildings Department, that is, the current inspection criteria, provide against possible trouble? Can alerts be given after the inspection? Can the recurrence of similar disasters be prevented? We have these questions, but, will there be answers?

We are especially worried that some of these old buildings are "salt water buildings". Their safety deserves our concern even more. What should be the inspection criteria if those are "salt water buildings"? There seems to be no answer yet. Therefore, I hope the Government, especially the Buildings Department, will consider how to enhance effectiveness and keep abreast of the times, in terms of the techniques, criteria, benchmarks and methods of inspection as well as manpower and the crisis alert mechanism, and maintain vigilance when we are facing the safety problem of more than 4 000 old buildings in Hong Kong at present. I look forward to the responses of the authorities and hope that they will tell us whether a review will be made and new criteria be formulated. Otherwise, I would be very worried that the month-long inspection may be just something done as a mere formality to reassure and pacify us.

Moreover, I also want to talk about another issue, which is monitoring the repair and maintenance of these old buildings. For instance, it is said that the collapsed building had undergoing repair works to remove some unauthorized building structures before its collapse. As investigation is underway, of course, we are not going to draw any conclusion here. However, it leads to an issue concerning the regulation of the repair works in these old buildings, and there are several points that deserve our introspection.

Firstly, do those undertaking the repair or maintenance works have adequate technical knowledge and experience? I am glad to have heard from the authorities that it will step up the introduction of a registration of minor works contractors system. Though the registration system is being introduced, how can we ensure that the registration system will become effective in the earliest possible time? Does it mean that those who have not registered cannot carry out repair works? Registration is a procedure. I hope to hear that the authorities will speed up registration, while ensuring effective monitoring. This is a problem that we are now facing.

Secondly, the rent and sale of unauthorized partitioned flats are very common in these old buildings. Building loading is changed due to alterations in the water supply and drainage systems. Even access and entrance can be altered, leading to structural changes and hazards in the buildings. But why did the Department not curb such practices through effective monitoring and enforcement? We really want an answer.

Thirdly, the computerization of the records of these unauthorized building structures. Several years ago, during the preceding term of this Council, I already raised this issue. However, my request was rejected by the authorities on the ground of insufficient resources. This incident has exactly sounded the alarm. As lives were lost, will the Government do anything? For instance, as we have started the month-long inspection work on 4 000 old buildings, if there is no computerized records for monitoring and regulation, and points are even not given by computer simulation. There will just be some written information after the inspection, how can there be scientific close monitoring of the hazards and their development? If the Government only carries out inspection but fails to monitor the health of these buildings with a computerized system, how can we provide against possible trouble? How can we sound the alarm before a crisis?

Hence, on this occasion, I would like to solemnly call upon the Government once again to spend money and utilize resources on the computerization of the relevant records to register and monitor the removal of unauthorized building structures. For these buildings aged over 50, there must be computerized records of their safety and health so as to facilitate monitoring and alerting. Our monitoring mechanism cannot be so backward.

Frankly speaking, will the Government dispatch 40 ad hoc teams to carry out another inspection when another building collapses? After the inspection, do we know when the next bomb will go off? This should not be the procedure that we follow every time. We have to be more scientific. Thus, I hope the authorities will seriously consider my request again. Computerization is a must so that the Government can monitor the health and safety of these old buildings in a more accurate and scientific manner, and it will be more impartial in handling unauthorized building structures. It will also handle removals in a more orderly way as well as prevent favouritism, illegalities, corruption, bribery and "string pulling". After this Ma Tau Wai disaster, I hope the Government will seriously consider my request instead of ignoring it once again.

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

MR JEFFREY LAM (in Cantonese): Deputy President, regarding the serious incident of building collapse on Ma Tau Wai Road, resulting in four deaths and two injuries, I feel very sad and would like to express my deepest condolences to the families of the deceased.

This tragedy reminds me of the expression "Wishing you safety wherever you go". However, it is really not easy to be safe wherever we go. This tragedy shows that there is still a lot of room for improvement in the repair and maintenance of old buildings in Hong Kong. Hong Kong is a highly urbanized place but when we go to such districts as To Kwa Wan, Hung Hom, Kowloon City and Sham Shui Po, we can see that it is a forest of old buildings. Without proper repair and maintenance, incidents ranging from being hit by peeled off concrete to the collapse of an entire building like a bomb in the urban area can happen at any time.

The tragedy shows clearly that old buildings have many problems, such as concrete layers on the verge of falling or peeling off, exposed and blackened reinforcing bars, water leakage from ceilings, cracks of various sizes on walls, spalling of topmost layers of external walls and problems with electrical installations. One can hardly cite them all in one go. The most terrible thing is that an entire building can collapse within seconds. I remember a victim saying that the building had all along been shaky, just as the case depicted in the movie titled "An Autumn's Tale". This is really heartrending. This kind of dilapidated old buildings have no owners' corporations, no management, no maintenance and the owners seem to adopt an indifferent attitude. Actually, how much information on this kind of old buildings has the Government got at the moment?

This Monday, the Buildings Department began to despatch 40 ad hoc teams to conduct a territory-wide inspection of about 4 000 buildings aged 50 years or above to determine whether the structures of these buildings are safe. The operation is expected to be completed by the end of this month. However, we can calculate and see that even if the Buildings Department officers are going to work on Saturdays, Sundays and the public holidays during the Chinese New Year as well, within these 28 days, each team has to inspect four buildings each day. I understand that we want to complete the inspection as soon as possible

bearing in mind that it is a matter of life or death. However, I am worried about whether or not we can make it and still less do I want the inspection to be done in a casual manner. Therefore, I think the Government must allocate more resources to ensure that apart from inspecting the outer appearance of buildings and unauthorized building works, they will also carefully and thoroughly inspect the interior structures of buildings to ensure that they can find the "bombs in the urban areas". Besides, they should ensure that repair or removal is carried out expeditiously and there should not be any runaway.

The cause of this collapse incident probably involves alterations made to the structural walls in the premises and the conversion of some flats into a number of suites through laying new pipes and sewers. Apart from altering the building structure, this also significantly increases the loading of the building. Therefore, inspecting the internal structure of old buildings is very important.

At present, any alteration to the structural walls or repartitioning of flats must be assessed by a registered structural engineer and the new building plan must be submitted to the Buildings Department with an application for alteration. It may take two to three months to process an application. However, at present, it is possible that some owners simply casually arrange for fitting-out workers to carry out the works in order to avoid trouble or save money. This is absolutely done in defiance of safety.

Deputy President, I understand that the Government has launched the registration system for minor works contractors last year. It is the first step in the supervision of minor works. After the implementation of the system in mid-2010, owners can engage registered contractors to carry out minor works without prior approval and written consent from the Government for the plan and it will be much more convenient than at present. I hope that members of the fitting-out and construction industries can actively take part in this new system as soon as possible and take the relevant supplementary training courses to enhance their skills and increase knowledge of the new legislation. In the future, when owners want to carry out fitting-out works, they must bear in mind that registered contractors should be engaged and the latter should also abide fully by the system and give owners professional advice as well as employ qualified workers.

Regarding the Buildings (Amendment) Bill 2010 introduced by the Secretary just now, it seeks to implement mandatory building and window inspection schemes to enhance building safety for the purpose of providing

against possible trouble. I believe that the Legislative Council will expedite the scrutiny of the Bill to enable it to come into effect as soon as possible. Moreover, the Administration should also give greater publicity to the Comprehensive Building Safety Improvement Loan Scheme and the Building Maintenance Grant Scheme for Elderly Owners in the hope that members of the public would understand the responsibilities of owners for maintaining their buildings. The Government should also strive to resolve the problems about no owners' corporations and management with old buildings promptly, so that the repair and maintenance work of buildings will not be neglected due to fragmented ownership or reluctance of the elderly owners in participating in the work of owners' corporations.

In view of the fact that crises exist in old buildings despite constant repairs and maintenance, another method is of course demolition and redevelopment. However, in redeveloping old buildings, be they residential or commercial buildings, we have to face the same problem of fragmented ownership. Redevelopment often gets nowhere due to the lack of consensus among owners. Information show that, the consent from 90% of all owners is required for private redevelopment in Hong Kong, and the percentage is the highest among six Asian cities. In the case of Singapore, the consent of just 80% of all owners is required for the redevelopment of a building aged 10 years or above; and in Tokyo, the consent from only two thirds of the owners is required.

Therefore, I agree that the application threshold should be lowered to 80% for compulsory land sale in respect of buildings aged 50 or above. This can effectively help expedite the process of redevelopment and rezoning, thereby solving the problem of dilapidated buildings. I hope that the relevant amendment can be implemented as soon as possible.

Why do some residents still live there despite the dilapidated conditions of some buildings in the urban area? The reason may be the lower rental or it may be convenient for them to go to work or school as they can save travelling expenses. However, it also shows that, in the long run, the Government needs to address the housing problem of low-income people and it should not allow the crowded conditions as depicted in the drama "House of 72 Tenants" to persist in Hong Kong.

Regarding the victims in this building collapse incident, I think the foremost thing is that the Administration has to exercise flexibility and try as far

as possible to provide housing for them in the nearby areas. Also, we should enable them to go to work and school as usual, so that they would walk out of the shadows of the collapse as soon as possible. Besides, I hope that the Administration can efficiently clear the rubbles at the scene and make proper arrangements for the victims to identify and collect their property.

Deputy President, this kind of tragedy should not occur in Hong Kong. At present, it is more important to eliminate any possibility of building collapse. The Chinese New Year is approaching, so here, I wish you all safety wherever you go and that everyone could live and work in peace and contentment.

Deputy President, I so submit.

MR FREDERICK FUNG (in Cantonese): Deputy President, I am heavy at heart because of the building collapse incident on Ma Tau Wai Road. This is the first time in the history of Hong Kong but the first time may not necessarily be good. I find it pathetic and even despicable, a term that I rarely use, that such a thing happened in Hong Kong for the first time, which is an international city. I never verbally abuse anyone. However, I am really distressed this time. Hong Kong is such a prosperous city, so how can such a thing happen?

Deputy President, I can tell you that up to this very minute today, I have not been to the scene of building collapse. It is not because I fear looking at the conditions but because I think I would be able to say anything at the scene and I cannot make any suggestion, for example, about how the Government should deal with the buildings. This is not my expertise nor my strength. My expertise and strength lie in dealing with people. When I learnt about the building collapse from television, I went to the Holy Carpenter Church to visit that group of local residents in the first instance to see what they need. I obtained some information and I will share it with Members here.

The collapsed building belongs to one single owner. There is only one owner for the entire building, so dealing with the issue of ownership is just dealing with one person. The adjacent building being affected is at number 45H, which has two to three owners. One of the owners who arrived at the scene, was very afraid, not of a collapse but about the point that he might not be able to collect the rents. As soon as he arrived, he started to collect the rents for

February from each tenant. I could not believe that there could be such a landlord: he was trying to collect rents from other people even though he could not provide accommodation them.

There are about 57 tenants who range from a two-year-old baby girl to an old man aged above 90, from unemployed people to the major owner I mentioned just now. Of course, there are just two to three owners but more than 10% of these people are unemployed. In fact, the majority of them belongs to the middle and lower classes or are low-income earners. They work in cafeterias or hotels, earning about \$6,000 or \$7,000. I could not imagine that, in just two buildings, there are Hong Kong people, about 30% to 40% of whom are new arrivals, and there are also Pakistanis and Indians. There is one household which apparently consists of five persons. However, both parents are two-way permit holders, who take turns to take care of three little girls aged between four and eight. The mother came in January and the father would come in April. Then, the mother would come again in July and the father in October. I asked them why they did not take their children back to their hometown. They said that the children had no residence registration at their hometown. Why did the parents arrange for the children to be born in Hong Kong? They said they liked freedom in Hong Kong. After the building collapsed, what should be done to these three children? I was asked if they could get compassionate rehousing. The arrangement of compassionate rehousing requires the signature of someone aged 18 or above but the parents of this household cannot sign nor can the eight-year-old child.

We kept talking to this group of victims. They certainly hoped that long-term solution could be found for their housing problems. Since they only had meager incomes, they absolutely did not want to live in the New Territories. I can tell Members that there is a lady in her late forties whose workplace is just two blocks away. I told her that I would try to find a flat for her at So Uk Estate. In fact, I had a discussion with a senior officer of the Housing Department and I was told that it was possible to arrange for accommodation at So Uk Estate but I will not talk about this now. This lady said to me, "Mr FUNG, I came to Hong Kong not long ago and I will lose my way home if I have to go farther than two blocks away.". I cannot imagine that in such a prosperous city like Hong Kong, there is such a group of people. Among the people coming out from the evacuation, there are actually some professionals. I know a victim who has a monthly income of \$16,000. He said that, at the time of evacuation, he did not have any money and he only had \$3, and he had not brought with him any

documentation at the time of evacuation. Now, it will take some investigation to confirm his identity, not to mention taking any clothes or blankets.

Deputy President, in this building collapse incident or natural and man-made calamities, the most painful thing of all is that there are another 57 families rendered homeless. Whose responsibility is this? I think that this is not a problem about repair and maintenance. It is not due to a lack of repairs and improper maintenance and this problem cannot be dealt with by the legislation enacted today. I understand that this is a man-made problem of a lack of supervision on repairs and maintenance. Does it mean that with the enactment of this piece of legislation, similar problems will not occur again? No. Members should look at today's legislation more closely. It just talks about the exterior, the outer appearance and it even will not deal with some non-risky illegal structures.

Deputy President, regarding how to deal with private buildings, all along, my understanding, my impression and my knowledge is that the Government really addresses just the symptoms rather than solving the problem at root. Sometimes, it even fails to address the symptoms. Years ago, there were problems with electricity, so there was a piece of legislation demanding mandatory electricity inspection a decade ago. Earlier on, there was a major fire which caused many casualties, so the Government mandates fire service installation inspections; not long ago, some windowframes and balconies fell down, so the Government requires mandatory building inspection. Are Members aware that because of the problem with lifts earlier on, a consultation document will soon be released and the Administration wants to introduce mandatory lift inspection? Earlier on, corrosive acids were thrown from rooftops. I wonder if the Administration would introduce a mandatory ban on carrying corrosive acids? During the SARS outbreak, the problem relating to sewers was serious, so is the Administration going to enact a piece of legislation to mandate sewer inspections? Blockage of manholes in old buildings caused stool and urine to gush out from toilets, so would the Administration enact a piece of legislation to introduce mandatory manhole inspections? If we were to enact a piece of legislation for every problem, 100 pieces of legislation would be required for 100 problems. Deputy President, forgive me for getting more and more agitated and emotional as I go on. This is not an issue of building repairs and maintenance but it concerns people's livelihood, environment, hygiene, quality of life or even life. I cannot see the Government target the basics of the problem at all.

There are about 4 000 buildings that are aged 50 years or above in Hong Kong. Earlier on, the Secretary said that there would be 500 such additional buildings each year. According to my understanding, the overwhelming majority of these 4 000 buildings that are aged 50 years or above basically have no owners' corporations, which means no management. Perhaps I am predestined to meet the Secretary, on several occasions, I had discussions with her on this issue, even though the Secretary was holding different positions.

The Association for Democracy and People's Livelihood (ADPL) became involved in work relating to private buildings only at a very late stage as the ADPL worked on public housing at the very beginning. However, I have now become a semi-expert in private housing. We started dealing with the issue of private buildings in 1993 or 1994. I recall that, in 1996, Mrs Helen YU was a commissioner in the Housing Department responsible for studying how to alleviate the problems relating to private buildings. I had discussions with Mrs Helen YU for dozens of hours and I told her very clearly the problems with private buildings. I wonder if Members are aware that Mrs Helen YU published a consultation document. I dare say that more than 60% of the consultation document comprised the ideas and recommendations of the ADPL. However, after a two-year consultation on this consultation document, there was not any report or conclusion. It was not said what had to be done or what should not be done. Of course, the Department can say that the recommendations have been received and work is in progress. In that case, why does it not tell us publicly what will be done or what will not be done?

Secretary, I believe that you can also recall that back then, you were still the Permanent Secretary for Home Affairs and I talked to you with the document in hand. I said that, to deal with the problem of private buildings, we were not talking about mandatory repairs and maintenance, mandatory fire service installation inspections or mandatory electricity inspections but mandatory management. A private building can be from four storeys to seven storeys tall, with just one or two flats on each floor. When we look at it, it looks just like a beehive. If the bees cannot put the hive in order properly, and they simply get a cockroach into the hive, the beehive will not be put in order. Regarding these 4 000 old buildings, the problem cannot be solved by simply letting various government departments go inside the beehive-like buildings. Therefore, we cannot simply rely on the Government or legislation and I will later explain why.

I would like to talk about the recommendations we made to the Secretary (when she was still a Permanent Secretary) back then. Owners' corporations are authorized by the law to manage the buildings. However, the problem is that the majority of the owners of these old buildings are more than 60 years old and they are not very literate. It is also very difficult to talk about the law with them or ask them to understand the law. Members can go to local districts to take a look. Secretary, your officers surely know that. They do not even know which piece of legislation to refer to, how to look up the relevant contents and cannot understand them. When they are given a list of constructors, they do not know what constructors are or how they should choose. As such, having owners' corporations is the same as not having owners' corporations, how can the problems be dealt with when there is not even any owners' corporation? I cannot see how enacting legislation can automatically solve all the repairs and maintenance problems relating to water, electricity, lifts and windows, as if in a cartoon. This will not happen. To tackle these problems, we really need to find some professionals. Ms Starry LEE also said just now that it was necessary to go through this and that department. I am not sure how many departments are involved. Does it mean that we should ask those elderly owners to keep track of the number of departments that they have to approach? They cannot name even a single department.

