

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 26 January 2011

The Council met at Eleven o'clock

## MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

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.

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

**MEMBER ABSENT:**

DR THE HONOURABLE LEUNG KA-LAU

**PUBLIC OFFICERS ATTENDING:**

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

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

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

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

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

THE HONOURABLE EDWARD YAU TANG-WAH, J.P.  
SECRETARY FOR THE ENVIRONMENT

THE HONOURABLE EVA CHENG, J.P.  
SECRETARY FOR TRANSPORT AND HOUSING

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

**CLERKS IN ATTENDANCE:**

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY  
GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Schedule of Routes (Citybus Limited) Order 2011 .....	12/2011
Schedule of Routes (Citybus Limited) (North Lantau and Chek Lap Kok Airport) Order 2011 .....	13/2011
Schedule of Routes (Kowloon Motor Bus Company (1933) Limited) Order 2011 .....	14/2011
Schedule of Routes (Long Win Bus Company Limited) Order 2011 .....	15/2011
Schedule of Routes (New Lantao Bus Company (1973) Limited) Order 2011 .....	16/2011
Schedule of Routes (New World First Bus Services Limited) Order 2011 .....	17/2011
Buildings Energy Efficiency (Fees) Regulation .....	18/2011
Buildings Energy Efficiency (Registered Energy Assessors) Regulation .....	19/2011
Travel Industry Compensation Fund (Amount of Ex gratia Payments and Financial Penalty) (Amendment) Rules 2011.....	20/2011
Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Commencement) Notice 2011.....	21/2011

## Other Papers

No. 59 — Samaritan Fund  
Financial statements, Report of the Director of Audit and  
Report on the Samaritan Fund for the year ended 31 March  
2010

No. 60 — Hospital Authority Annual Report 2009-2010

Report No. 11/10-11 of the House Committee on Consideration of  
Subsidiary Legislation and Other Instruments

**ORAL ANSWERS TO QUESTIONS**

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

**Regulation of Food Additives**

1. **MR ANDREW CHENG** (in Cantonese): *President, in mid-2010, the media in Hong Kong and the Mainland widely reported that a food additive called "One Drop of Incense" (ODI) was found on the Mainland market. The reports stated that if ODI was chemically synthesized, it would very likely be harmful to the human body and might even contain carcinogenic substances. The reports also pointed out that as contacts between Hong Kong and the Mainland were frequent, Hong Kong people were worried that ODI would make its way into the restaurants in Hong Kong. In this connection, will the Government inform this Council whether:*

- (a) *it has found a food additive called ODI in Hong Kong;*
- (b) *it had conducted any study in the past three years on the health impact of the food additives used on the market; if it had, of the details; if not, the reasons for that; and*
- (c) *it will regulate the use of food additives which may be harmful to the human body; if it will, whether it will co-operate with local universities to expedite the study; if not, of the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the Centre for Food Safety (CFS) monitors 40 food safety related websites of the Mainland and overseas government authorities, as well as international organizations every day in order to keep abreast of the latest news of food incidents in other places of the world. It also pays close attention to media reports on food safety issues and takes follow-up action as appropriate. My reply to the question is as follows:

- (a) Since the media report of the use of ODI (一滴香) in the Mainland, the CFS has been trying to find the product in the local market but to no avail. Upon enquiry by the CFS, the Mainland authority concerned replied that ODI was a hot pot flavouring agent, but there was no further information on the actual constituents of the product. Usually, the constituents of a hot pot flavouring agent include vegetable oil and flavourings. A flavouring is a concentrated mixture of flavouring substances to produce flavours. Flavouring substances can be categorized as natural, natural identical or artificial.

Although the CFS has not yet found ODI available for sale or being used in food locally, in order to ensure local hot pot soup products are safe for consumption, the CFS collected 10 samples of hot pot soup base from local hot pot restaurants in December 2010 for chemical tests, covering metallic contamination, colouring matters, preservatives and antioxidants. All test results were satisfactory.

The CFS will continue to monitor the situation and carry out testing of hot pot soup products. In January 2011, the CFS collected another 50 hot pot soup base samples for testing, with test results pending.

- (b) and (c)

Every year, the CFS conducts a number of food-related risk assessment studies, including studies on food additives. Studies in recent years include those on Aluminium in Food, Dietary Exposure to Benzoic Acid from Prepackaged Non-alcoholic Beverages of Secondary School Students, Sweeteners in Confectionery Products,

Risk Assessment on Artificial Sweeteners in Beverages, Risk Assessment of Lap-mei, and Use of Preservatives and Colouring Matter in Chinese New Year Foods. The impact of food additives on public health is a regular item for review and analysis.

On legislation, we have enacted a series of subsidiary legislation under the Public Health and Municipal Services Ordinance (Cap. 132) focusing on certain specified food additives with reference to our risk assessment findings and the regulatory systems of overseas authorities, namely the Colouring Matter in Food Regulations, the Sweeteners in Food Regulations and the Preservatives in Food Regulation. These Regulations have listed the permitted food additives and/or the permitted levels of the specified food additives.

When considering whether a particular food additive should be allowed, the CFS will make reference to the results of safety evaluations carried out by international food safety authorities, such as the Joint FAO/WHO Expert Committee on Food Additives. For those food additives which are evaluated as safe, the quantity used in food should follow the good manufacturing practice for public health protection.

Furthermore, to enable consumers to obtain correct information on the kind of additives in food and their use, the Food and Drugs (Composition and Labelling) Regulations (Cap. 132, sub. leg. W) require prepackaged food for sale in Hong Kong to include a list of ingredients in descending order of weight or volume determined as at the time of their use when the food was packaged. If food additives are used in food, the specific names or identification numbers of these food additives, and their functional classes should also be listed.

Besides, the CFS pays close attention to the latest safety assessment of food additives in other countries and will review and amend local food legislation from time to time in light of the latest development in food science and technology and international standards.

Apart from legislation, the CFS also draws up guidelines for reference by the trade (including Guidelines on the Use of Aluminium-containing Food Additives, Preservatives and Antioxidants User Guidelines, and Labelling Guidelines on Food Allergens, Food Additives and Date Format) when necessary.

Section 54 of the Public Health and Municipal Services Ordinance (Cap. 132) provides that all food intended for human consumption for sale in Hong Kong, whether imported or locally produced, and with or without food additives, must be fit for human consumption. If any food is found unfit for human consumption due to the addition of any substances (including food additives), the CFS will take vigorous enforcement action. The CFS will, under its food surveillance programme, take samples at import, wholesale and retail levels for chemical tests (including test for food additives) to assess the associated risks.

Currently we do not have any research project involving local universities on food additives. However, we have collaborated with them on other topics, such as the Food Consumption Survey and the Total Diet Study, which aim to gather data on the local population's consumption of various foods and to estimate their dietary exposure to a wide range of substances, including contaminants and nutrients, for assessing the health risks of these substances.

**MR ANDREW CHENG** (in Cantonese): *President, in the past, the public have the impression that the CFS was rather passive as it often became aware of certain problems only after the media had revealed them. As specifically mentioned in paragraph 1 in part (a) of the main reply, upon enquiry by the CFS, the Mainland authority replied that there was no further information on the actual constituents of "One Drop of Incense" (ODI). Can the Secretary be more proactive this time? After all, there may be some undetected cases during a random inspection of hot pot soup base. Since a food additive called ODI has been found on the Mainland market, can the Secretary collect some samples from the Mainland and carry out the testing of its constituents in Hong Kong to confirm that ODI is not harmful according to Hong Kong laws? The public, especially restaurants, should be notified as soon as possible if it is harmful.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, as I have stated in my main reply, we monitor not fewer than 40 websites every day, and we will co-operate with the relevant authorities and made inquiries with them when we learn that certain substances are suspected to pose a threat to food safety. There are quite a few similar reports on the Mainland every day and it is rather difficult for us to send someone to collect these samples whenever we learnt about such reports. Thus, we can only look for similar samples locally and call upon the public or consumers to hand over the substance or report to us so that testing can be carried out.

We will also co-operate with foreign and Mainland authorities, and they will carry out testing if they suspect that there are similar substances. We have made our best efforts to request the Mainland authorities to notify us of the relevant information. Currently, we do not have more detailed information on ODI.

**MR WONG YUNG-KAN** (in Cantonese): *President, ODI has been widely used on the Mainland and the Administration has communicated with the Mainland authorities concerning this issue. The Secretary has just replied that samples will not necessarily be collected from the Mainland, but I think that it is essential to clarify whether this substance has been added to food. If this substance has not been marked on the label of prepackaged food, will the Government enhance testing of food, such as hot pot soup base? Earlier, there were rumours that some substances had been added to food on the Mainland to make people become "addictive", has the Government considered discussing with the Mainland in order to do a good job in this respect?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, we know that a harmful substance can be called ODI today and it can have some other name tomorrow and ODI is not a chemical term. We now have to find out if there are risk-causing substances in foods. After those reports were made, the CFS have taken the lead in testing similar soup base on the market to find out if there are similar substances. As I have just said, the CFS analysed 10 samples in December and it was confirmed that there was no problem. In January, the CFS collected another 50 samples for testing, and the test results would be announced later.

It is most important for us to understand that these additives have different risk levels. As I have just said, regarding food additives in particular, over 1 700 food additives have been evaluated as safe by international authorities and an expert committee after assessment. Specified permitted levels of food additives are set for certain food, so as to ensure that they are safe for consumption. Generally speaking, additives are added to foods in small amounts, so the risks will generally not be too high. Nevertheless, we will keep an eye on the situation, if consumers feel sick or suffer from health problems after consuming food additives, we will follow up these issues more closely.

**MR WONG TING-KWONG** (in Cantonese): *A lot of food additives are chemically synthesized, and if taken frequently or abusively, they will definitely affect people's health. Has the Government enhanced publicity and public education in this connection to educate the public on the proper use of food additives?*

*President, the Secretary has mentioned in part (a) of his main reply that there are three categories of flavouring substances. We understand what natural flavouring substances and artificial flavouring substances are, can the Secretary tell us what "natural identical" flavouring substances are as mentioned in his main reply?*

**PRESIDENT** (in Cantonese): Mr WONG, you have raised two supplementary questions. Are you asking the Secretary if public education should include explaining such terms to the public to help them understand them better?