Therefore, without professionals, no one has knowledge of these laws or jurisprudence, so how does one know which company to look for when dealing with these problems? For repairs and maintenance, one can look for construction workers. But what about the problems with water and electricity, fire services installations and lifts? Do we expect the elderly owners to know all these? This is really demanding. Besides, the old buildings I mentioned just now are four storeys to seven storeys tall. If there are two flats on each floor, there are eight to 14 households. The requirement is that at least three persons, that is a minimum of 21% to 75% of owners should take part before an owners' corporation can be incorporated. Such a high participation rate is hardly realizable.

Deputy President, our recommendation is that under Cap. 344, the Secretary for Home Affairs may, according to the problem of hygiene or the situation that may cause danger to the public, appoint an administrator who can invoke power similar to that of an owners' corporation to manage a building. Since these old buildings are usually located on an entire street or even several

streets, we suggest that these streets should be delineated as a small district and the Secretary be asked to appoint the same person as the administrator and we hope that the administrator can be a non-profit-making non-governmental organization. The administrator can then invoke its power as an administrator or the power of the owners' corporation to manage several streets, which we call a district, in order to carry out professional management of the district and allow the administrator to engage a management company.

The administrator has two duties: First, it has to monitor and supervise the management company in areas such as repair, cleaning, maintenance and security. In fact, the aforementioned incidents, such as dropping corrosive acids, rubbish, hammers, knives or refrigerators from heights can also be controlled this way. As for the issue of repairs mentioned just now, there is no need to worry at all.

Second, since the administrator is a non-profit-making non-governmental organization, it is necessary to carry out training and education well within the district. Initially, the district can be managed by the administrator. Later, a district management committee should be established and trained people can join the committee and manage the district together. Three years later, when members of the committee are mature enough, the non-profit-making organization can withdraw to a position behind the scenes. In this process, members of the district management committee should be allowed to know, learn about and understand how to deal with repairs, maintenance, cleaning and security.

Talking about legislation, legislation is rigid and is all but words which cannot move, nor can they make people take actions. Therefore, how can legislation get the repair work done properly? How can legislating get the management work done properly? Deputy President, I really cannot understand that.

To do the repairs, maintenance and security work in old districts well, the professional full-time management job should be done properly first. In fact, about six months ago, I already made a similar proposal. However, today, the Secretary is in the capacity of the Secretary for Development, so I am making the same proposal again. We really hope that the Government will not allow this kind of building collapse incidents to happen again. This is not a problem with building maintenance but building management. Only the management team of

a building can get inside each small flat of a beehive-like building to examine problems such as interior fitting-out decoration. Secretary, please try and adopt this plan of district professional management for old districts. Thank you.

MR LEE WING-TAT (in Cantonese): Deputy President, what happened last week is heartrending but I think it is not the time to affix responsibilities. Since a thorough investigation of the incident is still pending, a number of possibilities exist. However, Deputy President, I want to talk about several points about the present problem.

The first aspect is that I feel pain for Hong Kong people because we have to work for our properties throughout our life. Most people would feel very special if they own a property although it may be a pitifully small one. I have discussed my views with some friends and developers. In 1991, when I became a Legislative Council Member, the average floor area of a flat in a private building in Hong Kong was on average about 400 sq ft to 500 sq ft. Little improvement had been made in the past decade or so. The middle class in Hong Kong is very pitiable. That is why there are so many unauthorized building works in Hong Kong. With only a floor area of 400 sq ft, an additional 100 sq ft for a flat will mean a 25% addition. I am not encouraging unauthorized building works but, from a certain point of view, there are a lot of people who are the slaves of property developers. If we consider Hawaii or Tahiti and a person owns an entire island, no one would bother no matter how unauthorized building works are carried out. Given the scarcity of land in Hong Kong, that happens very often.

The second aspect is that this is a historical development. From the 1940s or 1950s till now, there have been a lot of unauthorized buildings. I agree that, from a decade ago, the Government has already taken a lot of actions and has achieved some results. I cannot say that the Government has done nothing but it has taken action in a small area only and there is still a lot of work to be done. It has done the least in respect of single old buildings. I am not talking about the common areas but the interior parts of old buildings. In fact, these problems are not easy to deal with. Just as I said earlier, the practice of carrying out authorized building works is not just found in ordinary residential premises. I remember that, in the past, when I was Chairman of the Panel on Housing, prosecution was even instituted against the luxury property of a member of the

Executive Council. Our colleagues handled the case in an impartial manner and even instituted prosecution against the luxury property and a member of the Executive Council. Why could members of the public not carry out unauthorized building works when even the said person did the same?

Regarding the present phenomenon, the Government has been tolerating it for decades and did not enforce the law until now. I support this trend. However, it is difficult to solve all the problems by enacting legislation if several fundamental factors are not dealt with. Basically, in Hong Kong, buildings that are 40 or 50 years old are considered very old but compared with those in the United Kingdom, France and the Netherlands, they cannot be considered old. Even the century-old buildings in these countries will not collapse. In Hong Kong, buildings that are 40 or 50 years old would not necessarily collapse. For example, Mei Foo Sun Chuen did not collapse. As Mr Frederick FUNG put it, with good management, buildings that are 50 to 60 years old are still fit for living. Simply relying on the law I do not oppose this approach but I will state my views later.

The first issue is how to promote the concept of repairs and maintenance in Hong Kong. Owners have to understand that those are their assets. In the past decade, more owners agreed with this point. Mr Frederick FUNG has more experience as there are fewer private buildings in my constituency. However, when chatting with residents living in private buildings in my district, I found that one or two decades ago, owners were quite reluctant to pool funds for repairs and maintenance but most of them are willing to do so now. I believe that, now, they will not be reluctant to pool funds. Just as Mr Frederick FUNG said, the majority of those who are reluctant to pay for repairs and maintenance are elderly people or some households whose properties have been acquired. There are also some people who have the financial ability but they just act shamelessly, as there is no way to sanction them, thus they are not willing to pay.

The second major issue is the excessively low efficiency of government organizations. Since the Urban Renewal Authority (URA) took over from the work from the Land Development Corporation, it claimed that hundreds of projects would be implemented, but, in the end, there have just been 50 to 60 projects. The director of the URA owes us an explanation. Since he is the director, I will hold him accountable. And he has to ask his boss why the progress of "encircling the old buildings" has been so slow. Why is Ma Tau Wai Road not included? How can the URA explain this? He also has to

explain. I will not defend him just because he is my fellow party member. If he feels aggrieved, he has to explain why the URA cannot do so. Members are also aware that, in Hong Kong, it is quite difficult to rely on individual private owners to effect an assembly of land. Who is the most capable? Everybody knows that the property developers would get some intermediaries to acquire the properties. It has been disclosed by the press that there are some households whose properties would be acquired in the area around Ma Tau Wai Road. These households have no intention to carry out repairs and maintenance after buying the properties. Rather, they are waiting for acquisition by developers two years later. What are the plans and strategies of the Government? It seems that it can do nothing. This is the second major issue.

The third issue is that I agree with Mr Frederick FUNG who just said that various government departments simply work entirely on their own without co-ordination. Mrs HUI from the Home Affairs Bureau is present. I often criticize the Home Affairs Bureau of "giving birth to sons or daughters but not raising them" — I do not wish to be scolded by Ms Emily LAU. It is very common to see owners' corporations being ignored as abandoned children. Even though I am not as experienced as directly-elected colleagues returned by districts with lots of private buildings, I listened to complaints from the public each time I visited local districts. They said that those representatives from the Home Affairs Bureau were useless as they simply ignored them after helping them establish owners' corporations. Before solving these structural problems and problems among departments, I am doubtful about whether the legislation introduced by the Secretary will be effective or not.

Deputy President, can enacting legislation solve all the problems? In fact, the answer is clear to all. The three fundamental issues I talked about have not been studied and dealt with thoroughly and comprehensively. Of course, the Secretary is carrying out a review of the Urban Renewal Strategy and proposed that the URA should do more. However, this does not tally with the pace of building ageing. On the one hand, the Government is telling the public that legislation has to be enacted and improvements are necessary; on the other hand, government departments are not doing their job well. Now, we also have the assistance of the Hong Kong Housing Society (HKHS). The HKHS has \$20 billion. Last week, I had a meal with them and I told YEUNG Ka-sing not to be a miser. He often said that the Government had forced them to do other things. However, the \$20 billion are not for making investments. I agree that the HKHS is not a government body but the money cannot be shared with the

others. What is the objective of a public body? What should it do when it has money? First, it has to carry out primary projects. Should it have to carry out more such projects? Should the Government give them greater support? Should the money be pooled together and efforts be jointly made to do more for old buildings aged 50 to 60 years? It has indeed assisted private buildings in establishing owners' corporations and improving management. However, can more resources be injected and greater efforts be made? Moreover, can better targets be set, for example, setting targets for the next five or 10 years? It has the money and the Government has the ability, so can the job be done well? The Government often says that those in the Home Affairs Bureau are civil servants and are therefore bound by the civil service system and many things can hardly be done whereas the HKHS has flexibility and advantages. That is why the Secretary thought about this.

The second phenomenon that I have observed is whether the law can deal with all problems properly? We know that some things have actually not been handled. Among the existing private buildings, I found that some owners' corporations have disputes when some owners refused to pay for repairs and maintenance. As a result, some owners are afraid that someone might chase them with a chopper or someone might even tell them that he knows which school his daughter is going to. He is just the chairman of an owners' corporation, not a Legislative Council Member, so he has not estimated that someone might chase him with a chopper.

Therefore, we must differentiate those so-called good owners and support them. At times, I would receive some complaints and I could see that the Home Affairs Bureau or other departments will not support good owners. What does "good owners" mean? They are those who are willing to pay for the expenses on the repairs and maintenance of buildings. Assuming that 10 out of 100 owners refuse to pay, it will give owners' corporation a hard time. Does it mean that a charge should be registered against the land title? Even though a charge is really registered against the land title, as there are actually many people who have a charge registered against their land title, they will be indifferent because they do not intend to sell the properties.

Therefore, I want to make a suggestion for the Secretary's consideration — I have not yet discussed it with Mr James TO. This is what I mentioned in a gathering — When the authorities issue a repair order, it is a government order. Violation of the order is not just a matter of money but also a breach of the law

subject to criminal punishment. However, according to the information that I found, the Administration instituted around six prosecutions or so each year. How would those people be afraid? Violation of repair orders should be criminalized unless the persons concerned have reasonable explanations. What are reasonable reasons? For example, financial difficulties and so on. Otherwise, even when the case is taken to the Small Claims Tribunal to make claims and register a charge against the land title, these people will really be indifferent. Many members of owners' corporations have told me that these measures are useless.

The second suggestion is to differentiate between good owners and bad ones. Good owners are those who are willing to pay for repairs and maintenance. However, what do they dislike about the Government most? It is the fact that when the Administration issues a repair order, it issues it only to the owners' corporation or the owners' committee rather than to individual owners, so this is regarded as a collective responsibility. My suggestion is that repair orders should be served to owners' corporations and individual owners. If there are 20 households in a building, a repair order should be issued to the owners' corporation as well as to each household. Why? If later on, a certain owner refuses to act according to the repair order, a letter of prosecution can be sent to the owner concerned. Assuming that among 100 owners, only 90 are willing to pay for repairs and maintenance, the owners' corporation cannot pass endorse the repairs and maintenance. When the authorities prosecute the owners' corporation, the 90 owners have to assume responsibilities. In fact, these matters have been discussed many times. I do not understand why this is still not done. The Administration should prosecute the 10 households who refused to pay. It should just criminalize the violation. If there are reasonable grounds, for example, the people involved are the elderly, lack financial means or have children attending schools, they should be allowed to give their reasons.

Many households whose properties have been acquired and people who have money but are unwilling to pay for repairs and maintenance of buildings like the Government very much because the authorities will not prosecute them and it will only prosecute owners' corporations. So, they can slip away. I have heard many cases that made people furious, for example, even owners who were willing to pay were prosecuted because the owners' corporations were prosecuted, so the owners had to assume responsibilities.

Deputy President, the third issue that the Secretary has to consider is that for the moment, only the common areas are inspected. However, given the high property prices and rental, a common phenomenon in all old buildings is that the two tenants of flats of some 400 sq ft to 600 sq ft were driven away. Then, without filing applications with the authorities, the flats were divided into eight units. If a flat of 600 sq ft is let to one household, only \$8,000 will be received in rental, but when it is divided into eight units, each household will be charged \$1,500, that is, a total of \$12,000 to \$16,000 in rent can be received. This is really wonderful. The owner will surely not file applications with the authorities. May I ask the Secretary: in accordance with the law, on what grounds can premises be entered to find out if there are any unauthorized fitting-out works? Regarding these so-called luxurious and extremely expensive unauthorized cubicles, the authorities can do nothing. They can only apply for certain court orders but this is very time consuming. I wonder if the authorities still have other methods. However, if this is not done, no improvement will be made to the building conditions.

Deputy President, whether or not any review on the so-called inspection procedures as we have seen is required is open to discussion. I cannot draw any conclusion or blame any colleague but there is a general feeling in society that the Buildings Department is dealing with those urgent cases posing immediate dangers first, which is a right thing to do because resources are inadequate. However, the present situation is already improved as compared with the situation a decade ago. I remember that 10 years ago, I told owners of private buildings that they might as well throw the orders from the Buildings Department into rubbish bins as they did not have to pay attention to them. At present, most of the orders do not have to be heeded either, unless they are highly mandatory or very stern. How should we decide whether they are stern or not? I really do not know. Therefore, what the Secretary has to consider is whether or not it is necessary to devise a way to make people who received repair orders think that it is a serious matter. What are real orders? There are far too many cases of false alarm, so people will not pay attention after they have received the orders.

Deputy President, time is running out. I can only raise a couple of points. The last point that I want to make is that the change in culture is actually a formidable task. Some improvement has been made in the past decade or so. I cannot say that the Government has done nothing. However, the core of the problem is that too many interests are involved. In fact, I do not want to put too

much blame on the small property owners because a very small number of them had the abilities to pay for repairs and maintenance but were unwilling to pay. I think that the situation that faces the Secretary is that, through intermediaries, major property developers are acquiring properties in various districts. I have not heard any good suggestion from the Administration about how to deal with this issue. If this issue is not dealt with properly, I do not think the approach you are now adopting will definitely be feasible.

Of course, as the law has so provided, actions can be taken and legal proceedings can be instituted. However, the authorities still have to think carefully how to handle the huge groups with vested interests. Otherwise, even if the legislation is passed and small property owners have to act in accordance with the law, will these prominent developers, intermediaries and groups acquiring properties abide by it? I do not know. I wish the authorities good luck. Thank you, Deputy President.

MR IP WAI-MING (in Cantonese): Deputy President, last Friday, on Ma Tau Wai Road, an incident of building collapse rarely found in Hong Kong happened. I recall that, on that day, quite a few Honourable colleagues and I were watching a live broadcast on television in the Ante-Chamber and we were saddened. We questioned why a building could turn into rubbles within 10 seconds and lead to four deaths and two injuries. We are still dealing with the aftermath. Today, representatives from the Government have come here to listen to our speeches and many Honourable colleagues have expressed their views. Therefore, I am thankful to Ms Starry LEE for moving today's motion. I also hope that the Government, owners of old buildings as well as all members of the public in Hong Kong can learn from this experience and mend the fold after a sheep is lost. In the future, the recurrence of similar incidents has to be prevented by carrying out proper repairs, maintenance and regulation of old buildings. After all, at present, there are still more than 16 000 private buildings aged 30 years or above, and 4 000 of them are 50 years old or above. If there is any slip in gate-keeping, I am afraid this kind of tragedy may recur and pose threats to the lives and properties of the public.

(THE PRESIDENT resumed the Chair)

Therefore, we are of the view that, in the future, in order to preempt problems, it is necessary to carry out in earnest the inspections of old buildings, re-establish regulations and policies for redevelopment. We should also monitor the effectiveness in clearing unauthorized building works in old buildings as well as seriously review the building inspection process.

President, this building collapse incident in To Kwa Wan has undoubtedly exposed the potential danger of the dilapidated old tenement buildings as well as the problems with the relevant policies. According to the comments made by the Director of Buildings a few days ago, the collapsed building was inspected in 2004 and repair orders were served on the owners concerned. Subsequently, the repair works were completed several years ago. However, early this month, when the Buildings Department inspected the building concerned again, it found that there were still problems and repair orders were served on the owners concerned again.

Why is it that within the short span of just a few years, repair orders were served on the same building on two occasions? Is it because the repairs and maintenance done in 2004 was too perfunctory? Or, is it because the building inspections done by the Buildings Department back then was not stringent enough? It was extensively reported that the collapsed building had been offered for sale already. Therefore, the principal owner did not intend to carry out the repairs work properly and they even thought that the more dilapidated the building was the better as this would mean that it would be easier for it to be acquired. In fact, this is the way of thinking of many owners. As many Honourable colleagues mentioned earlier on, they do not want to repair the old buildings at all and they just wish that someone or the Land Development Corporation will acquire their properties. As a result, many people living there have to be in a state of anxiety.