**MR WONG TING-KWONG** (in Cantonese): *Thank you, President.*

**PRESIDENT** (in Cantonese): Secretary, please reply.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): I thank Mr WONG for his supplementary question. Regarding food additives, we focus on two kinds of stakeholders, namely food producers and sellers. The CFS issued "The

Consumer Guide to Food Additives" in 2007, setting out detailed information on more than 1 500 food additives commonly used and are safe for consumption in Hong Kong. We have also specified that the amounts of certain additives should be controlled to a certain extent, and we have provided industry players with the information.

Consumers may obtain the relevant information from the website of the CFS, and we have also printed some publicity leaflets such as "Know More About Food Additives", which include clear recommendations to the public. For instance, they should buy food from reputable sources and read the label of prepackaged food carefully. They should especially note that people with allergic condition, such as asthma patients, may experience hypersensitive reaction due to an intake of some food additives like sulphur dioxide.

In the choice of foods, we also advise the public to avoid as far as practicable those which have abnormal colour, odour or texture, and that they should report any abnormalities of food to the CFS. Yet, a limited intake of these substances is relatively safe for a person who maintains a balanced diet.

As to the Member's question about the three categories of flavouring substances mentioned in my main reply, we all understand what natural flavouring substances are, and "natural identical" flavouring substances mean that these flavouring substances are not naturally manufactured. They may be industrially or chemically manufactured, but they have the same chemical constituents as natural flavouring substances, so they are called "natural identical" flavouring substances. Of course, there are some flavouring substances which are fully artificial and contain no natural constituents, so they are called artificial flavouring substances. All these are flavouring substances.

**MR ANDREW CHENG** (in Cantonese): *President, I would like to follow up my first supplementary question because the Secretary, in answering my question, said that as there are so many cases reported by the media or over the world, it is difficult for the CFS to carry out investigation in each case.*

*President, I would like to ask the Secretary a further question, because ODI may easily be bought from places close to Hong Kong, such as Shenzhen on the Mainland. President, I do not have a home visit permit, or else, I can buy a*

*bottle of ODI from the Mainland for the Secretary to arrange for testing of its constituents. May I ask the Secretary, is it so difficult to buy a sample or some samples for testing to be carried out by the CFS proactively? I think the CFS has been rather passive, my follow-up question is: Can the Secretary take the initiative to buy some samples for testing? As far as I know, ODI has actually been commonly used on the Mainland, not only in restaurants but also in ordinary households for hot pot. They just need to add one drop of ODI into the soup and the whole hot pot will have seafood or beef flavour. I believe it would not be difficult to find these samples. Can the Secretary take the initiative to carry out testing, so that our food can be safer?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, this is of course a good suggestion, however, the Food and Environmental Hygiene Department can only enforce laws in Hong Kong. Even if we want to carry out testing, we do not have any legal obligation or status in the Mainland or foreign places in this connection. So, we can just co-operate with Mainland law-enforcement agencies and let them take charge of the work. Regarding the ODI incident, we will fully communicate with them and request them to carry out testing. If they have found anything wrong after testing the samples, they will certainly inform us of the relevant information.

**PRESIDENT** (in Cantonese): Second question.

### **Child Abuse Cases**

2. **MR RONNY TONG** (in Cantonese): *President, recent press reports and complaints from the relevant organizations indicate that the situation of children in Hong Kong being abused by their relatives or others is deteriorating. In this connection, will the Government inform this Council:*

- (a) *of the number of child abuse cases last year; detailed information such as the age, family background, family income and parents' education level, and so on, of the abused children involved in the child abuse cases in the past five years;*

- (b) *of the number of prosecutions brought against and convictions of the abusers in the child abuse cases in the past five years; whether the authorities have any established policy and measures to assist in the rehabilitation of the abused children; if so, of the specific policies and measures; whether the authorities have any indicator to assess if such policies and measures are really effective; if not, the reasons for that; and*
- (c) *apart from implementing a pilot project to review child fatality, whether the Government had conducted other studies in the past five years to ascertain the factors behind children being abused in recent years; if so, of the long-term policy the Government has put in place, which focuses on such factors, to make improvements in order to prevent deterioration of the situation of child abuse; if not, the reasons for that?*

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

- (a) The Social Welfare Department (SWD) and Hong Kong Police Force (the Police) collect statistics on child abuse cases respectively. The number of newly reported child abuse cases during January to September 2010 collected by the SWD was 745 whereas the number of child abuse crime cases received by the Police in 2010 was 1 508. The difference in statistics is due to the different statistical definitions and basis adopted by the two departments.

Background information on child abuse cases collected by the SWD in the past five years is at Annex 1. The Government has no information on the income level of the families of the abused children.

- (b) Between 2006 and 2009 and from January to September 2010, the number of prosecution and convicted cases charged under sections 26 and 27 of the Offences Against the Person Ordinance, which target specifically at ill-treating, neglect and abandoning of children, are set out at Annex 2. In addition, child abuse cases can also be prosecuted as other criminal offences.

The Government attaches great importance to child protection. Besides making every effort to prevent child abuse, relevant government departments (including the SWD and the Police) also take proactive action to follow up on reported child abuse cases and provide professional and appropriate services to the abused children, so as to facilitate their rehabilitation and early return to normal lives.

The Family and Child Protective Services Units (FCPSUs) of the SWD provide abused children and their families with outreaching and crisis intervention services to help lessen the trauma resulting from the abuse incidents. Social workers will conduct a comprehensive assessment on the emotional, psychological and family conditions of the abused children and arrange individual or group counselling, clinical psychological service and support services for the concerned children and their families as soon as possible. Legal protection will also be provided for the children where necessary.

In addition, at present, the 61 Integrated Family Service Centres (IFSCs) across the territory provide needy families with support services, including assisting children and adolescents to resolve their family and developmental problems. The 137 Integrated Children and Youth Services Centres across the territory also provide them with a series of preventive, support and remedial services to facilitate their healthy development and to help them cope with any physical, psychological, social and family problems.

The SWD has launched the "Victim Support Programme for Victims of Family Violence" (VSP) since June 2010 to provide comprehensive support services to victims, including victims of child abuse cases, to facilitate their early return to normal lives. Services provided include accompanying witnesses and victims (covering child witnesses or abused children) throughout the judicial process as well as providing information on community support services available, and so on. The non-governmental organization (NGO) operating the programme has set up service delivery points in different districts across the territory to enable easy access by victims.

Causes of child abuse are often complicated and involved various personal and family problems. It is not possible to assess the effectiveness of the relevant measures and services with a single set of standardized indicators. This notwithstanding, in following up every individual case, the social workers and professionals concerned will have the child's interest as their prime consideration, and conduct continuous risk assessment with a view to developing an appropriate welfare plan and ensuring that the abused child receives the necessary care and support. In reviewing the effectiveness of the measures and services, the Government will take into account a comprehensive range of factors, including statistics of child abuse cases.

- (c) In order to have a better understanding of the causes of domestic violence and to identify effective preventive and intervention strategies, the SWD commissioned the University of Hong Kong in 2003 to conduct a study on child abuse and spouse battering. The study was completed in 2005. According to its findings, the risk factors related to child abuse include violence between parents, relatively low education level of parents, less well-off economic conditions of families, poor inter-personal relationship and social network, and so on.

In the light of the risk factors above and taking other relevant information into account, the Government provides a continuum of preventive, supportive and specialized services with a view to preventing domestic violence and child abuse and tackling these problems promptly when they arise.

Regarding preventive measures, publicity and public education are very important in preventing domestic violence and forestalling its deterioration. To enhance public awareness on child protection and family education, the SWD has set up a working group since 2002 to formulate comprehensive publicity strategies on domestic violence (including child abuse) to promote the message of "Strengthening Families and Combating Violence" through different media.

Regarding support services, over the past few years, the Government has put in new resources to enhance the support services for victims of domestic violence. These include the Batterer Intervention

Programme (BIP), which aims at changing the abusers' behaviour and attitude and reducing their repeated violence acts including child abuse; enhancing support services provided by the refuge and crisis centres such that the children in need may stay with their abused families in the respective centres; and implementing VSP, and so on.

On the other hand, the SWD has launched the Family Support Programmes in IFSCs and Integrated Services Centres, FCPSUs and Psychiatric Medical Social Services Units. Through telephone contacts, home visits and other outreaching services, the SWD proactively reaches out to vulnerable families that are unmotivated to seek help, and encourages children and adolescents in families at risk of domestic violence to receive appropriate support services to prevent the problems from deteriorating.

In addition, the Government has implemented the Comprehensive Child Development Service (CCDS) for young children aged under five in eight districts since 2006. Through multi-sectoral collaboration among the Department of Health, the Hospital Authority (HA), the Education Bureau, the SWD and NGOs, the CCDS works on early identification of pre-school children with health, developmental, behavioural and family problems. Children in need would be referred to the appropriate service units for assistance. As announced by the Chief Executive in his 2010 Policy Address, the service will be extended to 18 districts across the territory.

Regarding specialized service, since 2004, the manpower of the FCPSUs has been significantly increased and the number of FCPSUs has been increased from five to 11 units. An additional Clinical Psychology Unit was also created with additional resources from the SWD in recent years.

The Government recognizes that collaboration among different sectors and professionals is the key to effective prevention and tackling of child abuse. As such, the SWD has been proactively co-ordinating the efforts of different departments, professionals and NGOs. There are well-established mechanisms to ensure effective collaboration. At the central level, dedicated multi-disciplinary committees including the Committee on Child Abuse and the Working Group on Combating Violence chaired by the Director of

Social Welfare and comprise representatives from the Police, the Education Bureau, the HA and NGOs have been set up to advise on the strategies and handling of child abuse, domestic violence and sexual violence. At the district level, 11 District Co-ordinating Committees on Family and Child Welfare and 11 District Liaison Groups on Family Violence have been established by the SWD to facilitate cross-sectoral and multi-disciplinary collaboration with a view to handling domestic violence (including child abuse cases) more effectively.