Take the dead and the injured in this accident as an example, most of them are precisely tenants and most of them are the grassroots. For various reasons, some of them cannot be allocated public housing whereas some of them are forced to live there because they are badly off. Therefore, I think we can only rely on the authorities and the Buildings Department to act as gate-keepers for the safety of these residents in old buildings.

However, at present, the regulation and law enforcement by the Government on the safety of old buildings are obviously inadequate. I found

from the work records of the Buildings Department, that there are only 1 000 target buildings selected by the Buildings Department for the removal of unauthorized building works each year and only 150 target buildings were selected by the Department of its own accord for the Coordinated Maintenance of Buildings Scheme. This kind of inspection is merely a drop in the bucket in view of tens of thousands of old buildings in Hong Kong.

After the recent accident, as usual, in order to show the public right away that something is done, the Government requested the Buildings Department to form 40 teams to inspect 4 000 old buildings aged 50 years or above within a month. In other words, each team has to inspect three to four old buildings each day. Not only does this kind of workload passed down from the senior level put front-line staff under pressure, it may also affect the quality of inspection and, in a way, members of the public will hardly have confidence in the Government. They will ask: Is it possible to inspect 4 000 buildings in a month? Can the inspection staff enter the owners' premises to inspect whether or not there is any alteration to the structure?

According to some members of the trade, in the investigation of an old building, it will take at least half a day just to look at the plan, make records and carry out inspections. It will take even longer to inspect things such as concrete. However, the authorities are asking a team to inspect three to four buildings a day. Indeed, they cannot possibly do the work carefully and, in the end, they will just have the work done perfunctorily.

In fact, is it just doing something as a mere formality to tell the public that the Government has done something? Not only is there very short time, a more important issue is whether or not the Buildings Department staff have the confidence and morale to do the job well? I am not querying the professional ethics of the Buildings Department staff but the Government's approach will make them lose confidence and feel sad. Earlier on, Dr PAN Pey-chyou and I have just followed up the case of the dismissal of some contract staff of the Buildings Department. To our knowledge, due to a lack of additional funding for the department in the coming year, the 700-odd staff will not have their contracts renewed from March next year onwards. Although the Government is only saying that their contracts will not be renewed, from our point of view, this is no different from laying them off and as many as some 700 people are involved. The job of these staff is basically the same as other staff of the

Buildings Department. Most of them are staff in the Existing Buildings Division, closely connected with the safety of old buildings. They are responsible for the removal of unauthorized building works in old buildings, following up the complaints from the public and handling building safety issues.

Earlier on, when we met with the department and the Secretary, we already reiterated that the safety of buildings and lives should be the prime concern and the Government should not reduce funding for building safety. However, the response from the Department at that time was that it insisted it would not renew the contracts of this group of staff. After the layoff, the number of buildings that can be inspected within a year may shrink from 1 000 to 200. We hope that the Government will not think that, after removing 400 000 unauthorized building works, the remaining 400 000 will be safe. In fact, we think that the problem may have arisen because of the ageing of buildings and inadequate monitoring. This disaster, which we do not wish to see, has already shown us that there is a hotbed. While our advice is still ringing in our ears, the accident happened. It makes us feel that there are a lot of examples in Hong Kong in which price is paid in blood and perhaps the same is true with our policies. For this reason, the Government immediately requested the department staff to work at full steam.

I would like to ask the President how would you feel if you were a contract staff of the Buildings Department? Frankly speaking, the staff to be laid off are fully aware that they will be sacked. Their morale is surely very low. However, even for those who are lucky enough to be spared of a layoff, their workload will significantly increase as a result of the layoff in the department. Now, they are required to inspect 4 000 buildings within one month. Then, is this not a possible mission for them to put on what we call a show for the Government? We can also understand their feelings. Therefore, I would advise the authorities not to act like an ostrich by turning a blind eye to the potential problems in building safety or subjectively think that they are already doing very well, supposing that the existing work does not require too much manpower. The fact is quite the opposite. The problem of dilapidated old buildings is still serious. The Government only needs to look at the press reports these few days to realize that the problem is so serious that there is no time to lose. We from the Hong Kong Federation of Trade Union (FTU) hope that the Government can withdraw its decision, review the existing policies and work procedures again, continue to employ those some 700 staff and allow them to continue to work for building safety in Hong Kong. I think that, apart from

helping the staff retain their rice bowls, this can also restore public confidence in building safety.

President, lastly, I would like to talk about the arrangements made in the aftermath. After this incident, each time the affected residents spoke through the mass media, they complained about the Government. Some said that the Government's emergency aid came too late; another person said that he was only given one blanket for the night. The Government has arranged for the residents to move into Shek Lei interim housing but it also aroused discontents among the residents as it is too far away from their community. I believe that there is room for the authorities to make improvements in these areas, in particular, in assisting eligible residents in moving to public housing and providing support to their families and to them. The FTU hopes that the authorities can speed up its work and make better arrangements.

In the long run, the Government should also identify room for improvement in the policies relating to old buildings. For example, whether or not it should strengthen efforts in the implementation of mandatory building inspection in the future, whether or not it should examine the effects of lowering the threshold for compulsory sale on the residents and old building safety, as well as the Urban Renewal Authority's criteria for selecting old buildings for redevelopment. I hope that the Government can reflect on its policies after this accident. I hope that the Government could appropriately respond to our appeals because the staff of the Buildings Department are still sticking to their posts and are still professional and responsible despite their low moral. However, they do not wish to see their efforts go unrewarded. We hope that the Government would review afresh the existing policies and human resources in order to make better deployment. Apart from the fact that we do not wish to see an even higher unemployment rate in Hong Kong, we also hope that more satisfactory living environment can be provided to Hong Kong people and they are not regarded as important only when something happens and disregarded when trouble is over.

President, I so submit.

MR JAMES TO (in Cantonese): President, I take part in this motion debate sombrely. I bade myself not just to express my concern after this incident has taken place, that is, to make some general comments pointing out a phenomenon,

expressing a goal or the wish for a world of great harmony without making in-depth analyses or useful suggestions.

President, so far, we have no idea what caused this incident but it seems many people hope that it was due to the demolition of pillars by workers that the building collapsed. In that case, at least, the building inspections carried out by the Buildings Department would not be blamed and would be acceptable. However, it is also possible that the collapse had nothing to do with the demolition of pillars by workers but was due to some distant causes. This is because, at the scene of the accident, it could be seen that the building concerned, just like many other buildings, had been converted so much that it was in a very parlous state. In fact, the sole principal owners of these buildings have the abilities and means to ensure the safety of tenants and the tenants living there should not assume responsibilities for repairs and maintenance, so I cannot help asking how we should deal with this.

President, if you ask me why buildings become dilapidated, in fact, this issue is very complicated and involves a matter of attitude, that is, whether or not there is the desire to do something because different people have different goals and values. Why do I say so? Because taking the entire row of buildings at the scene as an example, as far as I know, many property developers have already acquired the flats. If property developers have acquired the flats, they certainly want to redevelop these buildings because they all want to make money. If they cannot buy all the flats or they can just buy 90% of them, and they want to apply for compulsory sale, it would be impossible to carry out redevelopment. All along, the Government has adhered to this position, saying that if property developers are already doing something, naturally, a slow process will produce quality results. Moreover, the acquisition of old buildings cannot be completed overnight, so if we want to let someone else do the job, this would often pose obstacles to the Urban Renewal Authority (URA) in respect of major policies. As a result, the URA can only deal with buildings that property developers are not interested in.

However, we have to remember that, after property developers have acquired the properties, although they may have different ways of thinking, their ultimate goal is to buy the buildings. If a building is dilapidated, to put it bluntly, it would be easier for them to buy the flats owned by the remaining owners. Of course, there are several possibilities in respect of the flats owned

by the remaining small owners. Some of them live in their own flats, so, if a property developer wants to acquire other flats, they hope that the building will become even more dilapidated. This way, the remaining owners will be more willing to sell their flats. Why? Because these small owners are living in the buildings. Some other owners may have leased their flats and they may have property management agents such as Kam Shan and Hang Seng manage their flats for them. In that case, do all of them care about the safety of their tenants and are willing to pay for repairs and maintenance? For this reason, even if the Buildings Department issues repair orders, to a certain extent, if these owners do not comply with them, in many cases, the safety of tenants and other people cannot be ensured. Thus, something has to be done in this regard.

I know that many owners and tenants would seek the assistance of Members after they have received repair orders. Perhaps I am not a very popular Member because my foremost consideration is very often building safety. I would tell them that if they do not have reasonable grounds, they do not have any justification for starting the works. If they ask me to write a Member's letter to create hurdles for the Buildings Department and ask them not to enforce the relevant orders or not to institute any prosecution, this would only land all parties in the same plight rather than solve the problem. Perhaps because I have this attitude, many owners often do not understand why Mr TO would behave this way. I think there is really something wrong with them if they think that they can cause delays to the Buildings Department's work.

Similarly, building repairs and maintenance involve a matter of means. These people may be short of funds, and as I said just now, some people are unwilling to do so or deliberately refrain from doing so. To be fair, I must say that, in the past, the Government frequently said that building repairs and maintenance were the responsibilities of owners and, at the most, it offered loans to the owners. However, now, the Government has come up with another reason, saying that it wants to create jobs, so \$1 billion or \$2 billion as though they are the materials of the URA. All in all, it has delivered all the materials.

However, Members must bear in mind that, for some owners, even if you give them funds, they still do not know what to do. So these people have to rely on the second part of the Operation Building Bright, that is, the Buildings Department will name them, saying that they are not of any help, so services might as well be offered to them. Nevertheless, I know that, very often, even

though the Buildings Department has named some buildings — of course, it would accord priority to the most dilapidated ones — if those buildings do not have owners' corporations, even if they are named and required to carry out repairs and maintenance, how can this task be carried out? For this reason, it is necessary for some people, perhaps the colleagues of the Home Affairs Department (HAD), to provide assistance. However, we have not set any target on how many buildings colleagues of the HAD have to deal with. To be honest, the colleagues of the HAD often accord priority to large buildings because they want to claim credit, so they want to deal with buildings with hundreds of tenants first.

If a building only has six times two, that is, 12 households, in that case, an owners' corporation will only include 12 households to be dealt with. Nevertheless, these 12 households rather than those buildings that are some 10 years old and managed by professional management companies like Hong Yip that are most in need of handling. The problems relating to the latter are conversely not so pressing. As Mr Frederick FUNG said, if a building is already managed by a professional management company, quite a lot of problems should have already been solved. Many owners often say that they are facing a lot of difficulties, but, is that really the case? My view differs a bit from that of Mr Frederick FUNG. For example, I am talking about six times two, that is, 12 households or maybe 14 tenants. If 30% of them require to be handled, at least three to four households would be involved. Sometimes, when the matter is imminent and the authorities have served orders, this may really spur them to seek assistance. They would seek assistance from Members from various political parties and colleagues of the HAD. To be honest, is it possible that not even three or four households can be contacted? This may not necessarily be the case but those households whose flats have been acquired really would not bother. Since property developers have acquired their flats, they really would not care. For them, it would be best if the buildings would become even more dilapidated. We can see that, at present, so long as more liaison work is done, and it is still possible to find three to four owners, but the task must be done actively. If it is said that the HAD is not the most suitable party to perform this task, as the second best option, may I ask the Government if it can ask some social worker teams to perform this task?

These so-called building social worker teams will be tasked with assisting owners in establishing owners' corporations. Of course, this involves whether or

not, after their establishment, the Government would continue to I do not know what the views of the Financial Secretary are. For example, it seems that the surplus will increase this year because the property market is booming. Consequently, government revenue will increase and so will the revenues from stamp duty and of the Exchange Fund. In that event, can another building renewal campaign be launched and a further step be taken? If we want to move forward, more funds have to be allocated. Can the additional funds allocated be spent on old buildings of a greater number and making up the majority of the buildings named by the Buildings Department as requiring repairs and maintenance? This is because the Buildings Department surely would not be mistaken in naming those buildings. It surely knows which ones are the most dilapidated and will surely recommend according priority to them. Now, the Government has departed from its old way of thinking because it says that jobs have to be created, so it has even provided subsidies to shops, right? In the case of the elderly whose homes need repairs and maintenance, no question is asked about their assets before subsidies are provided. In fact, to a certain extent, they only need to apply but the problem is that they have to file applications, yet they do not even know how to apply. What can be done? In addition, in some circumstances, 80% is subsidized, can we only subsidize 80%? Can greater flexibility be exercised in the use of the funds?

President, I also want to respond to another issue is the inspection criteria. We have not yet found out the truth of this incident and whether it was really due to the demolition of the main pillars by workers or other general repairs and maintenance, thus, the entire building has actually been significantly converted. However, what we can debate at this moment is the fact that the authorities had inspected the building. It was inspected several months ago and declared as not posing any immediate danger. Are there any similar cases where similar buildings have been inspected and declared as posing no immediate danger? Concerning those buildings on which repair orders have been served, are they reliable after repairs and maintenance and can we trust that they are safe? On what basis can we have trust? Does any one know the reasons why repairs and maintenance needed to be carried out?

Since we do not know so far what caused the incident, should we also review whether or not the inspection standards should be more thorough? To draw a simple analogy, each year, I undergo an annual physical examination,

which includes blood tests and urine tests. The doctor says that there are several packages that cost \$500, \$1,000 and \$3,000 respectively. If I choose the one that costs \$3,000, I would undergo more tests, including tests to confirm such diseases as cancers and diabetes. Can similar criteria be applied to the situation now so that the standards would be raised and more in-depth tests be conducted?

On the urgent inspections on this occasion, we are not going to enter individual flats, not even common areas. We are just making observations from the outside. In the past, the Buildings Department kept files on some buildings, particularly those very old buildings. What problems do these buildings built 50 years ago have? These buildings are frequently served various orders and objects will fall from them. They also have many minor problems. If we update their files merely by looking at their outer appearance, is this adequate for ensuring the safety of the residents? According to what many engineers say, greatest problem is caused by the internal conversions, even the floors of the buildings have been converted. If we do not enter these flats, can we see these conversions and spot the dangers?

If internal fitting-out works affect the structure of a building, this is very dangerous. What should we focus on? Frankly speaking, if the fitting-out works is carried out behind doors, it is difficult to know the details. Two types of people have to pay particular attention when carrying out this kind of projects, one of them is the so-called fitting-out masters. I hope that fitting-out masters should know — I do not know what organizations they belong to — or I wonder if there are ways to make them become aware that they must be very careful. The Secretary said that, in the future, if the cause of the incident is known, criminal responsibility would be affixed, so it is necessary to explain these responsibilities to these people clearly. Of course, they can still pay no heed and do the job casually. Nevertheless, it is also possible to find someone, that is, to find people to act as intermediaries or informants. For example, for buildings with owners' corporations or watchmen, is it possible to ask the watchmen to pay more attention to these fitting-out works? If it is found that there is any illegal conversion or it involves structural walls, can a report be made? At present, if one's neighbour abuses his children, some people would make a report. The Government broadcasts announcements of public interest in this regard constantly, so, if a person's neighbour converts the building illegally, the person's flat would also be affected and the building would even collapse. In that event, everyone would be in trouble, so, is it possible to pay closer attention and make

reports? After a report has been received, is it possible to gain permission for entering the flat to carry out inspections? All these are key issues, so we have to see how we can uncover these cases by all means and whom can provide information that would enable us to uncover these cases.

President, just now, Mr Frederick FUNG has followed up this matter in a very detailed manner. He has thought long and hard and he believes that mandatory management more important than mandatory building inspection, or that mandatory management is the soul. I only support his view half-heartedly. I dare not say that he is completely wrong but I think the problem may not be as simple as he thinks. I am also expressing the following views for Members' consideration.

First, if we want to introduce mandatory management but if the plan does not turn out as expected, in other words, even though the district involved is small but the fee scale practically cannot make any company interested in providing management services without government subsidies, in these circumstances, would it be possible to introduce mandatory management? All right, if subsidies are really essential, that is, if public funds are needed, in that event, not only does the Government have to subsidize building inspections as well as repairs and maintenance, it also has to subsidize building management. Is this practice correct? Would the public endorse it?

Second, if we say that someone has to be found to provide mandatory building management service, from my experience of dealing with a few amendments to the Building Management Ordinance, (since I was the Chairman of the relevant Bills Committees), I think that there is a provision in this piece of legislation but it is specified that this provision can be invoked only when a building is in the worst conditions. Of course, we all find it very strange because insofar as buildings in very poor conditions are concerned, it seems that the Secretary for Home Affairs has not invoked this provision even once. What I do not understand is: Are there not buildings in very poor conditions? Well, assuming that the Secretary for Home Affairs is right and there is really no building in very poor conditions, in that case, can this provision be invoked in the case described by Mr Frederick FUNG? Because the legislative spirit of the provision is that mandatory management of a building is imposed only when a building is found to be in the worst conditions, that is, the owners concerned have to bear the expenses and the relevant authorities will manage the building on their

behalf. Owners have to pay the authorities. In fact, under the existing framework, we can actually do so. Why? Because if a building is found to be in really bad conditions, the Buildings Department can carry out repairs and maintenance immediately and the expenses would be collected from the owners after such works, even though the expenses would be 20% to 30% more expensive than those charged by operators outside. However, how many repairs and maintenance projects has the Buildings Department carried out on this kind of buildings found to be in a perilous state?