Annex 1

### Aggregated Background Information on Child Abuse Cases Collected by the SWD

Table 1: Age Profile of the Newly Reported Child Abuse Cases

<i>Age of Abused Children</i> \ <i>Year</i>	2006	2007	2008	2009	2010 (Jan to Sept)
0-2 years old	70	75	46	67	49
3-5 years old	99	95	91	111	90
6-8 years old	152	208	192	171	106
9-11 years old	164	180	188	180	165
12-14 years old	204	239	226	291	210
15-17 years old	117	147	139	173	125
Total	806	944	882	993	745

Table 2: Child Abuse Cases by Districts

<i>Place of occurrence</i> \ <i>Year</i>	2006	2007	2008	2009	2010 (Jan to Sept)
Central and Western District	8	9	8	19	15
Southern District	19	20	17	21	28
Islands District	17	14	20	15	13
Eastern District	34	25	33	33	34

<i>Place of occurrence</i> \ <i>Year</i>	2006	2007	2008	2009	2010 (Jan to Sept)
Wan Chai District	9	12	4	10	14
Kowloon City District	37	49	39	33	23
Yau Tsim Mong District	32	44	32	42	34
Sham Shui Po District	59	56	62	51	35
Wong Tai Sin District	35	60	46	59	38
Sai Kung District	27	51	39	55	34
Kwun Tong District	72	77	72	78	64
Sha Tin District	32	48	68	79	48
Tai Po District	23	21	27	34	15
Northern District	26	47	38	47	26
Yuen Long District	127	144	124	145	113
Tsuen Wan District	36	39	28	30	33
Kwai Tsing District	78	72	68	63	48
Tuen Mun District	102	110	94	117	87
Outside Hong Kong/Unknown	33	46	63	62	43
Total	806	944	882	993	745

Table 3: Relationship between Abusers and Abused Children\*

<i>Relationship with the abused children</i>	2006	2007	2008	2009	2010 (Jan to Sept)
Parents	521	581	535	569	421
Siblings	30	16	26	27	8
Step-parents	27	29	33	34	32
Grand-parents	9	9	12	12	14
Relatives	25	17	16	23	20
Friends/Family friends	43	52	62	79	46
Care-givers	14	23	20	28	17
Teachers/Tutors/Coaches	13	11	18	28	21
Co-tenants/Neighbours	10	11	7	9	5
No relationship	79	114	84	103	80
Unknown/Others	3	3	15	29	72
Total	774*	866*	828*	941*	736*

Table 4: Abusers by Occupations\*

<i>Occupations</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010 (Jan to Sept)</i>
Business/Factory or company proprietor	17	21	20	19	13
Professional/Executive/Management	19	21	32	39	37
Clerical/Secretarial work	21	20	18	17	7
Sales/Shop-keeper/Stall owner/Hawker	31	23	26	28	18
Service/Technical work	134	158	159	169	113
Manufacturing	61	67	68	66	51
Unemployed	137	157	140	143	100
Housewife	166	179	167	196	145
Student	66	67	69	85	62
Retired	21	19	23	22	27
Unknown/Others	101	134	106	157	163
Total	774*	866*	828*	941*	736*

Table 5: Education Level of Abusers\*

<i>Education level</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010 (Jan to Sept)</i>
Uneducated/below primary	29	30	22	14	18
Primary (P1-P6)	166	157	139	145	100
Junior secondary (S1-S3)	176	218	202	237	174
Senior secondary (S4-S5)	123	123	130	155	104
Matriculation (S6-S7)	24	22	18	22	4
Tertiary or above	27	34	40	45	36
Unknown	229	282	277	323	300
Total	774*	866*	828*	941*	736*

Note:

\* The numbers of abusers and victims may be different because one abuser may abuse more than one child. Similarly, a child may be abused by more than one abuser.

Number of Persons Prosecuted and Convicted  
under Sections 26 and 27 of the Offences Against the Person Ordinance <sup>(1)</sup>

<i>Ordinance</i>	<i>Figure</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010 (Jan to Sept)</i>
Section 26 <sup>(2)</sup>	Number of persons prosecuted	2	1	1	1	0
	Number of persons convicted	1	1	1	1	0
Section 27 <sup>(3)</sup>	Number of persons prosecuted	39	66	103	103	72
	Number of persons convicted	27	51	74	77	54

## Notes:

- (1) The respective year of the above figures represents the year in which the trial was concluded. As some trials might take longer time, the year in which the Police received the case may be different from the year in which the trial was concluded.
- (2) According to section 26 of the Offences against the Person Ordinance, any person who unlawfully abandons or exposes any child, being under the age of two years, whereby the life of such child is endangered, or the health of such child is or is likely to be permanently injured, shall be guilty of an offence. If convicted, the maximum penalty is imprisonment for 10 years.
- (3) According to section 27 of the Offences against the Person Ordinance, if any person over the age of 16 years who has the custody, charge or care of any child or young person under that age wilfully assaults, ill-treats, neglects, abandons or exposes such child or young person or causes or procures such child or young person to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause such child or young person unnecessary suffering or injury to his health (including injury to or loss of sight, or hearing, or limb, or organ of the body, or any mental derangement) such person shall be guilty of an offence. If convicted, the maximum penalty is imprisonment for 10 years.

**MR RONNY TONG** (in Cantonese): *Sorry, President, our chairs are terribly inconvenient. President, I am very disappointed with the Secretary's reply because apart from providing us with some actual figures, he has not answered certain very specific questions. For instance, what specific policies or measures have been implemented, what indicators have been adopted to assess the effectiveness of the policies, and whether it has looked into the cause of child abuse? The Secretary has not answered these questions at all.*

*President, Members may find from Annex 1 that the number is on the increase. We have already recorded 745 cases of child abuse in the first nine*

*months of this year. It is believed that after adding the number of cases for the last three months, the total will certainly exceed 100. Just as Members have expected, Yuen Long and Tuen Mun are the hardest hit by the problem of child abuse.*

*President, I understand that I can only ask one supplementary question. In part (b) of the main reply, the Secretary pointed out that there are 61 IFSCs across the territory. I wish to ask the Secretary, among these 61 IFSCs, how many of them are located in hardest hit areas such as Yuen Long and Tuen Mun. Furthermore, will additional service centres be set up in these two areas to provide specialized support to the abused children, with a view to alleviating the serious child abuse problem there?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): We have used 150 000 people as the basis of calculation. Nonetheless, in case we identify any places in need of such services, the 150 000 threshold will be relaxed. Simply put, Yuen Long and Tuen Mun are our focused support areas. In Yuen Long, two IFSCs have been set up in Tin Shui Wai alone — not only two, but three. In Yuen Long and Tuen Mun, the number of IFSC is definitely more than one, there are a few of them. Focused support has been provided for people living in these two areas, where the demand for IFSCs is particularly strong. As the IFSCs have extensive coverage, the services provided are therefore diversified on all fronts. My reply is, given that the figures of child abuses cases in these high-risk areas are worrying, intensified support services have been provided in those two areas to help those families.

In respect of publicity and education, apart from the regular provision of resources, neighbourhood support networks have also been established by mobilizing the Community Investment and Inclusion Fund. As evident from the figures, some abusers are in fact housewives and parents. Therefore, we will step up our outreach work to approach and educate them on our initiatives. President, we aim to combat this problem in a comprehensive and all-round manner.

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

**MR RONNY TONG** (in Cantonese): *Even the Secretary himself is not very sure about the total number of IFSC that have been set up in those two areas. President, he has not answered my supplementary question. I ask if additional specialized local service centres will be established to provide support to the two areas which are hardest hit by the problem of child abuse.*

**PRESIDENT** (in Cantonese): Your supplementary question is very clear. Secretary, will additional specialized local service centres be established?

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Support services in these two areas will be intensified. For instance, psychologists from the Clinical Psychology Unit have earlier been deployed to Yuen Long for exactly the same purpose as Mr TONG has just mentioned.

**MR LAU WONG-FAT** (in Cantonese): *President, will the Government inform this Council if it has inquired into child abuse cases that happened in families of new immigrants, which include compiling statistics on its proportion in the total number of child abuse cases in Hong Kong, and examining the general cause of such cases with a view to providing appropriate assistance and counselling?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, we do not have any concrete figures showing the number of child abuse cases that happened in families of new immigrants. However, if we analyse the figures, we will certainly find that families with lower education level and less satisfactory household income are more susceptible to child abuse.

The family support programme launched by the SWD is precisely targeted at families of new immigrants. In view of the fact that they do not have a good understanding of Hong Kong and are too shy to seek help, we therefore step up our outreach work and take the initiative to approach them, with a view to creating a neighbourhood network for them. It is hoped that through these networks, they (and especially their children) will receive more care. In case there is an accident, how should we help them? We will strengthen our efforts in education and liaison. Mr LAU was right in saying that this is our focus, but

we do not have detailed information on the proportion of child abuse cases involving families of new immigrants.

**MR WONG SING-CHI** (in Cantonese): *President, just now the Secretary has spent 10 minutes bragging about the efforts made by the Government to combat the problem of domestic violence. I wonder if he has identified, upon close examination, that there is still room for improvement in various services. For instance, we notice that the relationship between abuser and the abused is mainly parent and child. The Government has already launched an anti-violence programme (AVP) to mandatorily require the abusers to receive counselling for the purpose of preventing violence. Yet, the victim has to apply to the Court for an injunction first, and the abuser will only be mandatorily required to receive counselling after an order has been issued by the judge. While the Government expected that there would be 100 abuse cases within two years, only three cases have been completed over the past two years. Has the Government proactively implemented the AVP and what arrangements have been made to mandatorily require parent abusers to receive counselling? We social workers believe counselling is definitely of great help to parents.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, thank you, Mr WONG. In respect of abusers, Members should note that the BIP has been launched. Since March 2008, a number of counselling groups have been organized by the SWD on a pilot basis, whereas the AVP mentioned by Mr WONG just now is an alternative counselling service. The BIP has achieved significant effect with the participation of 276 batterers, among them, 188 participated voluntarily without the need for any court order. For the rest of the participants, 38 were imposed a bind-over order whereas 41 on probation order. It is therefore evident that the BIP, which has been implemented for one year, has achieved notable results and has helped more than 200 participants.

In 2009, the SWD conducted some follow-up studies on the BIP. The findings indicated that, as demonstrated by an abuser who has received counselling for one year, there were long-lasting treatment effects on abusers as changes in attitude and behaviour have been witnessed. The two types of counselling are therefore complementary. We will flexibly adopt the small-group approach at the district level, which is a well-established approach.

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

**MR WONG SING-CHI** (in Cantonese): *President, I did not ask about the BIP. It is very clear that the programme .....*

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

**MR WONG SING-CHI** (in Cantonese): *I asked about the AVP, that is, the anti-violence programme, under which the abused has to apply to the Court for an injunction, and only upon the judgment is made can the abuser take part in the programme. The Government expected that there will be 100 such cases in two years, but so far only three cases have been completed under this programme. Is the Secretary aware that this service .....*

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

**MR WONG SING-CHI** (in Cantonese): *Will the Secretary consider making use of this service to achieve better utilization of resources? President, this is the supplementary question raised by me just now.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I have answered his question. Just now, I said that a court judgment is required under the AVP. Although the two programmes have different approaches, they will achieve the same result and the most important objective is to change the abusers. It does not matter how we achieve it. While the AVP mentioned by Mr WONG requires court judgments, the SWD has resorted to its own course of action. For the programme requiring court judgments, intervention of the court orders should be strictly prohibited, is that right? During the trial period of the programme launched by the SWD, 267 people have participated, among them, more than 100 people joined the programme voluntarily. In other words, the

two programmes are complementary and can operate in parallel to achieve the purpose of changing the abusers.

**MR WONG KWOK-HING** (in Cantonese): *President, the figures in Tables 2 and 4 have truly reflected the meaning of a couplet. As we can see from Table 4, which is a breakdown of abusers by occupations, the majority of abusers come from three kinds of occupations, namely, "service/technical work", "unemployed" and "housewife". This is a true reflection of the meaning of the couplet "Poor couples often have quarrels". Table 2 shows the districts where most child abuse cases are recorded, and they are poor districts such as Yuen Long, Kwai Tsing and Tuen Mun. Similarly, "Poor districts often have child abuse cases".*

*I would like to give this couplet "Poor couples often have quarrels" and "Poor districts often have child abuse cases" to the Secretary and ask him, being the Secretary for Labour and Welfare, what new initiatives the Government will introduce in the coming year to reduce the occurrence of child abuse in poor districts, and in such occupations as "service/technical work", "unemployed" and "housewife"?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): *President, thanks to Mr WONG for his couplet, which is indeed neatly phased. As a matter of fact, we are gravely concerned about this issue and I have therefore outlined a detailed and clear blueprint in my earlier reply to Mr TONG's main question.*

Child abuse is a problem of domestic violence and must be tackled at root through education, early intervention and provision of support. As many cases of domestic violence originate from family problems like unemployment, these problems must be tackled at root. For instance, families of new immigrants may not be aware that they can apply for CSSA if they have financial difficulties. Worse still, they may not be eligible for application even if they have difficulties. Then how can we help them? In respect of employment, how can we provide them with information about the labour market? Above all, how can they adapt to Hong Kong society?

As for other cases, timely counselling must be provided to people with pathological behaviour, such that their psychological and family conditions can be assessed for early intervention. Recently, our enhanced publicity has heightened people's awareness of domestic violence. The increase in figures reflects that people are concerned about this issue and targeted approach must be adopted. Therefore, in replying Mr TONG earlier, I said that priority should be given to prevention. We should tackle the problem at root and step up education and publicity, with a view to providing prompt intervention. Also, the remedial actions to be taken in the aftermath must be more targeted. On the whole, it is believed that the promotion of employment will definitely help to minimize child abuse cases in particular.

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

**MR WONG KWOK-HING** (in Cantonese): *The Secretary has not answered whether new initiatives or measures will be introduced in the coming year. I am asking about something "new". Will there be new initiatives?*

**PRESIDENT** (in Cantonese): When Member asked about new measures to resolve the problem, the Secretary has actually reiterated time and again that the existing measures are effective. An answer has therefore been given. If Member is not satisfied with the answer, I am afraid you can only follow up through other channels.

This Council has spent nearly 22 minutes on this question. Third question.

### **Regulation of Sales of First-hand Private Residential Properties**

3. **MR LEE WING-TAT** (in Cantonese): *President, after the media uncovered the unusual behaviour in the property transactions of the development project of "39 Conduit Road" in 2009, the Government first wrote to the developer of the property in March 2010 to make enquiries and then submitted*

*the relevant correspondences to the Legislative Council in July of the same year and indicated that it would follow up and investigate the incident. The police had also officially stepped in immediately to investigate the cancellation of the Agreement for Sale and Purchase (ASP) of some of the first-hand units of "39 Conduit Road" and went to the developer's head office and the law firm concerned to seize a batch of documents suspected to be related to the case, and the investigation has been going on for more than six months. In this connection, will the Government inform this Council:*

- (a) how many units and which units of "39 Conduit Road" have been successfully sold to date; of the respective selling prices of the units sold; the number of units the ASP of which has been cancelled and the units involved, and among these units, the number of those for which only a 5% deposit was charged; the respective number of units for which deficiency in price has and has not been recovered, and the deficiency in price recovered;*
- (b) of the total number of times the authorities have exchanged correspondences with the developer of "39 Conduit Road" to date; how many correspondences have not been submitted to the Legislative Council and how they will arrange to pass those correspondences to the Legislative Council; the progress and outcome of the follow-up actions taken and investigations conducted by the Lands Department and the police on the incident; whether anyone has been interviewed; if so, who have been interviewed; whether they have examined if anyone has conspired to create fraudulent property transactions; and*
- (c) whether the authorities have learnt any lesson from this incident to enhance the restrictions on the sales of private residential properties under the "Consent Scheme", so as to plug any loophole that will enable developers to co-operate with buyers to create the illusion of transactions on the market?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese):  
President, the Government is committed to enhancing the transparency of the sales of first-hand private residential properties, safeguarding the reasonable

rights of consumers, and ensuring that consumers have access to accurate and comprehensive property information when purchasing first-hand private residential properties. The Government does not tolerate deceptive transactions and the release of misleading and incomplete information on flat sales.

In the past two years, the Transport and Housing Bureau has implemented, through the Lands Department's Consent Scheme (the Consent Scheme) and the guidelines of the Real Estate Developers Association of Hong Kong, a number of measures to enhance the transparency and clarity of the property information on uncompleted first-hand private residential properties. These include implementing the "nine new measures"; requiring developers to make public information on transactions and cancelled transactions within five working days; enhancing the transparency of sales brochures and price lists; requiring that where there are show flats, the show flats should meet more stringent standards, including that at least one of the show flats must fully reflect the conditions of the actual flat to be handed over to buyers upon completion, and requiring developers to provide more comprehensive and detailed property information in sales brochures. These measures have been implemented for a considerable period of time, and developers, the estate agency sector and the public are accustomed to and familiar with the requirements. This has helped laid a solid foundation for the work of regulating the sales of first-hand residential properties by legislation.

Following the media reports on the exceptionally high transacted prices of individual units of "39 Conduit Road", the Government and the public were concerned about 24 of those transactions, which we will call them "the first 24 units or transactions" in the paragraphs below. In this regard, the Lands Department has issued various letters to the developer of "39 Conduit Road" (the developer) between 18 March 2010 and now, to make enquiries on the concerned transactions. The developer announced on 15 June 2010 that only four out of the first 24 units had completed the transactions. Relevant government departments, including the police, are investigating the case.

My reply to the three parts of the question raised by Mr LEE Wing-tat is as follow:

- (a) The Land Registry's (LR) record shows that, as at 25 January 2011, among the first 24 units, four had completed transactions (that is, the assignments were completed). The transactions of the remaining

20 units were cancelled. Also, the LR's record shows that, outside the first 24 units, there was another completed transaction (that is, assignment was completed) and another four transactions which had signed the ASPs but there was no indication that the transactions were completed (that is, there was no registration of assignments).

In other words, as at 25 January 2011, altogether five units at "39 Conduit Road" had completed transactions, 20 had cancelled transactions, and another four units which had signed the ASPs had not yet completed transactions.

The LR's record shows that the amount of consideration for the five units which had completed transactions ranged from around \$95 million to \$130 million. Details are as follow:

- (i) Out of the first 24 units, the consideration of the four units, namely Units 30A, 30B, 31A and 31B, was around \$124 million, \$134 million, \$126 million and \$134 million respectively.
- (ii) The consideration of Unit 21B, which was outside the first 24 units, was around \$94.5 million.

The LR's record shows that, among the first 24 units, the following 20 units had cancelled transactions, namely Units 8A, 8B, 9A, 9B, 10A, 10B, 11A, 11B, 12A, 12B, 28A, 28B, 29A, 29B, 32A, 32B, 33A, 33B, 45A (also known as 68A) and 45B (also known as 68B).

According to the developer's reply to the Lands Department, it retained 5% of the transacted price of each of the 20 aforementioned cancelled transactions. The developer had not pursued recovering the deficiency in prices of the 20 cancelled transactions.

- (b) The Lands Department sent 13 letters to the developer between 18 March 2010 and now, requesting the developer to provide information on those 24 concerned transactions, and received 18 reply letters from the developer. That is, there were altogether 31

letters exchanged between the Lands Department and the developer in the aforementioned period.

Among the 31 letters aforementioned, after the developer took the initiative to pass to the Legislative Council on 5 July 2010 its reply letters to the Lands Department, the Administration also passed to the Legislative Council on the same day the Lands Department's letters to the developer by that time and in their entirety. Also, the Administration passed to the Legislative Council on 12 July 2010 a duplicate set of the 20 letters between the Lands Department and the developer for the period from 18 March 2010 to 5 July 2010 in chronological order.

There were a further 11 letters exchanged between the Lands Department and the developer between 24 August 2010 and now. Four of them were sent by the Lands Department to the developer, and seven of them were sent by the developer to the Lands Department. Primarily, the four letters of the Lands Department made further enquiries on the 24 transactions aforementioned.

As the Administration had emphasized when it passed to the Legislative Council in July 2010 the letters between the Lands Department and the developer, I must emphasize once again that, under normal circumstances, the Administration will not disclose information relating to a case which is under investigation by the law-enforcement agencies, lest such disclosure will adversely affect and prejudice ongoing investigations or undermine any future actions that the Administration may take upon completion of the investigations. The decision by the developer to take the initiative to release on 5 July 2010 its letters has however changed the situation by removing one of the major legal considerations, that is, the possibility of any prejudicial effect on the developer resulting from the disclosure of the correspondence between 18 March and 5 July 2010. Therefore, the Administration passed to the Legislative Council the exchange of correspondence immediately after the developer had passed its letters to the Legislative Council.