Moreover, the question is whether or not a slow remedy can meet an urgency. How much longer would it take before the policy of mandatory management can be introduced? Instead, I think that by stepping up the serving of orders at present, some results can be achieved as they are mandatory in nature. Once there is a trigger, residents will look for Members and other people to help them gain an understanding of the legislation because not everyone can understand those provisions, so this is also a right thing to do. At present, more and more people know how to seek assistance. This way, people can discuss the matter and even pool money together for carrying out the works. As regards the Government, it should launch more programmes like the Operations Building Bright. If there are more requests for subsidizing the expenses on repairs and maintenance of dilapidated buildings, the Government should give these people money to carry out the works, or refer them to social worker teams which will help them organize matters, hold meetings and make decisions. I think this can be regarded as an immediate remedy that can meet an urgency.

MR LEUNG YIU-CHUNG (in Cantonese): President, when the Secretary spoke earlier on, she once again expressed her sympathy for the victims. In fact, this gesture is most desirable as it shows that the Government and Secretary Carrie LAM are both very concerned about this incident. I think this is very good and most appropriate. However, I am worried that some members of the public might ask, "Even so, what then?" They may think that the Government is shedding crocodile tears. President, why do I say this? These members of the public may think that the problem did not emerge only today. In fact, many people know, and even the Secretary may also be aware, that this problem has existed in the community for years, only that those people do not know who should be responsible for helping them solve, face and deal with the problem.

Today, the Secretary said that she was very much concerned about this matter and on the day of the incident, she even said that inspections of the other 4 000 old buildings would be carried out as soon as possible or even right away. When she spoke just now, she also reiterated such an attitude and position, hoping that similar incidents could be prevented. Of course, I think this is a highly desirable and appropriate response. However, the question remains: Can everything be resolved after the inspections? The public will raise such a query again.

President, why do I say so? In fact, just now, the Secretary provided some information to us, saying that the problems in connection with demolition, illegal structures, co-ordination or repairs and maintenance have been brewing for a long time and they did not occur only today. Unfortunately, the problems still exist. Why? We must target the core of the issue. If we only take cosmetic measures to deal with it in a perfunctory manner, can the problems be solved? I hope the discussion today can really find out the crux of the problem. Otherwise, if we only propose some schemes, policies or legislation, as if we were addressing the problems squarely, ultimately, they would still persist.

In fact, we all know that there are many reasons why small property owners do not carry out repairs and maintenance. Some of them may not be able to get any financial assistance and they lack the means; some buildings do not have any owners' corporations, so issues relating to co-ordination cannot be resolved, or although there are owners' corporations, there are discord and conflicts among the minority owners. Have we solved these problems properly? Today, it looks as though the Government has given a proper account to the community because it said that it would launch an investigation as soon as possible to examine how the problems could be solved. Moreover, the Secretary has also responded to Ms Starry LEE, saying that the Government is really people-oriented rather than otherwise as it has already done its utmost. However, has it ever occurred to the Secretary that, apart from wishing that property developers would acquire their flats, the tenants or small property owners would never want to live in such old and dilapidated dwellings? Who would really want to do so? As the saying goes, "Nobody with a head of hair will want to look bald." Now, it all depends on whether or not we can help them find out the real cause of the problems and solve them.

The Secretary said that everyone wanted a cosy home. In fact, the low-income people want to have a cosy home all the more because they have never had one. They have never enjoyed the sweetness of a cosy home. They can only see what others have, therefore, they hope or long for a cosy home. Unfortunately, all along, they have never been able to find one, nor can they succeed in waiting for one. I believe Under Secretary YAU understands this the best because recently, many groups and individuals have come to the Legislative Council to tell Under Secretary YAU, with tears brimming, that they want to have a cosy home. The walls and ceilings of their present homes are spalling and water is leaking. But, they have to live in these places all the same because, although they want to move into public rental housing (PRH), they are not qualified. Here is the problem. Do we have any complementary measures to help them?

That day, many groups, individuals and us all said after the meeting that the Under Secretary was only reciting lines, talking about some rigid and cold policies, for example, that single people have to wait in the queue, meet score requirements and wait. They may have to wait for 10 to 20 years, perhaps to no avail. His remarks were cold. Can their problem of looking for a cosy home be solved in this way? No. Therefore, I think that in dealing with this problem, we cannot just talk about policies, nor can we just talk about the prevailing situation.

Mr Frederick FUNG put it very well when he said that after a major fire disaster, we would inspect fire protection installations. After windows had fallen down, the inspection of windows was made mandatory. After this building collapse, building inspections would be made mandatory. The impression conveyed by the law is that it is really cold and rigid, so how can such an approach be described as people-oriented? Is the law originally designed to be people-oriented? I believe this is not what is meant by people-oriented administration. To be really people-oriented, we have to truly empathize with these people's problems and assist them in solving them. The enactment of legislation is just a punishment, and I think the problems cannot be solved merely by means of punishment. Even if it can solve part of the problem, it cannot solve the problem completely. The most important thing is that we must have a comprehensive set of complementary measures to solve the problem. For example, if we can help that group of low-income people move into PRH, they do not have to live in tenement buildings. When the demand for old tenement

buildings in the market is great, small property owners do not have to care about the poor living conditions in them and it would not be necessary to make improvements before letting people move in. The present problem in the market is that a lot of people cannot move into PRH but due to their low income, they cannot move into places of better conditions either. As a result, they have to live in such poor conditions. When small property owners find that there is a market even for such dilapidated buildings, they would pay no heed to the poor environment and would just let it exist, since they themselves do not have to face it. This is one of the numerous problems, but we have not addressed it squarely.

Moreover, even if small property owners wish to carry out repairs and maintenance, due to the many problems in the objective circumstances, they are deterred from doing so. These problems include the relationships among neighbours, the relationships among small property owners, the relationship between small property owners and owners' corporations (OCs) and how OCs handle conflicts after establishment, and so on. Just as Mr Frederick FUNG said earlier on, many OCs face a lot of problems but they do not know how to handle them, so can anyone help them? No. Why? The colleagues in District Offices are only concerned about buildings not establishing OCs but after they have been established, what then? They would say to these OCs, "We will not intervene anymore. You have to handle your own affairs. Even if we attend the meetings of OCs, we would only do so as observers and would listen but not speak. We will not intervene anymore and you have to take care of your own affairs properly. We cannot provide assistance anymore.". No matter what problem has emerged in these OCs, the officers of the District Offices will not pay any heed. Consequently, it is difficult for small property owners to handle the conflicts among themselves, nor are they in a position to deal with thorny issues. The District Offices think that these OCs are private corporations, so private matters should be dealt with privately and they cannot possibly interfere with so many things. As a result, many problems have arisen.

In view of this, I think that in the discussion today, the most important thing is we must understand that we cannot just adopt a stopgap approach. After a major fire disaster, legislation would be enacted to require the inspection of fire protection installations. After windows had fallen down, legislation was enacted to require mandatory repairs. Now that a building has collapsed, legislation will be enacted to deal with this problem. This is exactly a stopgap approach, devoid

of any comprehensive measure. In addition, it was also said that we could perhaps conduct a further review, but such a review would show that in the past one or two decades, the practice has always been like that. For this reason, if we really want to address this problem today, I hope the Secretary can do something. Today, I have to thank the Secretary for having invited colleagues from other departments to attend this meeting together with her, for this gives us the impression that this matter is not dealt with by a single department, rather, many departments have joined hands to deal with it. However, President, my greatest worry is that in the end, the situation would just be like that in the past, with everyone minding their own business and passing the buck to one another. In the end, no one would assume full responsibility. We have seen this all too often.

For this reason, I think that since Secretary Carrie LAM has assumed leadership in dealing with this matter today, I wonder if she would carry it through and play a co-ordinating role. Without a co-ordinator, various departments would only shift the responsibility to one another constantly in dealing with this problem, and there is no knowing who is in charge and who has assumed leadership. Therefore, I think that the most important thing is to have a co-ordinator, so that various departments can come together under a co-ordinator who has taken charge of the matter. When formulating policies, the most important point is that we should not just look at one or two issues but the whole picture because a comprehensive measure is very important. I believe the problem cannot be solved by dealing with just one aspect. I hope that today will mark a good beginning, so that this unfortunate incident will bring blessings. After a tragedy has struck, we must learn a lesson and start anew based on the experience gained over the years and help a group of grass-roots people or small property owners who are not very well-off to face and solve the problems.

Tenants have their own difficulties and so do small property owners. At present, they cannot possibly spell out all the difficulties faced by them, but they definitely need the continued assistance of various departments. Such assistance is like that provided by the URA when it carries out redevelopment. Just now, Mr James TO put it very well in saying that the URA makes it a point, when carrying out redevelopment, to deploy social workers to help deal with various problems in local communities. Similarly, concerning the issue of repairs and maintenance of old buildings in old districts, will the Government consider setting up social worker teams to help the people concerned resolve their

difficulties? Setting up social worker teams is an excellent idea and I hope the Government could consider this. It is always better to assign the problems to various departments and let them study how to carry out division of work and how to solve and deal with problems than to legislate on this and that. Punishment is not the best way to solve problems. Punishment can only have a deterrent effect on people who have the means, but for people who want to do a proper job but lack the means, imposing punishment on them would not help. They can only take whatever punishment is meted out to them but they still cannot cope with the problem. If they cannot solve it, they just cannot and what can they do? For this reason, although an incident that no one wishes to see has happened, we still hope that the authorities can establish a co-ordinating department and assign someone to assume leadership in dealing with this matter, then adopt comprehensive measures instead of a fragmented approach to deal with the problem, still less a stopgap approach. I believe it is only in this way that we can get results.

I also hope that the repairs and maintenance as well as the management of private residential properties in Hong Kong will see positive development in the future. Only in this way will Hong Kong people have a sense of belonging. In fact, Hong Kong people attach great importance to housing and they yearn for a cosy home. I hope the authorities can assist them in securing one. In this regard, I believe PRH is extremely important to the low-income grassroots. I hope the authorities will provide more PRH and relax the application criteria to give people more opportunities of moving into such housing, so that they can enjoy cosy homes and stable jobs. All along, the development of Hong Kong relies on the provision of public housing, and it is also conducive to economic development in Hong Kong. I hope the Government will attach importance to this, and it must not adhere rigidly to the existing rules or the existing PRH construction targets. If the targets can be set higher, so that more people can move into PRH, this will drive the development of private residential properties. I hope the authorities can deal with these problems in a holistic manner.

President, I so submit.

PRESIDENT (in Cantonese): It is now 8.30 pm. I will adjourn the meeting at about 10 o'clock and resume tomorrow morning.

MR CHAN KAM-LAM (in Cantonese): President, having heard Mr LEUNG Yiu-chung's comments, I also have some thoughts and feelings. The Secretary expressed her concern for victims after the building collapse, but Mr LEUNG Yiu-chung went so far as to describe this as shedding crocodile tears. I

(Mr LEUNG Yiu-chung raised his hand in indication)

MR LEUNG YIU-CHUNG (in Cantonese): President, I

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, please hold on. Mr LEUNG Yiu-chung, what is your point?

MR LEUNG YIU-CHUNG (in Cantonese): President, just now, I said very clearly that

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, do you wish to clarify the part of your speech which has been misunderstood?

MR LEUNG YIU-CHUNG (in Cantonese): I have been misunderstood.

PRESIDENT (in Cantonese): You can make a clarification after Mr CHAN Kam-lam has spoken. Mr CHAN Kam-lam, please continue.

MR CHAN KAM-LAM (in Cantonese): I still have a lot to say. You may make a clarification later.

I think we should be more magnanimous and look at problems from the longer perspective. Nowadays, we are in fact living in an era which ownership is everything. Very few of us have ever said that we have both ownership and responsibilities. Therefore, once any incident happens, we will simply put the blame on the Government or society, wondering why it has failed to give us

more, lend us a helping hand or rehouse us properly. However, we will never say that we, being residents of that building, should bear certain responsibilities.

President, in case we are discussing a fire disaster today and there are faults on the part of fire services, should we dig some holes on the ground after the fire? In the wake of the building collapse, if we do not remind the public of carrying out repair works, should we ask owners to sit idly with folded arms? If we do not treat the head when we have a headache, should we tend to the foot instead? It really baffles me. Therefore, as for those Members who have criticized the Government for doing nothing, I hope they can open their eyes wide and take a look. Two consultations were conducted in respect of the building inspection scheme in 2003 and 2005 respectively. Have we ever faced up to these problems squarely? They say that the Government has not conducted any consultation on redevelopment. The Urban Renewal Authority (URA) was established in 2001 and a strategic consultation was already launched last year. How come they dare say that the Government has done nothing at all? I hope Members can really state the truth and do not mislead the public. In this way, I believe we can tackle some problems in a more constructive manner.

President, people in Hong Kong were all shocked by the building collapse incident on Ma Tau Wai Road. Many people said that they have never seen such kind of building collapse before. Of course, I think this has also served as an alarm, reminding us of the importance of maintenance and redevelopment of old buildings. Seemingly, it has become a mere platitude to talk about maintenance and redevelopment of old buildings in Hong Kong over the years. All along, the DAB very much supports redevelopment plans, such that the progress of revitalization and renovation of old districts can be accelerated. The building collapse incident this time has in fact made us feel that redevelopment and revitalization of old districts is not only a must, but also a task of great urgency that brooks no delay.

Recently, we have met with a lot of people. Many property owners in old districts have approached us after the building collapse incident, hoping that we can help them to expedite the redevelopment of old districts. In particular, the Secretary has proposed the implementation of the Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme in old districts in this Chamber today, which has aroused their concern. We have traced some problems relating to old buildings for a long period of time. After listening to the opinions presented by owners, we have gained a thorough understanding of

the problems in old districts. We can say that these problems are interlinked and numerous. Many buildings are in an extremely dilapidated condition, with a poor living environment and very unsatisfactory management and maintenance. As we can imagine, these buildings have neither lifts nor management companies. Those living there are the elderly, new arrivals or even low-income earners. Many owners told us that they have no choice but to wait for acquisition and redevelopment. Otherwise, no one wants to take them at all. Why? Because substantial costs will be incurred for repair works and management, and such works may be conducted endlessly.

Therefore, having heard of the Operation Building Bright to be launched by the Government, many owners are in a dilemma. On the one hand, they know that the Government will grant subsidies for them to carry out repair works. But on the other hand, they also know that once such works is commenced, the problem cannot be resolved simply by spending \$10,000. As no repair works has been conducted for a long period of time, once such works is commenced, it may cost \$30,000 to \$40,000. Most of the owners in fact want to move out and sell their flats as soon as possible, how will they consider carrying out such works? Worse still, the problems relating to these old buildings cannot be resolved merely by repair works. Many owners of old buildings have spent several million dollars on repair works, but the basic living environment has not improved substantially. Let me cite a few examples here. For instance, the Yau Fook Building at Cha Kwo Ling, which aged 42 years only, has incurred over \$3 million for repair works recently. However, shortly after the renovation, rusty water continues to seep through its walls. We have met with a lot of people, noting that they generally support the redevelopment of old buildings with a very strong determination.

It is my honour to have participated in urban renewal by the URA during the period from 2001 to 2008 and acquired some knowledge about redevelopment, rehabilitation, conservation and revitalization of old districts. During this period of time, the URA completed some of the 25 outstanding redevelopment projects of the Land Development Corporation. Of course, it has also launched many new projects and accumulated a lot of experience in respect of development of old districts. At present, under the operational mode of redevelopment conducted by the URA, the Government has identified 200 target locations in Hong Kong for redevelopment. These target locations will not be disclosed for the Government has a lot of considerations. It is wary about some

people buying in old buildings in these districts in advance, which may give rise to some so-called interest issues. Certainly, it is not an easy task for the URA to complete these projects within a limited period of time. The URA can only draw up an annual redevelopment plan according to its operational capability. As a matter of fact, we can say that the annual target is very small. Once redevelopment projects are identified, the URA has to make preparations for acquisition expeditiously.

Planning of redevelopment projects involves a heavy workload and the process is extremely difficult. The most controversial part is the determination of the acquisition price of properties. At present, the URA will offer compensation with reference to the price of buildings aged seven years in the same district. Many people consider such pricing reasonable. Of course, it is provided for by way of legislation, which should be reasonable in some measure. However, in each acquisition, there are always owners saying that the price is unreasonable. Therefore, once an acquisition is announced, there are bound to be a lot of controversies, causing repeated delays of redevelopment projects and the cost incurred will also become higher than anticipated. Since July 2008, the Administration has launched a comprehensive review of the Urban Renewal Strategy, and now, the review has proceeded to the third stage.

President, why have I said so much about this? Because I wish to tell those people as they have no knowledge about this. In my opinion, the Bureau should consider the controversies arising in the course of redevelopment and examine afresh the role of the URA. Residents in old districts essentially have the demand for redevelopment, and the URA is determined to promote redevelopment of these old districts, so that residents can free themselves from the constraints of old buildings and improve their quality of living expeditiously. At the same time, it can expedite the pace of revitalizing our city. Frankly speaking, this is an absolutely good intention. However, the redevelopment plan is drawn up by the URA. Inevitably, such a top-down approach will give some people an impression that the URA is bearing down on them. When any controversy arises because of the price evaluation during acquisition, the URA will, very often, be blamed for robbing the public of their assets. Moreover, the redevelopment plan drawn up by the URA has a very limited target. In the coming five years, the number of projects announced by the URA, together with the existing ones, amount to 65 only. However, there are more than 4 000 buildings with an age of 50 years or above in Hong Kong. As for the building

mentioned by me just now, although it is only 40 odd years old, it has already had a lot of problems. Therefore, in case we merely rely on the URA for redevelopment, in view of the existing pace, it is extremely slow. Moreover, as the URA is responsible for identifying sites for redevelopment, it will very often arouse Taking the projects at "Wedding Card Street" and "Sports Shoes Street" as examples, people have criticized the URA for ruining the existing social network among residents as well as the bazaar and features of life unique to Hong Kong. The URA has made a lot of efforts and put in much hard work. But eventually, it has undertaken a thankless task. It can hardly make any progress, hamstrung on various fronts. But this may not be known to outsiders.