Regarding the 11 letters exchanged between the Lands Department and the developer between 24 August 2010 and now, we understand that the developer has not disclosed them. Therefore, the Administration has not disclosed them in accordance with normal practice. Regarding Mr LEE Wing-tat's question on how the Administration will arrange to pass the 11 letters to the Legislative Council, we need to ascertain the developer's position on this. We are now finding out the developer's position. If the developer will disclose to the Legislative Council its reply letters to the Lands Department between 24 August 2010 and now, we will also arrange to pass to the Legislative Council the 11 letters in chronological order.

As the police is investigating the case relating to "39 Conduit Road", it is not appropriate for the Administration to comment on the investigations.

- (c) To further enhance the transparency of the transaction information in the sale of first-hand private residential properties, with effect from 13 August 2010, the Lands Department requires in the Consent Letters that developers also have to make public information on cancelled transactions within five working days after cancellation, in addition to making public in the developers' websites and sales offices transaction information within five working days after the signing of the Preliminary Agreements for Sale and Purchase.

To further enhance the regulation of the sale of first-hand private residential properties, the Transport and Housing Bureau has established the Steering Committee on the Regulation of the Sale of First-hand Residential Properties by Legislation (the Steering Committee), to discuss specific issues on regulating the sale of first-hand flats by legislation. The Steering Committee has commenced work in November 2010 and will complete its work and come up with practical recommendations by October 2011 for the Secretary for Transport and Housing's consideration. Misrepresentation and the dissemination of false information is one of the key areas which the Steering Committee will consider. The Transport and Housing Bureau's target is to take forward the

subsequent consultation in the form of a White Bill in order to expedite the process.

**MR LEE WING-TAT** (in Cantonese): *President, it has been seven months since the police initiated investigation in July or August last year. I certainly hope the police can complete its investigation and make public the relevant findings as soon as possible. In the absence of legislation, we have time and again witnessed the practice generally adopted in the selling of many residential properties including "39 Conduit Road", "The Masterpiece", "Hill Paramount", and "Emerald Twenty Eight" which was developed by Lai Sun Development, that is, directors or relevant persons of the concerned company, or relevant persons of associated companies will first buy the units of the development at exceptionally high prices to give misleading information to the market. Thereafter, other buyers will enter the market and purchase the flats. After six months or one year, these persons will forfeit their down payments one after another. President, my supplementary question is: Given the time needed for legislation which may take two years at least and three or four years at most, what measures will be taken by the Transport and Housing Bureau in the interim to ensure that the worrying situation which I just mention about creating wrong messages to push up prices and the market will be monitored?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): *President, in terms of regulating the sale of uncompleted residential properties, we have been implementing measures through the Consent Scheme to enhance the transparency and clarity of information on uncompleted residential properties. I think Members will agree that certain progress has been achieved in this regard. For example, in the past one or two years, both sales brochures and price lists have contained more comprehensive and detailed property information. Developers are also required to make public information on transactions and cancelled transactions within five working days. It is our hope that consumers can use such information wisely. I also understand that apart from the Consent Scheme, we have no regulation tool in law. Hence, the Steering Committee will strive to complete its work within one year and submit its recommendations in October. We hope the matter can be taken forward as quickly as possible.*

Given that the devil is always in the details, we will present the proposal in the form of a White Bill so that subsequent consultation can also cover the detailed arrangements in order to expedite the process.

For the time being, consumers must act shrewdly by checking the transaction prices of the property development, considering their own affordability and comparing the prices of similar developments in the market. Since the levy of additional stamp duty, the intense speculation in the property market seems to have cooled down slightly and consumers will have more time to calmly make a decision of purchase.

**MR CHAN KAM-LAM** (in Cantonese): *President, speculation on first-hand residential properties has become increasingly rampant in the past two years, and novel marketing tactics have emerged in the property market. Of course, people who engage in speculation may either win or lose, and there are cases where the purchasers have cancelled the ASPs. Nonetheless, it is not a good sign that such cases happen in the market. I would like to know, in addition to the requirement that developers must make public information about property transactions within five days, whether the Government has other means to enhance the transparency of the market.*

*Moreover, as investigation on the "39 Conduit Road" incident has been going on for more than six months, when will the findings of investigation be made public so that the persons involved can have their names cleared or the persons who have contravened the law in the incident will be arrested?*

**PRESIDENT** (in Cantonese): Mr CHAN, you have asked two questions.

**MR CHAN KAM-LAM** (in Cantonese): *President, I very much hope that .....*

**PRESIDENT** (in Cantonese): You can only ask one question.

**MR CHAN KAM-LAM** (in Cantonese): ..... *the Secretary can reply the second question.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, as the police is investigating the case relating to "39 Conduit Road", it is not appropriate for me to comment on the investigations or speculate on when the investigation will be completed or whether enforcement actions will be taken thereafter. I hope Members can understand that it is not appropriate for me to comment on a case under investigation.

**MR ALBERT HO** (in Cantonese): *President, does the case relating to "39 Conduit Road" involve bogus property transactions and the creation of false impression of property sale in the market? The most tell-tale sign in this case is neither the astronomical transaction prices nor the acquisition of these properties by purchasers through shell companies or trustees; instead, it is the seller giving partial refund to the purchasers after they forfeited their down payments.*

*I do not know whether the Secretary is aware that some property developers in Hong Kong require 30% of the purchase price as down payment from purchasers. Let me cite the best-known residential development in Tin Shui Wai, Kingswood Villas, as an example. The developer of this development once received 30% down payment from a purchaser. Eventually, the purchaser failed to complete the transaction and the developer, based on a 50% deficiency in price, made a claim of an additional 20% from the purchaser. As a result, the purchaser went bankrupt. The developers aren't "relatives" of the purchasers, right? But in the case of "39 Conduit Road", it turns out that the developer had not only failed to recover the deficiency in price from the purchasers, it even refunded part of the down payments received by its law firm to the purchasers.*

*The Secretary has said that it was not appropriate for her to comment on a case under investigation, but I would like to ask whether she can undertake that at a later stage, an account of the incident will definitely be provided to the public as to whether there is in fact any bona fide purchasers? Whether the purchasers are independent from the developer, and whether the source of funds of the purchasers is completely unrelated to the developer?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, Mr Albert HO's question is related to clauses 11(3) and 16 of the ASP, the former provision is related to the forfeiture of 5% of the purchase price and the latter empowers developer to forfeit payments already made by the purchaser and recover from the purchaser the deficiency in price on resale. It is the developer's commercial decision to handle the cancelled transactions according to which specific provision. If the police considers that there is sufficient evidence to prove any unlawful act of the developer, actions will be taken accordingly. Hence, as I have just said, it is not appropriate for me to make any comments here. The question of whether there is any breach of law shall be handled by the police.

Being a lawyer himself, Mr HO should understand that the question of whether there is any breach of law must be substantiated by evidence. As evidence is still being collected under the ongoing investigations about the case, we should let the police do its job.

**MR ALBERT HO** (in Cantonese): *President, .....*

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

**MR ALBERT HO** (in Cantonese): *..... can the Secretary undertake that upon completion of the investigation, an account will be given to the public as to whether, based on the findings of investigation, there is any independent purchaser who is completely unrelated to the developer? I only need this answer.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): I cannot possibly give an unequivocal undertaking here that certain findings of investigation must be forthcoming. I cannot make this kind of judgment. As I just said, we must let the police undertake enforcement actions according to the evidence.

**MR ALBERT HO** (in Cantonese): *Is that a yes or no? I am not asking the Secretary to give me a particular answer. Is the Secretary unable to give an undertaking?*

**PRESIDENT** (in Cantonese): Mr HO, I think it will be difficult for the Secretary to further furnish you with a different answer.

**MR ALAN LEONG** (in Cantonese): *President, after the "39 Conduit Road" incident, we also notice recently the case of THE ICON. In the past two days, there are extensive reports in the media about another case involving the developer asking relevant persons to purchase units of the property development, that is, these are bogus transactions which are not completed. It seems the current problem faced by the Secretary is that the sale of first-hand uncompleted residential properties has gone quite out of control.*

*President, the Secretary has said in part (c) of the main reply that the Steering Committee will complete its work by October this year. I would like to ask the Secretary whether a legislative timetable can be provided to this Council and whether an undertaking can be given to definitely complete the legislation exercise before the current term of Government expires in 2012?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, this would depend on the progress of whole exercise. We will try our best to do what we can at this stage. The Steering Committee, which comprises Mr LEE Wing-tat and Prof Patrick LAU as members, has been working very hard. Three subcommittees have been formed under the Steering Committee and they are closely discussing the issues to be regulated through legislation. Instead of conducting two separate rounds of consultation, firstly on matters of principle and secondly on the Bill itself, our target is to take forward the subsequent consultation in the form of a White Bill in order to expedite the public consultation process. In terms of legislative timetable, it is of course our hope that the whole legislation exercise can be completed as soon as possible. But this would also depend on the complexity of the legislative framework of regulation because after all, it is a new work for us as there has never been a legal regulation framework on the sale of first-hand residential properties.

Regarding the developments mentioned by Mr LEONG in relation to uncompleted flats and other aspects, such as projects involving sites under old leases, I would like to assure Honourable Members that our current target is to put all types of first-hand residential properties under the ambit of regulation by legislation, regardless of whether the projects are developed under old or new lease conditions and whether the flats units are completed or uncompleted.

**PRESIDENT** (in Cantonese): This Council has already spent more than 21 minutes on this question. Fourth question.

### **Allocation of Public Rental Housing Flats**

4. **MR FRED LI** (in Cantonese): *President, Members of the public who are eligible to apply for public rental housing (PRH) and have submitted their applications must first obtain an application number, then wait for allocation of PRH flats according to their order of registration on the PRH Waiting List, and PRH flats will be allocated to them when suitable flats are available. At present, the average space allocated is normally not less than seven sq m per person. In this connection, will the Government inform this Council:*

- (a) *why at present, the authorities generally need three months to allocate an application number to a PRH applicant and whether that duration can be shortened; among the ordinary family applications which had been allocated PRH flats in the past three years, of the average waiting time from the date of registration to the acceptance of flat offer (that is, being successfully allocated a flat), the median waiting time, and the respective numbers and percentages of applicants who accepted the flats allocated to them on the first, second and third offers;*
- (b) *among the ordinary family applications currently on the Waiting List, of the average waiting time from the date of registration till the end of December 2010, the median waiting time, and the respective numbers of applications which have been given flat offers once or twice, and whether the time required for making the second or the third offers can be shortened; and*

- (c) *among the applications from the three-person, four-person and five-person families which had been allocated PRH flats in the past three years, of the respective average space allocated to each person, and whether the authorities will consider relaxing the space allocation standard, which had been established many years ago, of an average of seven sq m per person?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the Government and the Hong Kong Housing Authority (HA)'s objective is to provide PRH to low-income families who cannot afford private rental accommodation, and the target is to maintain the average waiting time for PRH at around three years. To this end, the HA maintains a Waiting List of PRH applicants. My reply to the three parts of the question is as follows:

- (a) To safeguard the rational allocation of public housing resources, all applicants have to undergo eligibility vetting before they are registered on the Waiting List. The Housing Department (HD) will vet the applicants' eligibility according to the order of receipt of the application forms. Those fulfilling the eligibility criteria will be allocated an application number and issued an acknowledgement letter (blue card) bearing the application number. Our target is to inform the applicant in writing whether he/she has been successfully registered on the Waiting List within three months upon the acknowledgement of the receipt of his/her application form. The time required for vetting depends on the number of applications received and the number of documents requiring vetting. If there is a significant increase in the number of applications received in a certain period of time, the HD will redeploy extra manpower to vet and process the applications. At present, in general, we are able to meet the target of completing the vetting in three months.

The Government and the HA's target is to maintain the average waiting time of general Waiting List applicants at around three years. Under the established calculation methodology, the average waiting time of general Waiting List applicants refers to the average time taken between registration on the Waiting List and the first flat offer for those rehoused to PRH in the past 12 months, excluding any

frozen period during application, for example, when the applicant has not yet fulfilled the residence requirement, the applicant is imprisoned, or the applicant has requested to put his/her application on hold pending arrival of family member(s) for family reunion, and so on. While eligible applicants are given three flat offers, the applicants are provided with a rehousing opportunity at the first offer. It is a matter of personal choice if the applicants decline the first flat offer to wait for subsequent offers. Thus, the waiting time is counted up to the first flat offer.

In respect of the average waiting time for general Waiting List applicants, which refers to the average period between registration and first flat offer, it was 1.8 years in 2008-2009, and two years for 2009-2010 and as at the end of October 2010.

The aforementioned calculation methodology counting the time between registration and first flat offer forms the basis for formulating and maintaining the target of keeping the average waiting time at around three years. We have not calculated the average or median of the actual time for rehousing as this would include acceptance upon the second or third flat offer.

However, we can provide the following supplementary information for reference. For those general Waiting List applicants, excluding one-person applicants, who rejected the first offer, in 2008-2009, the average time taken between the first and second offers, or between the second and third offers for those with third offers was about five or six months plus; in 2009-2010, it was about four to five months plus; and from April to the end of October 2010, it was about five to six months.

As regards statistics of when the applicants accept the flat offers, in 2008-2009, 20%, 39% and 41% of the general Waiting List applicants (excluding applicants under the Quota and Points System (QPS)) accepted the first, second and third offers respectively. In 2009-2010, the respective numbers were 21%, 41% and 38%. From April to end of October 2010, the respective numbers were 19%, 46% and 35%. I would like to stress that the above figures

only show the situation in a specified period of time. As the supply and demand of PRH and the distribution of Waiting List district choices of applicants change from time to time, such figures also vary from time to time.

- (b) Regarding part (b) of the question, as the statistics for the recent two months are still being compiled, we will now provide statistics as at the end of October 2010.

The average waiting period for general Waiting List applicants currently on the Waiting List, based on the time between registration until flat offer or the end of October 2010, was 1.5 years and the median waiting period was 1.3 years. The waiting period excludes any frozen period, for example when the applicants do not fulfil the residence requirements, period of imprisonment, or the applications are put on hold at the request of the applicants pending arrival of family member(s) for family reunion, and so on.

Under the three housing offers available, it is a matter of personal choice for the applicants to refuse the first flat offer to wait for subsequent offers. As at the end of October 2010, there were a total of 81 900 general Waiting List applications, excluding applications under the QPS. Among them, 5 700 and 7 900 cases had already received first or second flat offers.

As for the period between the second and third flat offers, I wish to point out that allocation offers are made subject to the supply of PRH flats which includes new production and recovered flats. Supply of new and recovered PRH flats may vary across districts from time to time and applicants' demand for various flat types in different districts changes from time to time as well. Whenever existing PRH flats are recovered or new flats are completed, we will allocate the flats to households of suitable sizes in a timely manner and without any delay, according to the order of the applications. We hope to help applicants solve their housing problem as soon as possible and ensure that public housing resources are utilized effectively. As allocation offers are made subject to PRH demand and supply, we are unable to pledge to shorten the period required

for the next offer. Moreover, there are cases where the applicants have special requests regarding the locality of allocation on medical or family grounds with support from the relevant authorities. The flats available for allocation would be limited and hence the time required for such offers will be longer.

- (c) The HA's objective is to provide PRH to low income persons to meet their housing needs as soon as possible. For effective use of the scarce PRH resources, flats of different designs and sizes are allocated according to the standards endorsed by the HA. If the standards are relaxed, applicants' choice would be reduced and the waiting time would be lengthened. The HA will also need to have larger units to rehouse Waiting List applicants. This will exert pressure on PRH supply under limited public housing and land resources. Therefore, we do not have any plans to relax the allocation standards.

Among general Waiting List applicants rehoused in 2008-2009, 2009-2010 and from April to the end of October 2010, the average space allocated per person for three-person households remained around 10 sq m. For four-person households, it remained around 9.5 sq m. For five-person households, it remained around 8 sq m.

**MR FRED LI** (in Cantonese): *President, the remark made by the Secretary in the main reply that the waiting time for successful allocation of a flat is three years in general is not correct. As stated in the main reply, more than 80% of applicants accept the allocation at the second or third offer, and there is a gap of five to six months between the two offers. If they accept the allocation at the third offer, their waiting time will be even longer. This is the situation for general applicants.*

*President, my supplementary question is about these general applicants, which include applicants given priority in flat allocation because of the elderly members in their families, whose waiting time is 1.5 years shorter than that of general Waiting List applicants. If so, for general Waiting List applicants*

*without elderly family members who only accept the allocation at the second or third offer, what is the difference in their waiting time?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the arrangement mentioned by the Member earlier is under the Harmonious Families Priority Scheme (HFPS). Under the HFPS, we encourage young family members, if they are willing, to apply for PRH flats with elderly members, and their applications will be granted the priority of a six-month period. In other words, at the time they submit their applications, they are deemed to have waited for six months. The figures are already included in the data provided in the main reply earlier.

However, I would like to reiterate that the first flat offer for applicants are made according to their preferred district. For instance, if an applicant applies for flats in the New Territories, extended urban areas or other districts, we will, in consideration of his preference and the requests of other applicants, and subject to the supply of flats, both recovered and newly completed, in the districts concerned, allocate flats randomly by the computer. Hence, the applicant is given the opportunity to be allocated a flat at the first offer. If he does not want to accept the offer for various personal reasons, he can choose to wait for the second or third flat offer. As for the second or third offer, we adopt the same approach, random matching by computer to match applicants eligible for allocation and at their turn with the flats available. The applicant is free to decide whether or not to accept the offer. The existing practice has been adopted for a long time, and we consider it a fair approach in calculating the average waiting time.

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

**MR FRED LI** (in Cantonese): *President, according to your wisdom, you should know that the Secretary has not answered my question. My supplementary question is about general Waiting List family applicants without elder members, but the figures now provided by the Secretary include all applicants. I would like to know clearly how long do general Waiting List family applicants without*

*elder members have to wait. I would like to know the relevant figures. President, the Secretary has not answered the question in this respect at all.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the figures provided are based on the information on the general Waiting List. The general Waiting List includes all applicants mentioned earlier irrespective of their family composition. All applications submitted in family unit are included in the list. We do not have the breakdowns for families with and without elder members.

**MR FREDERICK FUNG** (in Cantonese): *President, I would like to follow up with the Secretary's reply in the fifth paragraph of part (a). It is pointed out therein that from 2008 onwards, the average time taken between the second and third offers was about five to six months, and that it is the average. In other words, when an applicant rejects the first offer, he will be given the second offer; and if he rejects that offer again, he will be given the third offer within five to six months. If half of the applicants reject the first offer, and half of the applicants reject the second offer — one-half times one-half equals to one-fourth — that means one-fourth of the applicants may have to face the worse scenario, for they have to undergo three means tests of the HD in a year. At present, the means tests results of the HD are valid for six months. In other words, for an applicant that has passed the means tests, he will not have to undergo another means test if the second or third offer is provided within six months. However, if an applicant, who has passed the means test, rejects the first offer and he is only given the second offer six months later, he will have to undergo another means test. That is to say, around one-fourth of the applicants will have to experience this worse case scenario of undergoing three means tests in a year. I wonder if the Secretary knows that the list of items to be provided are really complicated, including information on bank accounts, investment, self-employment, employment, part-time jobs .....*

**PRESIDENT** (in Cantonese): Mr FUNG, please be concise.

**MR FREDERICK FUNG** (in Cantonese): ..... *my supplementary question is: Can the Government shorten the average time required for providing the three offers from five to six months to less than six months? This was achievable in the 1990s.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the progress of flat allocation is determined by various factors. Apart from the overall supply, the demand at the time will also have a bearing. If there are newly completed flats in the district selected by the applicant, the allocation of flat may be earlier. However, if he chooses another district, it will depend on the supply of the district at the time. At present, flat offers are made at an interval of four to five months or five to six months. This is an achievable target taken into account the overall supply and demand at present. This is the existing case. However, we can hardly promise that offers can be made within a specific number of months, for it will be subject to the overall supply of recovered and newly completed units in individual districts at the time.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, the Secretary has repeatedly stressed that the waiting time at present is around three years, or that the target is three years, and this has a bearing on the annual flat production target set by the Government. At present, the annual flat production target is around 15 000 units. However, in the past, the flat production target was 20 000 to 25 000 units. Hence, I think she should truly reflect the overall waiting time of all applicants of PRH, including singletons, for she has all along excluded one-person applications. Since one-person applications are not included, she manages to set the target waiting time at three years. May I ask the Secretary to tell us exactly the waiting time for a successful allocation of flat of various types of families on the Waiting List? Will the waiting time affect the flat production target set by the Government? If it will, will the Government increase the flat production target?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, regarding the average waiting time, as I said in the main reply, as at October 2010, the average waiting period between the registration of the applicant and the first flat offer provided for general Waiting List applicants is two years. As for family applications, say non-elderly applicants under the

QPS, the average waiting time is 2.1 years. The waiting time I just provided is for applicants on the general Waiting List and the QPS, which are the two types of applications of concerns to Members.