In view of this, we should consider changing our mindset. As there is a demand for redevelopment among residents in old districts, is it possible to carry out redevelopment by adopting a bottom-up approach, so as to let property owners in old districts take the lead in that they may take the initiative to invite the URA to carry out redevelopment after obtaining a certain proportion of ownership shares? In this way, the resistance encountered during the acquisition of ownership will be reduced, and more flexibility will be allowed in respect of districts for redevelopment. As the URA can conduct property valuation once owners have obtained a sufficient proportion of ownership shares, the time required for acquisition of ownership and planning of development will be shortened. Since it is also our wish to expedite urban renewal, we think that this is a feasible approach. We made this suggestion to the then chairman of the URA as early as in 2003. As so many years have passed, there may have been some changes. In fact, the URA has really encountered a lot of difficulties in urban renewal over the past years.

In my opinion, in order to promote urban renewal, the mode of renewal should be diversified. In particular, in acquiring ownership shares, apart from financial compensation, can we consider adopting other compensation options, so as to offer more choices for owners of old buildings? For example, the URA can make an undertaking to owners of old buildings that they can enjoy priority in purchase upon completion of the new building. Moreover, it can also provide flat-to-flat exchange, shop-to-shop exchange and even other options to enhance their participation in the entire redevelopment project, so that it can be implemented more smoothly.

Let me illustrate this point with an example. In carrying out redevelopment of the 18-storey Lai Sing Court on Tai Hang Road, a private

developer, after putting forth a flat-to-flat exchange option for the owners and offering them rental allowances for at least three years as compensation, could still reap reasonable profits in this project. Frankly speaking, if private developers can manage to do so, why can the URA not consider adopting it? Therefore, I hope the Secretary can also consider it afresh with the URA and see if the pace of urban renewal can be expedited.

Moreover, we also support lowering the compulsory auction threshold for old buildings aged 50 years or above from 90% to 80%, so as to shorten the time required to obtain a certain number of ownership shares for redevelopment of some old buildings now and minimize the controversies so aroused. I hope the building collapse incident this time can induce more deliberations in Hong Kong. Thank you, President.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, do you wish to make a clarification?

MR LEUNG YIU-CHUNG (in Cantonese): Yes, President. I am concerned that the comments I made just now have been distorted or misunderstood, so I have to clarify. There are several areas that I want to clarify. First, at the beginning of my speech, I already said that the sympathy extended by the Secretary was most desirable and appropriate because as a Government but I was misunderstood.

PRESIDENT (in Cantonese): Mr LEUNG, in a debate, each Member can only speak once. You can clarify concisely the part which you believe has been misunderstood by other Members, but please do not turn your clarification into an extension of the speech given by you in the debate.

MR LEUNG YIU-CHUNG (in Cantonese): I am not trying to extend my speech.

PRESIDENT (in Cantonese): Please put your clarification in a concise manner.

MR LEUNG YIU-CHUNG (in Cantonese): It is not my intention to extend my speech and I am not going to extend

PRESIDENT (in Cantonese): Then, please just point out what has been misunderstood, make your clarification and that would be fine.

MR LEUNG YIU-CHUNG (in Cantonese): Just now, what I said was that I approved of and appreciated the sympathy extended by Secretary Carrie LAM but I was misrepresented as having described the Secretary as shedding crocodile tears. What I said was that I was worried that some members of the public might think the Secretary was shedding crocodile tears. That was not my point, not my opinion.

In addition, I said that it was a stopgap approach and that while it was not undesirable to enact legislation to address certain issues, it could not solve all the problems. I think that if such efforts have to be made, it should be done comprehensively and with co-ordination. I do not mean that all such efforts are completely futile and useless.

DR MARGARET NG (in Cantonese): President, I agree with the comment of the Secretary that the problem of ageing buildings in Hong Kong is very complicated. For this reason, I dare not say that I have any insight to offer or that there is any suggestion that I but not the Secretary can think of. In fact, this problem involves the repairs and maintenance of the whole city of Hong Kong and of course, the repairs and maintenance of a metropolis is a very complicated task, particularly when this is not a case of constructing new buildings. If a project is related to a new development, there would definitely be many people who are eager to spend a large amount of money on it. However, if repairs and maintenance have to be carried out on the oldest and most run-down places inhabited by a lot of poor people, this task will certainly be very difficult.

However, I have all along been very much worried about the ageing of buildings in Hong Kong. Not only does it relate to tenement buildings that are over 50 years old, even some western buildings may also have aged a great deal.

I am also worried that these multi-storey buildings are divided into many units. As these buildings age, what can be done to ensure that they are properly maintained? Under the overall framework in Hong Kong, we have to depend on OCs and owners in taking up this responsibility conscientiously. I am afraid that in the final analysis, this is a major drawback. First, regarding the method of selling properties, since the units are sold by floors and by units, title is most fragmented. Moreover, by the time these buildings have aged, many owners are no longer living in them. When it comes to carrying out repairs and maintenance on these buildings, they have to make calculations. If the cost of maintenance is greater than the income generated, they would rather not carry out any repairs.

However, even the most dilapidated buildings can be leased because there are always a lot of poor people in society. They only have the means to rent such places. Given the climate in Hong Kong and the not so satisfactory quality of some buildings, the situation may deteriorate very quickly. Moreover, each time before a tenant moves in, renovation would be carried out. Some renovations are done quite properly but some parts of a building are actually illegal structures. Regarding some other parts, some tenants are excessively positive in believing that works can be carried out on them, so numerous conversions are made and no one bothers to consult the original plans again. All these are the existing problems.

Therefore, after considering these problems, we would find that the building collapse on Ma Tau Wai Road is, to put it in English, "a tragedy waiting to happen". However, President, I find that this incident has exposed a dark side of society. Today, I have heard many Members voice their sympathy and I also agree with them, but I do not wish to talk about this for the time being. To deal with this problem, we are duty-bound. A government is duty-bound to ensure the safety of this city, so how can we defuse this time bomb?

President, I believe the Government has all along been aware of this problem and I also believe the Government has taken various measures to target the problem of ageing buildings and make improvements. It has made a great deal of effort, for example, by constantly encouraging and advising owners to establish OCs and even assigning officials to help them do so. If these OCs encounter problems, they would be assisted in solving them. The Government also assists in the demolition, repairs and maintenance and clearance operations.

Illegal structures are cleared and subsidies are provided. Secretary, I want you to know that in fact, I can see that you have taken all these measures, but they are not enough. Moreover, the process is often very slow. For example, you proposed several years ago that applications should be made and licences obtained for minor repairs and maintenance works. The Buildings Department wants to ensure safety and it also targets this problem, but it has not been doing a thorough-going job. Why? Because in the end, if property owners refuse to do anything or lack the ability or means to do anything, what can the Government do then? Even if the Government proposes mandatory building inspections and even provides subsidies to those who take the initiative to carry out repairs and maintenance, can the job be done? I have read a lot of commentaries in the press which pointed out that the Buildings Department is short of manpower. Even though it has hired temporary non-civil service staff, its manpower is still inadequate. However, even if I assume that there is enough manpower to carry out mandatory building inspections and when problems are found, owners will be required to carry out repairs and maintenance, but if owners lack the means to do so, what then? Or the owners will perhaps pay no heed because they no longer live in these buildings. The owners may just want to derive as much rent and make as much money as possible from their properties, but they just do not care about repairs and maintenance. Even if the Government serves mandatory repair orders on some buildings, the owners may just ignore them. What can be done then?

I know that the Government has introduced schemes, for example, to assist elderly people in carrying out repairs and maintenance. However, we are talking about the repairs and maintenance of old buildings in danger of collapse, it is not just a matter involving tens of thousands of dollars. It is not even about each household forking out tens of thousands of dollars, rather, a large amount of money may be required. Even if the Government provides partial financial assistance, these people may still have no money to pay for the remaining portion. What can be done then? President, after this incident, some newspapers suggested the establishment of an old building management authority. I neither oppose nor support this suggestion. I think that the most important thing is the policy actually. If there is a comprehensive policy, and if there is a need to establish a dedicated authority to implement the policy, this is certainly justified, but without a comprehensive policy, even if an old building management authority is established, the problem may still not be solved overnight.

For this reason, President, today, I wish to offer some views for the Secretary and her colleagues to explore if they are feasible. I have looked at what powers the Government actually has under the law. If a building has become a dangerous building jeopardizing public safety and the safety of its residents and visitors to the building, what are the power and responsibilities of the Government? Chapter 123 of the Laws of Hong Kong, namely section 26 of the Buildings Ordinance, provides that when in the opinion of the Building Authority any building has been rendered dangerous or liable to become dangerous by fire, wind, rain, dilapidation, use, lack of fire escapes or any other cause, the Building Authority may by order in writing served on the owner declare such building to be dangerous or liable to become dangerous. Such order may require the demolition of the whole or part of such building. Its power is as great as this. Why is it vested with such great power? Because sometimes, the repairs and maintenance of a building is no longer just about the properties of its owners, nor is it just about the safety of the residents in it, rather, it can affect the entire society and general public safety.

For this reason, since the Government has such a great power, the Secretary must I am not asking you to declare which buildings are dangerous on a daily basis because the definition of dangerous buildings surely covers very serious situations. However, this is your power as the last resort and if property owners really refuse to carry out repairs and maintenance and as a result, a building has become dangerous, the Government has the power to issue an order in writing to demand its demolition to protect public safety. Has the Secretary ever considered informing the public of this when carrying out building inspections? Second, after an inspection, if a building is considered to be very old and run down but it is possible to carry out repairs and maintenance and if its residents and owners are also prepared to do so and they attach importance to this, yet they really cannot do so due to resource problems, can the Government consider introducing more schemes in this regard? In particular, in respect of elderly people, at present, money can be lent to them for the purpose of repairs and maintenance but in respect of buildings, is it possible to facilitate repairs and maintenance on buildings by means of mortgages? That is, a charge will be registered and there is no need for owners to make repayments immediately, but when the flats are sold, the Government can recover the expenses.

President, a huge amount of resources, considerable determination and a great deal of manpower is definitely required to undertake such work. At

present, building inspections are being done and the Secretary said that the job would be completed within a month. I believe the inspection of all 4 000 buildings with an age of over 50 years can only be cursory, in the hope of getting an overall picture. However, if we want to ascertain how dangerous a building is or how close it is to becoming dangerous, I am afraid the Secretary has to carry out inspections at greater depth. I know that in this regard, experienced people have told the Secretary that inspecting a building would take more than one day. Reports will have to be compiled, and the materials of the building structure will have to be tested to ascertain how safe the building actually is. For this reason, I believe the Secretary will need a lot of manpower. I think the Government cannot grudge the manpower because the Secretary has said a number of times that although, there are 4 000 such buildings now, a decade later, there will be even more buildings of this kind, and the number will apparently increase by 500. In this regard, Mr CHAN Kam-lam said just now that 50 years was not a magical number and that buildings that were 42 years old may also have problems depending on its construction, so this is not just a problem of tenement buildings. If we think that tenement buildings several storeys tall have problems, can we imagine how the situation would be like if old buildings some 10 to 20 storeys tall develop problems?

For this reason, I think the Government cannot be frugal with such expenses. I know that the Secretary has many responsibilities, but I hope that you can really accord the highest priority to this task. As regards other tasks designed to show off and claim credit, they should be left to other people because those tasks are not very complicated. You are responsible for building repairs and maintenance, dealing with dangerous buildings and problems relating to old districts, and they call for great determination and stamina.

President, I still remember that when I was young (imagine how long ago that was), a major fire broke out in Shek Kip Mei and it was a disaster, a great tragedy that made a lot of people homeless. However, this tragedy gave rise to a public housing programme and nowadays, this programme has become the pride of Hong Kong. I hope that this building collapse on Ma Tau Wai Road can also lead to a beginning by enabling our ageing city to undergo an overhaul, in the hope that attention can be paid to buildings close to becoming dangerous, so that the problem can really be removed for good.

President, it seems I have heard someone cite the saying, "In calamity lies good fortune". President, if I cite it wrongly, please correct me later. For this

reason, when a catastrophe strikes, I hope it can take us to a new level. Secretary, I am not sure if the proposals put forward by me are feasible and you may have already considered them. However, I hope that in your reply later, you can also voice some views and tell us what the authorities would do. All along, this has been a heavy weight in my heart, so I hope I can hear some solutions. Thank you, President.

MR KAM NAI-WAI (in Cantonese): President, all of us have seen the building collapse last week. I think it is very shocking to all Hong Kong people. First, I express my deepest sympathy to the relatives of those killed and the people affected.

All of us can see that on that day, both the Chief Executive and Secretary Carrie LAM went directly to the scene and today, it was also mentioned that the building collapse rekindled social concern about buildings in disrepair and that there is no time to lose in ensuring that owners arrange for regular building inspections. Of course, the Secretary has worked very hard by visiting the scene and making speedy responses. This is laudable, but do we think that building inspections can solve all the problems? Is the Secretary not giving people the impression that she is diverting attention?

The Secretary, the entire Policy Bureau and even various departments may have already done some deep soul-searching. As far as I can remember, a similar situation also occurred in the not so distant past, in 2008. Members may still remember that on Connaught Road West in Sheung Wan, there was this building called Lee Hing House, which tilted to one side like the leaning tower of Pisa. Before that, residents had made complaints to the Buildings Department, saying that the doors of their units could not be closed properly. At that time, the Department told the owners that there was no problem and that the building was very safe. However, soon after the complaints were lodged, the entire building tilted to one side overnight.

Similarly, the building collapse in To Kwa Wan on this occasion — of course, the result of the investigation is still pending — also happened not long after a repair order had been served. I also hope that the authorities could carefully consider the establishment of an independent committee to investigate this incident. If the entire procedure of government supervision on these

so-called dangerous buildings that may pose dangers is not reviewed, I think the Government may not be able to learn from this lesson. I hope the authorities can carefully consider the establishment of an independent investigation committee to examine the causes of this incident and who should assume responsibility, as well as making recommendations on remedies.

Meanwhile, the Secretary also said that the Government had also done a great deal in the past, but Honourable colleagues also asked just now whether or not the authorities had adopted a stopgap approach. Here, I can tell Members about the effects of the legislation that was introduced in the past several years or will be introduced by the Government on owners of old buildings. For a start, there was an illegal structure clearance programme, then electrical installations maintenance was required every five years and many Honourable colleagues are perhaps familiar with this inspection called WR2. More recently, there is the fire safety inspection of commercial/residential buildings in accordance with Cap. 572. What will be introduced soon is mandatory third-party insurance for buildings, which has been raised in a meeting of the Panel on Home Affairs. Moreover, the Legislative Council has just discussed building energy efficiency and energy audit for buildings is in the pipeline. If the legislation on the inspection of buildings is passed later on, inspections of buildings will be carried out once every 10 years and for those on windows, once every five years. In addition, there is also the Building Management Ordinance (Cap. 344), which was passed earlier on. Members can see that the burden on owners of old buildings or buildings in general is increasing.

Although many pieces of legislation are being or will be implemented, in the past, the Government in fact, many Members maintain communication with property owners and I have also worked in local communities for two decades. In my office, meetings of OCs or owners of buildings without OCs are held almost on a daily basis. After the conclusion of this debate, I have to hurry to a meeting held in a building.

I wish to raise several points. Although they do not amount to matters relating to major policies, when we at the front line had discussions with property owners, all these problems were voiced. I wish to raise about seven to eight points, in the hope that Mrs Carrie LAM will respond to them. First, concerning the time for repairs and maintenance, at present, several problems in regulation have arisen, the first being that small property owners have to hire consultants to

oversee repairs and maintenance works and how much do consultants charge for each building? The consultancy fee in some cases is \$5,000 — Prof Patrick LAU is looking at me — this amount of money is charged by consultants on building repairs and maintenance. Although only \$5,000 is charged for tenement buildings, the charges levied by some consultancies may amount to as much as tens of thousands of dollars. At present, small property owners are practically powerless in monitoring consultancies. Actually, the original idea of the Government is that consultancies are responsible for supervising projects but small property owners are even more concerned about the monitoring of consultancies. What role will the Government actually play in regulating consultancies and how would it go about this task? Some people have suggested to us that the Government can consider setting up non-profit-making bodies to provide consultancy service to small property owners, or the Government can directly supervise some consultancies in assisting small owners. This is the first point, which relates to the regulation of consultancies.