Moreover, Members asked earlier how long did applicants now on the Waiting List have to wait at present, which is not referring to the time to be successfully allocated a flat, but the average waiting time on the Waiting List. At present, the average waiting time for general Waiting List applicants is 1.5 years, and that for non-elderly one-person applicants under the QPS is around 2.4 years.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): *She has not answered my supplementary question. I want an overall figure and not the breakdowns. The figure arrived at separate calculations may differ from that of an overall calculation. This is the first point she has not answered.*

*Second, is there any relationship between the waiting time and the flat production target? If there is, will the flat production target be enhanced?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, in respect of waiting time, the waiting time for general Waiting List applicants at present is two years and that for applicants under the QPS is 2.1 years, which are both within the three-year target. Certainly, in future, we not only have to review the situation in the past but have to make adjustment according to the overall situation of applicants on the Waiting List. In view of the average waiting time at present and taken into account the average annual flat production of 15 000 units in the next five years, I believe we should be able to achieve the target average waiting time of around three years in being successfully allocated a flat.

Members asked earlier whether an overall figure could be provided. In fact, a separate calculation is more practical. For a waiting mechanism is set up for general Waiting List applicants, and the QPS is set up for non-elderly

one-person applications and elderly one-person applications. These applicants are on separate waiting lists. Hence, we consider it necessary to calculate the waiting time of the three waiting lists separately, which can reflect the situation more accurately and practically, instead of putting all the things together.

**MR ALAN LEONG** (in Cantonese): *President, I would like to follow up the reply of the Secretary just now. Regarding non-elderly one-person applications and elderly one-person applications, what are the justifications for separate calculation? The Secretary said that this calculation method would be more accurate, what is the logic behind? I would like the Secretary to explain this to us.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, Mr Alan LEONG is a member of the HA, he knows full well the logic behind. The HA introduced the QPS as early as 2005 for we have to decide how limited resources can be utilized most appropriately, particularly on the setting of priorities for the many non-elderly one-person applicants and that of the general Waiting List applicants. There are many family applicants and some elderly applicants, and we consider it necessary to give special regard to the needs of the elderly. Hence, the average waiting time for elderly one-person applicants is only 1.1 years at present. We have granted priority to the elderly, and we believe society also wish us to do so. As such, for elderly one-person applicants, we will allocate flats to them earlier. As for family applicants, the waiting time for general Waiting List applicants is two years, and for non-elderly one-person applicants under the QPS, the waiting time is 2.1 years. We need to have different waiting lists to handle the priority issue, for we are dealing with very limited resources. The system has been in operation for five to six years. The HA had discussed this issue in 2007 and considered the system very effective. So, the HA continues to adopt the QPS.

**PRESIDENT** (in Cantonese): This Council has spent 20 minutes and 30 seconds on this question. Fifth question.

## Recycling of Wastes

5. **MR VINCENT FANG** (in Cantonese): *President, although the overall waste recovery rate in Hong Kong at present has reached 49%, over 90% of the recovered waste is exported to other countries and regions, with a very small amount of waste being recycled in Hong Kong. However, officials of the Environment Bureau have indicated to the Panel on Environmental Affairs of this Council that "as there were no outlets for" some recyclable wastes, "these (waste plastics) had to be disposed of at landfills" and "some recycling operations had since become financially non-viable". In addition, some countries and regions (including the Mainland) have gradually banned the import of waste materials, and some environmentalists have pointed out that it is doubtful how much recovered waste in Hong Kong is eventually recycled successfully; and whether the proposals in the Government's "Policy Framework for the Management of Municipal Solid Waste" can successfully reduce waste and achieve the specific targets under the "3R principles" is even more worrying. In this connection, will the Government inform this Council:*

- (a) *among the waste recovered in 2010, of the ratio between the waste which is exported and which is recycled locally, whether it knows the types and amounts of waste received by places of import in the past three years, and the amount and percentage of waste which cannot be recycled and is eventually disposed of at landfills in the past three years;*
- (b) *whether it knows the number of recycling operators in Hong Kong, the types of waste recycled and their production capabilities; whether these operators are currently receiving support or funding from the Government or other organizations; whether the Government will adjust the current business strategies of EcoPark; and*
- (c) *given the remarks of the officials of the Environment Bureau that some recycling operations were financially non-viable, whether the Government will, by making reference to the practices of other countries, provide direct support and funding for or even invest in waste recycling industries in order to resolve the problem of waste accumulation; if not, of the reasons for that; and the measures to*

*resolve the problem of waste accumulation in Hong Kong as waste has become worthless and unmarketable with no importing ends because of declining economic benefits brought by waste recovery?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Mr Vincent FANG for his question.

- (a) Over the past three years, the recovery rate of local municipal solid waste (MSW) rose from 46% in 2007 to 49% in 2008 and 2009. As most recyclables still had economic value and could be recycled, a substantial amount (about 90% in terms of weight) was shipped to Mainland China, Taiwan and overseas countries such as Japan, Korea, the Philippines, Thailand and Vietnam. Details of the volume of major recyclables exported and their destinations are set out in the table annexed and I will not repeat myself. The amount of MSW which could not be recycled and eventually disposed of at landfills also declined over the same period to 3.35 million tonnes in 2007, 3.3 million tonnes in 2008 and 3.27 million tonnes in 2009 respectively, representing a drop from 54% of the total MSW in 2007 to 51% in 2008 and 2009.
- (b) There are about 500 recyclers in Hong Kong engaging mainly in collecting, baling and exporting recyclables. There are also companies or enterprises and non-profit-making organizations locally collecting waste materials including waste cooking oil, computers, electrical equipment, metals, wood, batteries, plastics and glass for recycling. Some of them operate on land provided by the Government such as the EcoPark, industrial estates and short-term tenancy sites dedicated to the environmental industry. There are 33 short-term tenancy sites dedicated to the recycling industry, occupying a total area of 5.8 hectares. The two phases of the EcoPark provide a total of 14 hectares of land for use.

The development of the EcoPark is an initiative by the Government to promote the local environmental industry. It aims to provide long-term land and associated communal facilities at affordable rent to promote and encourage investment by the environmental and

recycling industry. The EcoPark provides infrastructure such as an internal road network, berths for cargo ships and a multi-function administration building. The tenants can invest their capital more effectively in advanced technologies and value-added processes. We also review the operation strategy of the EcoPark from time to time to cater for the requirements of the recycling industry. Based on the experience gained in the tendering of the Phase 1 sites, we have been consulting stakeholders, including the Legislative Council's Panel on Environmental Affairs in November 2010, on the proposed leasing arrangements of the Phase 2 sites. The Environmental Protection Department (EPD) is preparing for the leasing of Phase 2 sites and will uphold the principle of open, competitive, fair and just process in the selection of tenants. It will strive to enhance the attractiveness of the EcoPark sites to the recycling industry and facilitate and assist with tenants' early operation after they have moved into the EcoPark.

- (c) To support the development of the waste recycling industry, the Government has set out a series of initiatives in the Policy Framework for the Management of Municipal Solid Waste (2005-2014). They include:
- (i) Programmes on source separation of waste to encourage the public to separate waste at source so as to increase the amount of local recyclables for collection;
  - (ii) Identifying more suitable sites for lease to the recycling industry under short-term tenancy through bidding;
  - (iii) As I said just now, developing the EcoPark to provide long-term land for the recycling industry at affordable rent so as to facilitate and encourage investment by the recycling industry. The target is to transform gradually the traditional simple mode of recycling operation (that is, collection, baling and exporting) into high value-added processes that comply with environmental and other statutory requirements;

- (iv) Promoting the green procurement policy among government departments to boost the demand for green products as an outlet for recycled/green products and materials;
- (v) Implementing producer responsibility schemes (PRS) to encourage the public and the industry to engage more actively in waste recovery; and
- (vi) Encouraging the development of recycling technology to upgrade the standard of local recycling industry through the Innovation and Technology Fund, the Environment and Conservation Fund (ECF) and various funds for small and medium enterprises.

On the basis of the above initiatives, the Government has recently raised MSW recovery target further to 55% in 2015. We will try to achieve this target through strengthening district recycling facilities and networks, further expanding the PRS as well as launching a public consultation on MSW charging. We believe that such policy initiatives can ensure a steady supply of source materials for various recycling trades. We will also explore more outlets for recyclables. Through the ECF, the EPD also subsidizes non-profit-making organizations to implement recycling and processing schemes for waste plastics and waste electrical equipment at Phase 2 of the EcoPark.

President, due to the constraints of the local industry, it may not be practicable to recycle locally a substantial amount of the recyclables. Nevertheless, the Government will review the development of recyclables use from time to time. For example, the Highways Department has stipulated in their public road maintenance contracts that priority should be given to eco-paving blocks containing recycled glass, which helps to promote their production by our recycling industry locally. Separately, our proposed PRS on waste electrical and electronic equipment (WEEE) includes the development of local treatment facilities to handle WEEE with detoxifying methods.