The second point relates to decoration companies responsible for the demolition of illegal structures. Today, I have received an email and perhaps the Secretary has also received it. It is addressed to the Secretary, all Members of the Legislative Council and District Council members. It says, "I am a low-ranking civil servant". He made many suggestions that I find very useful. I wonder if the Secretary has read this email, which mentioned the decoration companies responsible for the demolition of illegal structures. First, these decoration companies are not included in the minor works scheme to be implemented soon. Should they actually be included? Members can consider this further. He thinks that the scheme does not include these decoration companies which are responsible for the demolition of illegal structures. What techniques are actually involved in the demolition of illegal structures? In fact, a high level of skill is required. Prof LAU told me at that time that many precautions had to be taken when demolishing illegal structures. However, often, we can see that the demolition of illegal structures on old buildings is very dangerous. We may not be able to identify these illegal structures but it turns out that they are all illegal structures, so we can see how great the number of these illegal structures is. Members also know that if the Buildings Department serves a removal order on the owners of private units, the latter do not have to hire any Authorized Person. They only have to demolish the illegal structures and that is it. There is no regulation on this. What kind of regulations are imposed on decoration companies carrying out demolition of illegal structures?

The third point that I wish to raise relates to management companies. Earlier on, Mr Frederick FUNG said that management is the core of the problem and I also agree with him. Concerning the issue of management companies, in fact, we have discussed some issues for a long time, for example, how a registration system can make management companies levy reasonable charges and subject them to regulation. I hope the Government can do more in this regard.

In addition, on the repairs and maintenance of buildings, I have read the pamphlets relating to the Buildings (Amendment) Bill 2010 mentioned by Mrs Carrie LAM and one of the points therein is on how the authorities will deal with the illegal structures found on buildings in the course of mandatory building inspections. This is also something faulted by many property owners when we had discussions with them in the past. Even though a building is found to have illegal structures or requires repairs after mandatory inspection, if these illegal structures do not pose any immediate danger, they do not have to be removed. It is only when they pose immediate danger that property owners will be required to remove them. In fact, no matter if an OC has been set up for a building or not, small property owners would still encounter difficulties because some parts do not have to be removed, yet overall repairs and maintenance would be affected by them and consequently, the works cannot be carried out. Is a review called for in this area?

Besides, on the repairs and maintenance of buildings, the Secretary also mentioned many loan schemes in this pamphlet, for example, the Comprehensive Building Safety Improvement Loan Scheme offered by the Buildings Department. According to the information provided by the Secretary to us, there are some figures relating to this loan scheme over the years. By the end of 2010, loans amounting to \$570 million will have been approved. Mrs Carrie LAM is perhaps also aware that in various districts, the URA offers a loan scheme that is interest-free. Of course, it would be even more desirable if the Operation Building Bright is launched and subsidies are provided by the Government. Even if this cannot be done, I still hope that the Government can adopt an interest-free arrangement.

Actually, how much interest income can be derived from \$570 million? As far as I know, the present interest rate is higher than P-2.9% but I have no idea how this figure was calculated. In fact, I estimate that at present, the interest receivable by the Government probably amounts to only some \$10 million. If

the interest can be waived, I believe this will help encourage building owners to carry out repairs and maintenance. For example, if the loan is divided into 60 instalments, property owners are often willing to repay the loan because they only have to repay several hundred dollars monthly for repairs and maintenance to be carried out on their buildings. If the cost of repairs and maintenance is only some \$30,000 or \$40,000 and the monthly repayment amounts to only several hundred dollars, the incentive for property owners to carry out repairs and maintenance would be even greater.

Of course, many Honourable colleagues hope that Operation Building Bright can continue, that is, the authorities will offer subsidies. Concerning buildings without OCs, that is, buildings or tenement buildings characterized by "three withouts", "four withouts" or "five withouts", if assistance can be provided to the small property owners of these tenement buildings, for example, if the Government can carry out the repairs and maintenance on these tenement buildings or lend money to the small property owners, the Government may recover the money in the future and this is effectively another Operation Building Bright. The problem now is that many procedures have to be followed, for example, OCs have to be established, so would this cause delays? The authorities can carry out repairs and maintenance when a building is found to be in disrepair and recover the cost from property owners afterwards. The method of recovery can be worked out gradually because money is a very important issue. However, the Government says that it cannot undertake to create employment opportunities for an extended period of time and can only allocate \$1 billion or \$2 billion. For this reason, it cannot subsidize repairs and maintenance for an extended period of time but in actual practice, is it possible to carry out the works first and recover the money later? Can those buildings without OCs or characterized by "several withouts" be helped through another *de facto* Operation Building Bright?

The last point that I wish to raise is about co-ordination, one which many Honourable colleagues have talked about, and I have also looked at the relevant figures. I found that they really are a joke. Co-ordination on building repairs and maintenance is very important, but it turns out that this has all along existed under the name of the Co-ordinated Maintenance of Buildings Scheme. There are many such schemes in the Central and Western District and I can often find many such instances. However, they can only cover 150 buildings each year, so this is really a drop in the ocean.

I think that if the Government really wants to carry out co-ordination — Members can also see that one Secretary and two Under Secretaries are present today — this really is a complicated issue. If no one-stop service is available to help property owners, to enable them to make direct calls to the officers responsible for co-ordinating all the departments just now, an Honourable colleague also mentioned social worker teams and this is a good suggestion. As social worker teams are people-oriented, they are more humane — I do not mean that colleagues of the District Offices are not concerned about members of the public. In fact, they are also having a hard time. Recently, I could see some Liaison Officers stage a protest, and the Deputy Director of Home Affairs at the back is also nodding. They really have a lot of work to do. I do not mean that they are not being humane, only that they cannot deal with it from the perspective of the residents. I am a social worker, and I have received training in social work, so I can empathize with the residents and care about their needs. I believe that if all the departments concerned are co-ordinated to provide a one-stop service and social workers are responsible for actively getting in touch with residents on issues relating to building management, better results can surely be achieved with less effort and only in this way can the whole problem although it may not be possible to solve the problem once and for all, I hope that with our experience of having worked in local communities for some 10 to 20 years, we can provide information and views to the Secretary, so that the problem of building repairs and maintenance can be ameliorated. Thank you, President.

DR JOSEPH LEE (in Cantonese): President, regarding the building collapse incident on Ma Tau Wai Road, it seems we are now having discussions on rehousing, maintenance and demolition. Many Honourable colleagues have put forth different suggestions and opinions on how to deal with the victims.

I notice that public officers from the Transport and Housing Bureau, Development Bureau and Home Affairs Bureau are present today. Precisely one is missing. But seemingly, we have all omitted the one from the Food and Health Bureau. Why? Insofar as this building collapse is concerned, we have so far focused our discussions on rehousing, demolition, inspection and redevelopment. Although all of these issues are very important, we have overlooked one point. It has also been reported just now that very often, there is asbestos in these buildings of more than 50 years of age. Basically, asbestos is

no longer used in Hong Kong now. What dangers will asbestos pose? Although I work in the health services sector, I am afraid I may have forgotten it. Asbestos will lead to pneumoconiosis or mesothelioma, and in general, it may cause diseases of airway obstruction. We may not find such diseases for the time being. As I notice that it is reported by few newspapers, I wish to take the opportunity today to arouse the authorities' attention.

Although the three Secretaries or staff from these Bureaux do not belong to the health sector or the health care sector, I still hope that they can convey this message to the parties concerned. We cannot rule out the possibility of asbestos existing in these buildings. At the chaotic scene on that day, three groups of people might have been exposed to great dangers. Perhaps, they have no problem now. With the suggestions put forth by Honourable Members, the Bureaux may have rehoused them, inspected their buildings and repaired the collapsed building expeditiously. There should not be any serious problem.

However, I believe that there were quite a number of rescuers on that day, including firemen, ambulancemen, policemen and even some passers-by, who had lent a helping hand in the rescue heroically. They might have been exposed to the debris on that day in a prolonged and direct manner and stood a high chance of inhaling asbestos floating in the ambient air. They participated in the rescue work without any protection at all.

If we have overlooked this issue today Of course, I have not compiled any scientific statistics to calculate the density of asbestos in the air and the volume of inhalation that may cause such diseases as mesothelioma or pneumoconiosis. We do not have such statistics for the time being. However, it was reported that after the collapse of buildings in the United States on September 11, a number of people who had participated in the rescue died due to contraction of mesothelioma a few years later.

We in health care sector advocate an evidence-based practice, that is, we should base on evidence or scientific researches. Although we cannot provide any scientific evidence, I wish to draw the authorities' attention such that they could classify those people who have participated in the rescue or clearance of debris on scene for a long period of time on that day without any protection as high-risk people. Body check-ups should be provided to them in the next six or 12 months. Such body check-ups are in fact very simple, and they will not take

much time. All they need to do is to undergo a basic inspection of their airways and an x-ray examination of their lungs, which is already sufficient to trace if they have contracted such diseases. This is very important.

Otherwise, as there were quite a number of rescuers at that time, if they claim compensation because of contraction of such diseases, I think apart from dereliction of duty on the part of the authorities, it may also deal a great blow to the Pneumoconiosis Compensation Fund set up in accordance with the legislation on occupational safety. It is crucial for us to take precautions against calamities. Therefore, I think we should take the opportunity today to arouse the authorities' awareness of such an important issue which may have been overlooked. Quite a number of people are involved. This is the first point.

Secondly, the debris has been transported to Sung On Street now. On the one hand, a large batch of police officers may go there and collect evidence today or within the next few days. On the other hand, the debris will also be open to residents of that building for recognition. We cannot rule out the possibility that they may inhale asbestos floating in the air again when they search among the debris. Of course, we can take precautions. I notice that, as reported, the Environmental Protection Department may offer some assistance. But, I hope the authorities can implement the work in this regard. Whenever any person approaches the scene, proper protection should be in place. For example, some necessities like protective gear and masks should be provided.

I am referring to those special masks, rather than N95 masks or general surgical masks which can only be used to combat the swine flu or SARS but are not effective for prevention of asbestosis. Special masks should be provided to them. During the interim, the debris should be covered tightly by a large piece of canvas, so as to prevent asbestos from floating around in the air. This precaution can be taken. I believe these people can then be protected from the high risk. Members may think that this has nothing to do with the building collapse. What we are discussing is how to rehouse these victims and inspect other buildings. However, we should not forget that these people had participated in such a crucial rescue for us on that day. They should be properly protected when collecting evidence and claiming their belongings. I think the authorities are absolutely duty-bound to handle this issue.

Lastly, as the authorities are aware of the fact that there is asbestos in some buildings aged over 50 years, proper protection should be put in place when

demolishing these buildings in To Kwa Wan. Otherwise, various litigations for compensation may be instituted in future. Perhaps, some people may criticize the authorities for failing to take proper precautions when demolishing these buildings.

This incident has illustrated that the authorities, in conducting such a simple task of rehousing, demolition and inspection, should not overlook this issue, so as to prevent these high-risk people from suffering any unnecessary damages in terms of policy or operation in future.

President, I so submit.

PROF PATRICK LAU (in Cantonese): President, last Friday after the tragedy had occurred, I arrived at the scene at the earliest opportunity. It was utterly shocking to see the debris and feel the terrible experience of the entire building collapsing within a few seconds. I deeply understand that the public are desperately in need of our assistance.

Hong Kong has encountered many building problems, such as the disastrous Shek Kip Mei fire in the 1950s mentioned by Dr Margaret NG just now. We had learnt a painful lesson from it and public housing was then developed. In the Kotewall Road incident in the 1970s, as we all know, the entire building collapsed at that time, which was attributed to the problems with slopes, precautions and rainstorms. The Government had learnt a lesson that slope stabilization works should be enhanced.

We are also aware of the problem of asbestos mentioned by Dr Joseph LEE just now. In Hong Kong, many foundations involved caisson works in the past, but caissons are no longer used now. However, many workers were affected by asbestos and they are still receiving compensation now.

Recently, the Housing Authority also faced the substandard piling works problem. I think the Government is keenly aware of the problem. Therefore, I hope very much that we can learn a lesson from this tragedy. What should we do then? Of course, many Members have raised various issues, including social problems and redevelopment problems. As such, I hope that a subcommittee can be set up under the Panel on Development or the Legislative Council, so as to

examine the short-term, medium-term and long-term problems related to building safety and review them jointly with the Government.

All people in Hong Kong wish to know now, how best the Government can enhance the safety of old buildings to prevent the recurrence of similar tragedies — that is, the motion moved by Ms Starry LEE? As advised by the Secretary just now, the most important thing is to step up inspections. After conducting inspections, of course, as mentioned by the Secretary, improvements will be made to those buildings with problems immediately. Dr Margaret NG also mentioned that the Director of Buildings is vested with enormous powers under the Buildings Ordinance (Cap. 123) to make improvement in this regard.

However, I wonder if publicity efforts should be made to enable the public to know, first of all, how to conduct a preliminary assessment to see if their buildings have any problems. In case there is any danger, they should inform the Buildings Department (BD) immediately and find professionals to conduct inspections. This is very important. Many foreigners — I have lived in the North America before — have some knowledge about the repairs and alteration works of their own homes. But in Hong Kong, we simply rely on other people, such as workers. However, as we can see, the public have become more and more concerned about their flats now.

I would like to have some discussions today — regrettably, I have only 15 minutes rather than 1.5 hours; otherwise, I can give you a lecture on architecture. However, I also wish to talk about building problems here. Occasionally, I would come across some people on streets. They tell me that some cracks are found at home and ask me to conduct an inspection for them. This is a very great problem, as I think that the public should have the right to know whether the buildings in which they are living have any problems. In fact, it is not necessary for us to be excessively scared by some cracks. Many buildings in Hong Kong have a great deal of plaster, and cracks of such plaster will not pose any structural danger. Due to the weather in Hong Kong, plaster will expand when hot and shrink when cold, and thus, it is not surprising to find some normal cracks. How can we distinguish normal cracks from structural dangers? I think the public should also be on the alert in this regard. Analysing from the professional perspective, I think the public should be enabled to know how to prevent the recurrence of such tragedies of building collapse.

First of all, let me talk about the short-term measures. The Government should step up its publicity efforts and draw up simple guidelines to teach the public how to inspect their buildings to see if there is any structural danger. As mentioned by the Secretary and Members just now, it would take a lot of time if we merely rely on the staff of the BD to conduct inspections. I consider that those owners or tenants living there should be on the alert. Therefore, I hope the Government can step up its publicity efforts, such as producing some videos or television programmes, so as to enable the public to understand that it is not necessary to panic excessively. Neither is it the case that they need not worry about it at all. This is very important.

Regarding the medium-term measures, many Members have already mentioned that the Government should expedite its regulation on the repairs and maintenance of buildings and improve their safety. These tasks have been commenced and relevant legislation is already in place now. As for the long-term measures, some Members have mentioned how urban renewal can be expedited, and Mr CHAN Kam-lam has made many suggestions on how to phase out these dangerous and dilapidated buildings.

I understand that District Councils, including a number of Honourable Members here, have intimate feelings about their districts and are well-versed in the situation there. I hope that District Councils can play a role and explain various kinds of building structures to the public in their districts, so as to prevent them from tampering with these structures in the course of their repairs or decoration works.

Lastly, insofar as education is concerned, I certainly hope that architecture can be included in the curricula of primary and secondary schools. It is very important for them to know something about architecture in Hong Kong, so that they can acquire some basic knowledge. In this way, we can really implement sustainable development, planning, environmental protection and enhancement of building safety. Such knowledge should be fostered among students at the primary education stage.

I wish to talk about some common sense about old buildings. Earlier on, the Secretary mentioned the number of such buildings, so I am not going to repeat it here. I have to say that old buildings in Hong Kong have many different styles. Broadly speaking, the so-called tenement buildings are only four storeys tall. They have shops on the ground floor and overhanging balconies. As we

can see on the streets, they are buildings similar to the pawn shop preserved in Wan Chai. These are all pre-war tenement buildings. The building collapsed this time was built in 1955, with two flats on each floor. That is to say, there are two flats on each side of the staircases on each floor. This is the difference.

With the amendments made to the Buildings Ordinance in 1966, additional development is allowed on the upper levels of these buildings. As a result, there are some buildings eight storeys tall without any lift and residents have to walk up and down the staircases. I have also lived in this kind of flats before. In Sham Shui Po, there are a lot of such buildings. Therefore, tenement buildings can be classified into these three categories. Let us have some preliminary knowledge about these buildings first. Their staircases are all interlinked.

It is not surprising that the materials used in constructing these pre-war tenement buildings might be bricks or wood. We should have seen those wooden staircases before, which of course have vitality. However, if rocks or bricks were used, they would be more durable. This Legislative Council Building was built of rocks. President, you can rest assured that this building will never become a dangerous building, though it is very old, right? Therefore, we should not merely look at the age of a building and conclude that it is dangerous. We should look not only at its age but also its condition. This is very important. In planning, we, very often, should also examine its condition. That is to say, apart from its age, its condition should also be taken into account. This is also very important.

In the 1960s, the rationed supply of water gave rise to the problem of buildings being built with seawater. We should be very cautious in considering this problem. Apart from the materials used in constructing a building, the technology employed and its repairs and maintenance will also affect its safety.

Hong Kong is a concrete jungle. Most of the buildings are built of concrete, and the problem of concrete spalling is very common. Why? It is due to the humid and rainy weather in Hong Kong. Once water has seeped into the concrete, steel reinforcements will expand and the concrete will spall off easily as a result of stress. We should, on the contrary, be cautious in dealing with this problem. We think that the concrete can be repaired by using cement or plaster. In fact, this is absolutely wrong. It is because the concrete being stressed, interacting with the tension in steel reinforcements, will generate a structural effect. We should understand this point — President, let me say a few

words about concrete as a lot of people do not understand why it is called concrete. Concrete is made of water, cement and sand in a proportion of 1:2:4. After mixing, it will become fluid and then solidify. Concrete came into being after the Industrial Revolution. For the above reason, concrete must be moulded. And in the process of moulding, the formwork is very important. Concrete should be dry. Why? Because concrete can only solidify after the water is evaporated. This process is very important. If Dr Raymond HO is here, he will have much more to share with us. I think he can give us a very detailed explanation. Although I should not say so, many Members have mentioned that water leakage gives rise to a very serious problem and we should therefore hold the water. However, what is the problem? I know that water leakage will also be found on rooftops, external walls and all windows as well. Therefore, we should examine it from this aspect, rather than saying that there is no other alternative but to hold the water.

As a matter of fact, the public can use a very simple method to measure cracks in their buildings. In case a crack has really become deeper, why should we attach a glass plate or a plastic tag to it? The reason for doing so is to mark how deep the crack is and the time taken for it becoming deeper. There is no need to worry about it until then. This can largely be regarded as a good method.

I also know that currently there are 10 Property Management Advisory Centres in Hong Kong, and they are tasked to teach the public how to carry out repair and maintenance works on their buildings. However, I think this is still not adequate. Therefore, they should explain to owners their rights and how to conduct repair works through their Owners' Incorporations (OCs).

Moreover, the BD has the information on the condition of all buildings in Hong Kong. This is in fact very good. But in the past, only we, being Authorized Persons, could request the plans. At present, all people in Hong Kong can retrieve them. However, it is not so convenient for us to obtain these plans, and the photocopying fee is also very expensive. As the BD is already computerized now, can such information be retrieved on the Internet, so that the public can gain an understanding of the structure of their buildings and avoid altering it in the course of their decoration works?

Lastly, I must say that the sector has put forth a lot of views to me. The Hong Kong Institute of Architects considers that we should conduct regular

safety inspections and comprehensive maintenance of buildings in Hong Kong. Moreover, we should take the initiative to inspect the buildings and conduct comprehensive repair works on a regular basis. The Hong Kong Institute of Surveyors (HKIS) has also put forth many views. They opine that the safety of a building, apart from its structure, covers fire resistant structures, means of escape and fire protection installations; water seepage in walls, ceilings or pipes; hygiene; and strengthening of plaster on external walls and illegal structures. The HKIS considers that the maintenance problem of buildings in Hong Kong is not merely a matter of their structure — this is in response to Dr Raymond HO — the maintenance of buildings should (*The buzzer sounded*) ensure building safety and protect our lives and properties.

Thank you, President.

DR PRISCILLA LEUNG (in Cantonese): President, "priority should be accorded to redevelopment as human life is at stake". I think this should be the Government's prime policy objective nowadays.

As we all know, it is alleged that the Buildings Department (BD) had inspected this building before the incident. There was no immediate danger in the past, but now many kaifongs say that dangers are accumulating now. Due to the lax enforcement of law, it took a fatal incident eventually to arouse public concern. My office is only about a five-minute walk away from the collapsed building and the Holy Carpenter Church is located just next to my office. I am very shocked that such a serious accident has happened in a place I know so very well.

I remember that when participating in the by-election in the year before last, many predecessors told me that I should visit the people more frequently and take one more step, especially to old buildings. I then had a chance to visit those old buildings time and again and walked up to the residents floor by floor. Only if you have visited these old buildings and tenement buildings will you understand that very often, it is indeed impossible for us to ask owners to bear the maintenance responsibilities. Many elderly people may have problems even with their hearing. Moreover, as they think that they will pass away soon, they simply neglect the condition with their buildings. As for those residents evacuated on this occasion— I have been to the Holy Carpenter Church several

times, and I found most of them were in fact tenants. Among them, I met one owner only — they were not willing to leave during the removal on Monday. Some of them even thought that the Civil Aid Service would manhandle and remove them. Of course, I think this is only a misunderstanding and such a message should not be conveyed to them. In great anxiety, and coupled with numerous misunderstandings, they will only think that society has treated them most unreasonably.

When I met with them on Monday, most of the residents indicated their wish to meet with the Director of Housing. For this reason, they refused to leave for the whole morning. Eventually, until half past one I have to praise the Assistant Director of Housing who had come over there. I witnessed that during his dialogues with those residents, he had given them a very clear explanation. A few residents were still not willing to leave, for they simply wished to know if the transit housing was just a short-term arrangement, and it was not the case that they could not move out after accepting it. Also, they wished to learn more about the allocation of public housing. On that day, I think the Director of Housing had made every effort to give them some very concrete replies, which included: those who were eligible for public housing could submit their applications after three months; and as for those who were not eligible, the Social Welfare Department would arrange compassionate rehousing for them, on recommendation.

I find such replies reasonable. I have to point them out here particularly as I consider that it is a prudent approach to handle the crisis and the result has also been very satisfactory. When I arrived at the scene, they were all in great panic as they had heard various rumours. Some were even holding wooden clubs as they were afraid of being manhandled away. Although I saw that some people had taken to the streets the next day, I still agree to the way in which they handled the crisis this time, that is, explaining to the residents direct how they would deal with it in terms of policy. Therefore, I very much hope to raise this point.

I have received a number of requests for assistance from the residents in these few days. One of them is an owner, who is also the only owner. He is already 60-odd years old. He said that someone had told him that his building was totally lost. From now on, he would have nothing and no money at all. He was living at number 45E next to the collapsed building. I told him that this might not be the case. It was because if his building was resumed, there might

be a chance for him to get compensation. However, he had got different messages. The old man was sitting on the ground, crying hopelessly at that time.

There was another victim. As stabilization works should be carried out for the dangerous building now, some columns and cables — the two Honourable colleagues sitting next to me should be more conversant with these works — would hit the walls of his building. Apart from refusing to move out, he also asked about their rights. From this, we can see that many residents were in such a maze that they had no idea about their rights at all. Very often, they even do not know what they want.

We have learnt from the newspapers that the incident is attributed to the faults of some decoration workers or sub-contractors. I dare not say what the reasons are. But I will also think about those workers who work from hand to mouth. Under the system in Hong Kong, given the living of these so-called construction workers and the training provided for them, do they know how to get the plans and decide which piles cannot be demolished? In fact, after the tragedy this time, it is really necessary for us to review the whole system thoroughly. I think that we cannot simply identify a few people or even convict them of manslaughter. In fact, it is still not known if any illegal workers are involved. In such circumstances, I very much want to point out that some of those old buildings and tenement buildings visited by me are six storeys tall while some are over ten storeys tall. These buildings are located mainly in Tai Kok Tsui, Sham Shui Po, Kowloon City and To Kwa Wan.

The earthquake occurred in Haiti some time ago was a natural disaster. Today, we have to examine if this building collapse incident is a man-made calamity. I think under the Government's entire system for regulation of buildings, some areas warrant our consideration. I do not mean that the BD is not hard-working enough. Rather, I wish to say that it may have done its best, only that its staff do not have the authority to enter the flats for inspection. I have conducted a land search before and noted the details of unauthorized structures of the building at number 45J. Let me read it out to you all. Such land search will be conducted every year. It is stated that the shop facade in front of the building on the ground floor is an attached structure, and above the light well at the back of the building on the ground floor, there is an unauthorized structure. On the external walls at the back of the building, a metal frame is

erected on the ground floor. Moreover, a door with poor fire resistance is installed at the fire escape of the staircase on the mezzanine floor. In case a fire breaks out, it may be very dangerous. In fact, staff of the BD have issued reinstatement notices to the owner (which is a limited company) time and again. Not only had they issued an order in 2005, they also issued orders in 2006, 2007, 2008, 2009 and 2010 subsequently, and the content of these issues was exactly the same. They have identified this problem. But restricted by their terms of reference, they can only inspect unauthorized structures and fire protection installations. I think that under the entire system, the so-called inspections should not be conducted by one bureau or a group of people only. In fact, no one has ever thought that the building might collapse, or a certain column of the inner wall or some other stimuli might cause such a serious tragedy.

Therefore, in my opinion, should the BD's terms of reference and duties be extended, rather than being restricted to inspection of unauthorized structures and fire doors only? Of course, as I have just mentioned, the law enforcement might be too lenient. If I am not wrong, no prosecution has ever been instituted. However, does prosecution help at all? It is because the subject is unauthorized structures only, which is simply a matter of appearance. We could never find it is powder inside.

I was deeply moved this time as four members of the Professional Forum, including Dr Raymond HO, Mr Abraham SHEK and Prof Patrick LAU, met at the scene coincidentally for the first time. They even explained many questions about structure to me at once. Moreover, Mr Abraham SHEK also mentioned the problems with redevelopment encountered by the then Land Development Corporation (LDC).

I consider that what we have to look at today is not simply the issue of maintenance. As far as I know, the Development Bureau has taken a drastic action on maintenance over the past two years (I think it has taken a benevolent measure). In particular, it has offered assistance to the elderly and some missing property owners. Even for many dangerous buildings, substantial improvements have really been made since the last fire disaster. Unfortunately, we have not focused on many possible internal risks, which may not be resolved merely by carrying out repair works on one or two buildings. Now, we can really say that there are actually numerous bombs in these old districts. How can we remove these bombs? If we wish to implement a more benevolent measure during our

term of office, I think the work in this regard is much more important than anything else. Clothing, food, housing and transport are very important, but I think human lives are even more important. In fact, residents in Kowloon City aside, many residents in Sham Shui Po and Tai Kok Tsui are also very scared because they do not know whether the buildings in which they are living are dangerous or not.

I am very glad to hear the Secretary propose just now a four-tier system. It is because after witnessing the accident last time, we and many District Council members do hope that the fourth tier can be implemented. As for those buildings with immediate dangers, we should demolish and redevelop them and provide rehousing and compensation for the residents. As for those classified as the third tier, we should conduct repair works but immediate redevelopment may not be required. As for those classified as the second tier, we encourage them to conduct repair works by recourse to the fund set up by the Administration now. As for those classified as the first tier, their structure is sound.

Insofar as those tenement buildings and old buildings are concerned, I very much agree that not all of them are four-storeyed or six-storeyed, as some of them are ten-odd storeys tall. I have read the deeds of some buildings in Tai Kok Tsui before. Some of them have no piles at all. I am ignorant about this. But some engineers have told me that those bedrocks are also very safe. However, once the residents have seen such a situation, they will certainly feel very scared as a conditioned reflex. During inspections, clear explanations on the situation and the way out must be given to the residents. I know they wish very much to have a way out. If we are really living in a dangerous building, can the redevelopment be expedited? We may make a comparison with the history, and of course, this is the situation in the past. As we all know, as the LDC and its successor, the Urban Renewal Authority (URA) have put a lot of efforts in Yue Man Square in Kwun Tong and Vision City in Tsuen Wan, we can see fruitful results in those districts now. In fact, a lot of problems were encountered at that time and residents were not willing to move out. However, I believe, honestly, many residents, especially those living in extremely dilapidated buildings, are more than willing to move out.

Should the URA assume a bigger role in co-ordinating acquisition and redevelopment? The Government or the URA may not be able to cope with such an enormous task because we have such time-bombs of old buildings in

many districts. However, the Government can urge and encourage private developers to collaborate with the URA. I think most importantly, we should assure the residents' rights. Similar to those examples cited by me just now, as the residents do not quite understand their rights in law and building structure, they will become excessively panicky or dissatisfied. As for rehousing, proper arrangements should be made. If rehousing can be implemented district by district, and at least, be extended to several districts, I think this is already a most benevolent measure. If the Government now says that redevelopment should be carried out, many people will certainly render support. Moreover, as this involves the environment in which the residents are living, if only reasonable compensation is offered, I believe many of them will co-operate. I think the Government, the URA and developers should properly review the overall planning and consider it jointly. If they can really do so, I think many Hong Kong people will be very pleased to see this ten-year plan, in the next few years or at least the next decade.

I also wish to state here that I totally agree that the Development Bureau is not the only one which can do so. As far as I know, many management problems relating to co-ordinated maintenance involve home affairs. If residents move to public housing, the Transport and Housing Bureau will be involved. As for decoration workers, it will involve training and whether a licensing regime should be set up for skilled workers. There is no such regime for the construction sector currently.

Therefore, I very much hope that after this incident, the Government can give due consideration to the suggestion that "should be accorded to redevelopment". If it is a reasonable development plan, I believe many Honourable colleagues in the Legislative Council will render it their support. Thank you.

MR IP KWOK-HIM (in Cantonese): President, the Government launched the Operation Building Bright last year, with a view to conducting repair works for 2 000 old buildings aged 30 years or above in the territory. The collapsed building did not join in this scheme, while those of the same age with owners' corporations (OCs) in the vicinity have taken part in it, showing that OCs do play a very important role in the maintenance and management of buildings. So far, under the Operation Building Bright, only 20 buildings have completed their

repair works. There are 187 buildings carrying out such works while the remaining 1 000-odd qualified buildings have yet to start. The progress of such works is very slow. According to this pace, it will very probably take several years to complete the repair works of these 2 000 buildings. Of course, this is only an estimate. I believe that with the accumulation of experience in operation, the progress can be expedited. At the district level, quite a number of residents have asked me why repair works have been delayed. After the building collapse this time, I think they will become even more anxious. Therefore, I hope the Government can examine if there is room to expedite the progress of such repair works.

At present, there are more than 15 000 buildings aged over 30 years in Hong Kong. As for those similar to the collapsed building aged 50 years or above, there are 3 300 in total, and quite a number of them are in a dilapidated condition. However, only \$2 billion is allocated to the Operation Building Bright now, which can only subsidize about 2 000 old buildings to carry out repair works. Therefore, most of the old buildings in Hong Kong cannot be benefited. As those people living in old buildings are mainly low-income households and the elderly, they have financial difficulties in carrying out repair works for their buildings. For this reason, the DAB considers it necessary to increase the funding, so that more residents of old buildings can be benefited. Moreover, the scope of subsidies should also be extended. For example, buildings with more than 400 households can also apply. I believe the incident has made the Government feel that these problems warrant its serious consideration. I also hope that the Financial Secretary can give a response to this issue when he releases the budget next month.

Apart from the Operation Building Bright, the Hong Kong Housing Society and the Urban Renewal Authority (URA) have also launched some schemes to provide subsidies and loans for building maintenance. However, it is required that only those buildings with OCs are eligible to apply. This precisely echoes the situation of buildings in the vicinity of the collapsed one mentioned by me at the beginning of my speech. The collapsed building has not set up any OC, while other buildings with OCs have completed their repair works. Therefore, in view of this, OCs do play a very important role in building maintenance. However, according to my experience gained in the Western District and Central on Hong Kong Island, some tenement buildings have eight flats on each floor. It is very difficult for them to set up OCs. Those people living in these tenement

buildings are mainly the elderly, whose educational level is relatively low. They are absolutely not willing to set up OCs. Given this, have the authorities considered or examined the establishment of a flexible mechanism under which those buildings, which have yet set up OCs and are therefore not qualified to apply for subsidy schemes, can also take part in these schemes with the consent of 80% of owners if they really have such a demand? I hope the Government can consider it seriously. According to my experience, some owners set up OCs merely for applying for subsidies. Shortly after the establishment, these OCs will be dissolved automatically. Such situation will likely arise as it is quite difficult to maintain the operation of an OC in the long run.

As mentioned by some Members earlier, although we urge certain buildings to set up OCs, they cannot get any support from the authorities after establishment. I also have the same impression in this regard. Moreover, at present, it is required in many ordinances that OCs should bear responsibilities. If anything goes wrong, OCs, rather than households or individual owners, should bear the responsibilities, and this has made them feel very worried. Therefore, some OCs are established merely for the sake of conducting repair works for their buildings. Once such works or applications for subsidy schemes are completed, they will be dissolved automatically. The Under Secretary for Home Affairs and the Director of Home Affairs are present in the Chamber now. I think that insofar as this issue is concerned, we should examine and consider how best the role of OCs can be enhanced in building safety and maintenance.

In order to resolve the problem of old buildings in urban districts, the authorities should, apart from expediting the pace of carrying out repair works for these buildings, also accelerate the pace of urban renewal. I am also one of the non-executive directors of the URA. As early as a decade ago, the Government already envisaged that the ageing problem of buildings in Hong Kong would deteriorate. Therefore, it set for the URA the policy objective of dealing with 225 redevelopment projects within 20 years. Time flies, and 10 years have passed. The URA has only completed 43 redevelopment projects so far. Of course, this issue is very complicated. As Mr CHAN Kam-lam mentioned earlier, many problems are involved, including the problem relating to the transfer of benefits which is not quite understood by the authorities. Moreover, there are also many allegations or it is attributed to the problem relating to ownership shares and the failure of securing consensus in the community or at the district level. With an increasing demand for conservation of old districts, maintenance of social networks and preservation of collective memories, the

remaining 200-odd redevelopment projects have met a great deal of resistance. As a matter of fact, as some old buildings in urban districts are seriously dilapidated, we have no other alternative but to demolish and redevelop them. Moreover, to preserve an extremely dilapidated building may cost much more money than redeveloping it. In the wake of this incident, I hope a review of the Urban Renewal Strategy can be conducted in the community. In fact, Mrs LAM has taken the lead to conduct a relevant review. Hence, I very much hope that after this incident, we can reach a consensus on how a balance between conservation and redevelopment can be struck, so that we can remove the time bombs formed by those dilapidated buildings expeditiously.

Another issue is that the Government has now proposed to reduce the threshold of mandatory sale of ownership from 90% to 80%. The DAB supports this proposal, thinking that this can help owners of private properties to expedite the pace of redevelopment of their buildings. In fact, in the case of many buildings, once someone has bought one of the units in advance, resulting that such dilapidated buildings can neither carry out any repair works nor be sold, it will give rise to a most dangerous situation. Therefore, we should also strike another balance in this regard.

Moreover, I have to point out particularly that the Government should address the problems of cubicles and water leakage in the existing buildings. At present, such buildings can be found in many districts, especially the old districts where the situation is alarming. A unit in an old building of 1 000 sq ft can be partitioned into five to six suites with independent toilets and very narrow dining rooms and small rooms. As a result, the whole floor level is elevated. Water pipes under the platform are connected in a perfunctory manner. Due to the lack of repairs, problems of water leakage and drainage are common, causing serious damage to the structure of the whole building. If we do not address these problems, we are gravely worried that tragedies will happen again.

Therefore, I hope the Government can be not so rigid with the relevant policies now. It should not think that these problems are related to the internal decoration of buildings and refuse to address them fully. In the wake of this incident, I hope the Government can enhance its flexibility. I believe by doing so, we can bring benefits to the people in Hong Kong.

I so submit.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the Council until 9 am tomorrow.

Suspended accordingly at six minutes past Ten o'clock.

Annex I

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 2009

COMMITTEE STAGEAmendments to be moved by the Secretary for Financial
Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
14(3)	In the proposed section 81(2), by deleting "6 years" and substituting "2 years".

Annex II**OCCUPATIONAL DEAFNESS (COMPENSATION)
(AMENDMENT) BILL 2009****COMMITTEE STAGE**Amendments to be moved by the Secretary for
Labour and Welfare

<u>Clause</u>	<u>Amendment Proposed</u>
3	By deleting subclause (2) and substituting – “(2) Section 2 is amended by repealing the definition of “noise-induced deafness” and substituting – ““noise-induced deafness” (噪音所致的失聰) means – (a) binaural hearing loss; or (b) monaural hearing loss;”. ”.
3(4)	By adding – ““binaural hearing loss” (雙耳聽力損失) means sensorineural hearing loss amounting to not less than 40 dB in each ear, where such loss is due in the case of at least one ear to noise, and being the average of hearing losses measured by audiometry over the 1, 2 and 3 kHz frequencies;”.
4	By renumbering the clause as clause 4(1).
4	By adding – “(2) Section 5(1)(db) is amended by adding “, or who have suffered,” after “suffering”.”.
6	In the proposed section 14A(2)(a), by deleting “5 years” and substituting “3

years”.

- 6 In the proposed section 14A(2)(a)(i), by deleting “or”.
- 6 In the proposed section 14A(2)(a)(ii), by deleting the semicolon and substituting “or, where there was more than one such previous unsuccessful application, the date of the last such application; or”.
- 6 In the proposed section 14A(2)(a), by adding –
 “(iii) if the latest successful application was made for compensation for which the entitlement arose under section 48(5), the date of the self-arranged audiometric test mentioned in section 48(5)(a) or, where there was more than one such test, the date of the last such test;”.
- 7(1) In the proposed section 15(1), by deleting “or (3)” and substituting “, (3) or (5)”.
- 7(3) In the proposed section 15(2), by adding “and (9)” after “section 48(4)”.
- New By adding –
 “7A. Referral to Medical Committee
 Section 19 is amended by adding “or 48(5)(a)” after “section 16(2)”.
- 8(2) By deleting everything after “by repealing” and substituting ““The Board shall” and substituting “Subject to section 48(4) and (9), the Board must”.
- 8(3) By deleting “noise-induced deafness other than monaural” and substituting “binaural”.
- 8(4) In the proposed section 20(2A), by adding “or (9)” after “section 48(4)”.

8(4) In the proposed section 20(2B)(b), in the English text, by adding “the” before “better”.

8(5) By deleting everything after “by repealing” and substituting ““shall make a determination under subsection (1) or (2)” and substituting “must make a determination under subsection (1), (2) or (2A) or section 48(4) or (9)”.”.

13 By adding –

“(1A) Section 27B(1)(a) is amended by repealing “is” and substituting “has at any time been”.

(1B) Section 27B(1) is amended by adding –

“(aa) has at any time been entitled to compensation pursuant to a decision made under section 23;”.

(1C) Section 27B(1)(b) is amended by repealing “is” and substituting “has at any time been”.

(1D) Section 27B(1)(c) is amended by adding “at any time” after “has”.

(1E) Section 27B(1)(c) is amended, in the English text, by adding “or her” after “his”.

(1F) Section 27B(1) is amended by repealing everything after “the Board for any expenses” and substituting “he or she has reasonably incurred in the acquisition, fitting, repair or maintenance of a hearing assistive device used by him or her in connection with his or her ear that suffers, or has suffered, from noise-induced deafness.”.”.

13 By deleting subclause (2) and substituting –

“(2) Section 27B is amended by adding –

“(1A) A person who fulfils the conditions specified in subsection (1)(a), (aa), (b) or (c) may apply to the Board for payment by the Board directly

to the device provider of any expenses he or she may reasonably incur in the acquisition, fitting, repair or maintenance of a hearing assistive device used or to be used by him or her in connection with his or her ear that suffers, or has suffered, from noise-induced deafness.”.”.

13 By adding –

“(3A) Section 27B(2)(a)(iii) is amended, in the English text, by adding “or her” after “him”.

(3B) Section 27B(2)(b) is amended, in the English text, by adding “or her” after “him”.”.

14 In the proposed section 27C(2), by adding “, irrespective of the number of applications under section 15 that the applicant has made” after “the applicant under that section”.

15(2) In the English text, by deleting everything after “is amended” and substituting “by repealing “shall be in a specified form and shall” and substituting “based on an entitlement arising under section 27B(1) must be in a specified form and must”.”.

15 By adding –

“(2A) Section 27D(2) is amended, in the English text, by repealing “shall” and substituting “must”.”.

18 By adding –

“(2A) Section 27G(2) is amended, in the English text, by repealing “shall” and substituting “does”.”.

18 By adding –

“(4) Section 27G(4) is amended, in the English text, by

repealing “shall” and substituting “is to”.”.

22 By adding before subclause (1) –

“(1A) Section 48(1) is amended, in the English text, by repealing “Notwithstanding” and substituting “Despite”.

(1B) Section 48(1)(b) is amended by adding “or she” after “he”.

(1C) Section 48(1)(b) is amended, in the English text, by adding “or her” after “his”.

(1D) Section 48(1) is amended by repealing everything from “Ordinance, if –” to “the Board that –” and substituting –

“Ordinance –

(i) on satisfying the Board that he or she –”.

(1E) Section 48(1)(i)(A) is amended by repealing “he”.

(1F) Section 48(1)(i)(B) is amended by repealing “he”.”.

22 By deleting subclause (1) and substituting –

“(1) Section 48(1)(ii) is repealed and the following substituted –

“(ii) if the application is made within 12 months beginning on the commencement of sections 1 to 20 of the amending Ordinance, that is to say, 6 March 1998.”.

(1AA) Section 48(1) is amended, in the Chinese text, by repealing “則除第 14(3)、17 及 29 條另有規定外，他有權” and substituting “該人有權”.”.

22 By deleting subclause (3) and substituting –

“(3) Section 48(2)(a) is amended by repealing everything from “or (3) of the pre-amended Ordinance” to “shall continue” and

substituting “or (3) of the pre-amended 1998 Ordinance, then sections 8(c), 15(4) to (6) and 31 of the pre-amended 1998 Ordinance continues”.

(3A) Section 48(2)(b) is amended by repealing everything from “or (3) of the pre-amended Ordinance” to “shall continue” and substituting “or (3) of the pre-amended 1998 Ordinance has been provided to the Board, then sections 16(1), 19 and 20(1) of the pre-amended 1998 Ordinance continues”.

(3B) Section 48(2)(c) is amended by repealing everything after “for compensation under” and substituting “section 15 of the pre-amended 1998 Ordinance and the Board has not determined the percentage of permanent incapacity of the claimant under section 20, the Board must make such determination in accordance with Schedule 4 to the pre-amended 1998 Ordinance.”.

22 By deleting subclause (4) and substituting –

“(4) Section 48(3) is repealed and the following substituted

–

“(3) Despite section 14(1) and subject to sections 14(3) and 29, a person is entitled to such compensation as is determined by the Board under this Ordinance if –

- (a) the person has not been awarded any compensation;
- (b) the person has made a previous application for compensation under the pre-amended 2010 Ordinance that was refused under section 22(1)(a) of that Ordinance on the ground that he or she suffered from sensorineural hearing loss of not less than 40 dB

in only one ear (“previous unsuccessful application”); and

- (c) there is no evidence proving that the sensorineural hearing loss was not due to noise.

(4) In relation to a claimant applying for compensation based on an entitlement arising under subsection (3), the Board must determine the noise-induced deafness of the claimant having regard to —

- (a) the result of the hearing test or medical examination as stated in the notice sent under section 22 in respect of the claimant’s previous unsuccessful application mentioned in subsection (3)(b) or, where there was more than one such previous unsuccessful application, the last such application;
- (b) any advice of the Medical Committee given in respect of the deafness of the claimant;
- (c) the result of any medical examination that the Board may have required the claimant to undergo under section 16(1); and
- (d) any investigations and inquiries into any other matter concerning the claimant’s deafness or the claimant’s occupational history that the Board may have made

under section 16(1).

(5) Despite section 14(1) and subject to sections 14(3) and 29, a person who has at any time suffered noise-induced deafness is entitled to such compensation as is determined by the Board under this Ordinance if –

- (a) the person provides the Board with a report of a self-arranged audiometric test in relation to which report or test the requirements specified in subsection (6) are met;
- (b) the person has had –
 - (i) at least 10 years of employment in aggregate in any noisy occupation in Hong Kong before the date of the self-arranged audiometric test; or
 - (ii) at least 5 years of employment in aggregate in any noisy occupation specified in paragraphs (c), (j), (k) and (y) of Schedule 3 in Hong Kong before the date of the self-arranged audiometric test;
- (c) the person has at any time been employed under a continuous contract in any noisy occupation in Hong Kong within the 12 months before the date of the

self-arranged audiometric test;

- (d) the person has not been awarded any compensation; and
- (e) there is no evidence proving that the sensorineural hearing loss was not due to noise.

(6) The requirements referred to in subsection (5)(a) are that –

- (a) the report must show the date on which the self-arranged audiometric test was conducted;
- (b) the report must show that the person suffered from –
 - (i) hearing loss amounting to not less than 40 dB in only one ear, being the average of hearing losses measured by audiometry over the 1, 2 and 3 kHz frequencies; or
 - (ii) any hearing loss that the Medical Committee may, under subsection (8), infer from the report to amount to the hearing loss mentioned in subparagraph (i);
- (c) the report does not indicate that the person mentioned in paragraph (f) has opined that the result of the self-arranged audiometric test is unreliable;
- (d) the self-arranged audiometric test

was conducted in Hong Kong within the period from 1 July 1995 to the date immediately before the date on which the 2010 Amendment Ordinance is published in the Gazette;

- (e) if the person has undergone one or more hearing tests arranged by the Board in connection with the person's application for compensation that was refused under section 22(1)(a) or, where there was more than one such application, the last such application, the self-arranged audiometric test was conducted after –

- (i) the date of the hearing test on the result of which the Board's decision to refuse the application ("first decision") was based;

- (ii) if the person has, under section 23, requested the Board to review the first decision, the date of the hearing test on the result of which the Board's decision to refuse to vary or reverse the first decision ("second decision") was based;

- (iii) if the person has, under

section 28, appealed to the District Court against the second decision, the date of the hearing test on the result of which the District Court's decision to refuse to vary or reverse the second decision was based; and

- (f) the self-arranged audiometric test was conducted, or the result of the test was certified by a person belonging to a category of persons designated under section 36(1)(b).

(7) If it is not reasonably practicable to ascertain the date of the hearing test mentioned in subparagraph (i), (ii) or (iii) of subsection (6)(e), that subparagraph is to be construed as if the reference to that date were a reference to the date of the Board's decision or the District Court's decision mentioned in that subparagraph.

(8) If the hearing losses as shown in the self-arranged audiometric test mentioned in subsection (5)(a) were not measured by audiometry over the 1, 2 and 3 kHz frequencies –

- (a) the report of the self-arranged audiometric test must contain information that makes it possible for the Medical Committee to infer the average hearing loss of the person over the 1, 2 and 3 kHz frequencies; and

- (b) the Medical Committee may, if it considers it appropriate, infer the average hearing loss of the person over the 1, 2 and 3 kHz frequencies relying on the information given in the report.

(9) In relation to a claimant applying for compensation based on an entitlement arising under subsection (5), the Board must determine the noise-induced deafness of the claimant having regard to —

- (a) the report mentioned in subsection (5)(a) or, where there was more than one such report, the last such report;
- (b) any advice of the Medical Committee given in respect of the deafness of the claimant;
- (c) the result of any medical examination that the Board may have required the claimant to undergo under section 16(1); and
- (d) any investigations and inquiries into any other matter concerning the claimant's deafness or the claimant's occupational history that the Board may have made under section 16(1).

(10) Subsection (5) does not apply to a person who is entitled to apply for compensation for which the entitlement arises under subsection (3) or section 14.

(11) A person who has applied for compensation for which the entitlement arose under section 14 (“existing application”) must not apply for compensation for which the entitlement arises under subsection (3) or (5) if –

- (a) the existing application is still pending;
- (b) the existing application has been refused by the Board under section 22 but there is –
 - (i) a pending review by the Board under section 23 in respect of the existing application; or
 - (ii) a pending appeal to the District Court under section 28 concerning the Board’s review under section 23 in respect of the existing application.

(12) If a person’s existing application has been refused by the Board under section 22, and –

- (a) the person makes an application for compensation for which the entitlement arises under subsection (3) or (5) (“section 48 application”); and
- (b) before the section 48 application is disposed of, the person –
 - (i) requests a review by the Board under section 23 in respect of the existing

application; or

- (ii) appeals to the District Court under section 28 concerning the Board's review under section 23 in respect of the existing application,

then, the Board must not process the section 48 application until the review or appeal is disposed of.

(13) If before the commencement of the 2010 Amendment Ordinance, a claimant had applied for compensation under the pre-amended 2010 Ordinance but the Board had not at that commencement determined the noise-induced deafness of the claimant under section 20 of the pre-amended 2010 Ordinance, then, on or after that commencement, the Board must make the determination under this Ordinance.

(14) In this section –

- (a) “pre-amended 1998 Ordinance”
(《修訂前的 1998 年條例》) means this Ordinance as in force immediately before the commencement of sections 1 to 20 of the amending Ordinance, that is to say, 6 March 1998;
- (b) “pre-amended 2010 Ordinance”
(《修訂前的 2010 年條例》) means this Ordinance as in force immediately before the commencement of the 2010 Amendment Ordinance;

- (c) “2010 Amendment Ordinance”
(《2010 年修訂條例》) means the
Occupational Deafness
(Compensation) (Amendment)
Ordinance 2010 (of 2010).”.

New By adding –

“22A. Noisy Occupations

Schedule 3 is amended by repealing “[ss. 2 & 39]” and
substituting “[ss. 2, 14, 39 & 48]”.

23(5) In the proposed section 5(a) of Schedule 5, by adding “or, where there was
more than one such previous unsuccessful application, the date of the last
such application” after “section 48(3)(b) of this Ordinance”.

23 By adding –

“(6) Schedule 5 is amended by adding –

“6. In calculating the amount of compensation
payable to a claimant on the basis of the noise-induced
deafness of the claimant determined under section
48(9) of this Ordinance, “relevant date of application”
(提出申請的有關日期) means –

- (a) for the purposes of sections 1 and
3(a), the date of the self-arranged
audiometric test mentioned in
section 48(5)(a) of this Ordinance
or, where there was more than one
such test, the date of the last such
test; and
- (b) for the purposes of section 3(c),
the date of the commencement of

section 48(9) of this
Ordinance.”.”.

24 By adding —

“(1A) Schedule 7 is amended, in section 1, by repealing
“\$9,000” and substituting “\$12,000”.”.

Appendix I

WRITTEN ANSWER

Written answer by the Secretary for Security to Mr TAM Yiu-chung's supplementary question to Question 6

As regards the number of anti-triad operations conducted by the police in individual districts, the police maintain yearly statistics on the number of arrests made in the enforcement operations related to triad societies in police regions. Figures for the past three years are set out at Annex for Members' reference. However, the police do not maintain statistics on anti-triad operations conducted by each district because operations against triad activities are carried out by various branches of the police, and many of such operations are conducted on a cross-district basis and may last for more than a year. Therefore, the police are not able to maintain the yearly statistics of such operations with a breakdown by districts.

Annex

Table 1: The number of arrests made in the enforcement operations related to triad societies for 2007 to 2009 in each police region is as follows:

<i>Region (no. of arrest)</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
Hong Kong Island	432	305	366
Kowloon East	401	505	414
Kowloon West	765	633	630
New Territories North	792	728	682
New Territories South	456	518	532
Marine	5	16	12
Total	2 851	2 705	2 636