## Annex

Statistics on major recyclables exported from 2007 to 2009  
(based on information of the Census and Statistics Department)

Types of materials	Major destinations	Volume exported ('000 tonnes)		
		2007	2008	2009
Paper	Mainland China	1 061	1 051	1 008
	The Philippines	30	29	14
	Thailand	-	-	5
	Others	11	11	-
Plastics	Mainland China	815	1 020	1 146
	Vietnam	1	-	60
	Others	2	1	2
Metals	China			
	- Mainland	385	430	697
	- Taiwan	371	467	113
	South Korea	10	3	4
	Japan	5	3	1
	Vietnam	-	8	-
	Thailand	-	-	7
Others	4	22	12	
Textiles	Mainland China	8	4	10
	Vietnam	3	3	3
	Cambodia	3	1	1
	Thailand	1	1	1
	Others	-	1	1
Wood	Mainland China	20	17	16

**MR VINCENT FANG** (in Cantonese): *President, over 90% of the recovered waste in Hong Kong is now exported to other countries or regions for recycling. The Government has indicated in the main reply that it wishes to raise the MSW recovery rate from the current 49% to 55% in 2015 and it will adopt a three-pronged approach in carrying out the work. If other countries suddenly ban the import of waste materials and the three-pronged approach fails to achieve any result, what countermeasure does the Government have?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Mr Vincent FANG for his supplement question. Regarding the several types of major recyclables (such as paper, metal and plastic) which are now exported, the international community basically has a relatively stable import control on these recyclables which have been preliminarily processed.

Indeed, as Mr Vincent FANG has said, the international community may lay down more export control on certain types of recyclables such as WEEE in future. Thus, we consulted the WEEE recycling operators last year and explained to them the present situation. In this connection, we hope that in taking forward the PRS on WEEE, these recovered waste products can be processed locally, so as to respond to the international development trend and facilitate the development of the relevant recycling industry in Hong Kong.

**MR LAU WONG-FAT** (in Cantonese): *President, the officials of the Environment Bureau have indicated that some recycling industries were financially non-viable. In fact, the allocation of a large amount of land for landfilling purpose by the Government not only incurs cost, but also wastes the precious land resources in Hong Kong. Will the Government consider installing recycling facilities to handle the recyclables as a kind of urban construction, thereby reducing the use of land for landfilling purpose?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): I thank Mr LAU Wong-fat for his supplementary question. In order to support local waste-recovery or recycling industry, land is definitely an important factor. Hence, in addition to allocate short-term tenancy sites to environmental and recycling industries, we set up an EcoPark a few years ago to provide another form of support to the industries which can more adequately tailored to their needs. As pointed out in the main reply just now, there are 33 short-term tenancy sites and 14 hectares of land in the EcoPark dedicated for these two purposes respectively. Regarding Mr LAU's proposal of further utilizing the land at landfills, in fact, the land at landfills can become usable land again after restoration and treatment. There are certainly limitations in the restoration process. For instance, consideration must be given to the discharge of landfill gas if construction is to be carried out on these landfill sites. There is precedence of restored landfill sites being converted into other land use, such as

serving as sites for recreational and sports facilities. However, generally speaking, we will proceed with the short-term tenancy approach for the time being to increase the supply of EcoPark sites and expand Phase 2 of the EcoPark to meet the needs of the industry.

**MR CHAN HAK-KAN** (in Cantonese): *President, there is considerable difficulty in recovering plastic materials and the recyclers are facing rather substantial financial difficulties. Although there is a social enterprise in the EcoPark operating as plastic bottle recycler, its operation is not cost-effective. If the recycling of plastic materials is not cost-effective, implementing PRS seems to be the only outlet. Will the Government tell us, among the various PRS under planning, when will the proposed PRS on four target recyclables (including plastic bottles) commence? And whether the Government has any legislative timetable?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): *President, under the current three-coloured waste separation efforts, plastic is one of the major or priority recyclables for recovery. The three-coloured waste separation bins collect waste paper, metal and plastic. Statistics in the past decade show that the volume of recovered plastics has varied, subject to different factors such its international price of the year, but in respect of its total volume exported, its monthly export volume has increased from 17 000 tonnes in 2001 to 100 000 tonnes in 2009 and the figure is still increasing. In other words, the export volume of recovered waste plastics has been on the increase, certainly though the use of plastic materials in our daily life has also become increasingly common.*

The Government strives for progress in encouraging the public to reduce and recover waste and taking forward waste plastic recycling. This accounts for the establishment of a waste plastic recycling operation in Phase 1 of the EcoPark. In Phase 2, we have subsidized social enterprises to take forward simple processing procedures, in a bid to kicking start initiatives containing education and waste collection elements and help putting these waste plastics back into the production chain of waste recovery. We hope that these efforts can facilitate the entire community to step up their efforts in waste recovery.

As for the PRS on different products, we can certainly conduct more discussion to explore whether the schemes should be taken forward on a voluntary basis, with the participation of the industry or through legislative process.

**MS MIRIAM LAU** (in Cantonese): *President, the Government always advocates enhancing the capability for waste recovery, but it often turns a blind eye to the problems encountered by the waste recovery trade. Everyone knows that the Kwun Tong Public Cargo Working Area will soon be closed down and many waste paper recyclers will be deprived of a place for operation. These recyclers are at sixes and sevens because it is difficult for them to continue their business if they are required to relocate to Chai Wan or Western District as their base has been in the New Territories and Kowloon. Their business will simply become non-viable with the addition of cross-harbour delivery cost. Many old folks who scavenge for carton are also very worried that they cannot make a living if these trades close down. Although the Public Cargo Working Area falls under transport policy, it is also related to environmental problems. Thus, may I ask the Secretary for Environment, for the sake of environmental protection, how he will help these recyclers to overcome this business hurdle so that, instead of being left to live or die, they can maintain the waste recovery service and in turn reduce the pressure on landfills?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): I thank Ms Miriam LAU for her supplementary question. The export of waste paper is one of the many procedures in the entire process of waste paper recycling. It is a very important procedure which comes after the collection and processing of waste paper. To complement other urban development in Kwun Tong, the public cargo working area in the district has to be reallocated for other uses. In this connection, the Transport and Housing Bureau is co-ordinating the entire project with participation from different departments including the EPD. We understand that the 10-odd paper recyclers are now jointly operating the trade and they wish to retain this mode of operation. In the tendering exercise, some of the paper recyclers opted for relocating their business to other places but their preferred locations were all in Kowloon. In this connection, I know that the Transport and Housing Bureau has discussed with them, hoping that under the current policy and on the premise of upholding the principle of fairness and

openness, and with due consideration to their aspirations, a solution that is understandable and acceptable to all stakeholders can be reached, so that when their berth licence agreement expires in July this year, they can continue their business by bidding in the tendering exercise.

**DR RAYMOND HO** (in Cantonese): *President, waste recycling is an important industry in overseas countries. Our recovery rate now is 49%, which is indeed very low when compared with that of many advanced countries or cities such as Germany. Given the substantial amount of construction works taken place in recent years and the increasingly rapid pace of urban redevelopment, it is a great waste if construction waste is not recovered. Transporting such waste to the Mainland for reclamation is also a practice that wastes resources. Given that Hong Kong is facing the problem of insufficient land for waste recycling and there are 200-odd islands in the territory, will the Government consider selecting islands with relatively low-lying topography as sites for sorting construction waste delivered by barge, so that recyclables can be separated for treatment and transported back to different parts of the territory for other uses? Will the Government consider this option?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): I thank Dr Raymond HO for his supplementary question. First, at present, all construction wastes or waste materials generated from works projects or mountain excavation and boring works are not considered as waste but re-usable materials called inert materials. I believe Dr HO also knows this very well. Under the current practice adopted in public works contracts or by the engineering sector, construction wastes must first be treated or sorted for reusable materials. Second, there is a charging scheme for construction wastes. In other words, it will be a few times more costly if construction wastes are disposed of at landfills unprocessed as compared with those having sorted for reusable materials to be stored in fill banks. Hence, the percentage of construction waste disposed at landfills has been substantially reduced with over 80% of the waste reused. Of course, these materials ultimately need to find an outlet. At present, the majority of the waste is handled through cross-boundary arrangement and the waste is delivered to Taishan for treatment. However, there are quite many new works projects in the coming few years, which will create considerable pressure in this regard. The Environment Bureau will liaise with other government departments

for other treatment methods such the method just suggested by Dr HO. Of course, this option must be able to fit in the environmental need and we also need to consider the fact that the additional land may have other usage. We will consider this among other options.

**PRESIDENT** (in Cantonese): We have spent almost 21 minutes on this question. Last question seeking an oral reply.

### **Subsidized Places in Residential Care Homes for Elderly**

6. **MR WONG YUK-MAN** (in Cantonese): *President, there have been comments that the problem of shortfall in the supply of subsidized places in the nursing homes (NH) and care-and-attention (C&A) homes for the elderly has been worsening since the Chief Executive took office in 2005, and although quite a number of elderly people have dedicated their whole life to Hong Kong, they can neither share the fruits of prosperity nor lead a dignified and comfortable retirement life. Since the Chief Executive took office in 2005, the number of elderly people who died while waiting for subsidized NH places increased sharply from 1 339 in 2005 to 1 822 in 2009, representing an increase of more than 36% over a period of five years. In addition, the number of elderly people who died while waiting for subsidized C&A places also increased sharply from 2 053 in 2005 to 2 716 in 2009, representing an increase of more than 32% over a period of five years. In this connection,, will the Government inform this Council:*

- (a) *of the respective numbers of elderly people who died while waiting for subsidized NH places and C&A places in 2010;*
- (b) *whether the Government has assessed the reasons for the upsurge in the number of elderly people who died while waiting for subsidized NH places and C&A places; if it has, of the reasons; if not, whether it will conduct an assessment; and*
- (c) *whether the Government has assessed the effectiveness of the measures to ameliorate the problem of acute shortfall of subsidized places in residential care homes for the elderly; if the assessment*

*outcome is in the affirmative, when the number of elderly people who die while waiting will decline; if the assessment outcome is in the negative, the principal officials who shall be held responsible under the accountability system headed by the Chief Executive?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, my reply to the question raised by Mr WONG Yuk-man is as follows:

- (a) In 2010, the numbers of elders who passed away while waiting for subsidized NH places and C&A places were 1 823 and 2 971 respectively.

(b) and (c)

With the rapidly increasing elderly population in Hong Kong, society's overall demand for subsidized residential care places for the elderly has been on the rise, and the number of people waiting for such places has been increasing correspondingly. With a view to shortening the waiting time as far as possible, the Government has been allocating additional resources and making the best endeavour to identify suitable sites for construction of elderly homes in recent years to increase the provision of subsidized residential care places.

We have been closely monitoring the waiting situation of various types of subsidized residential care places and deploying resources accordingly in order to address specific problems. For example, we understand that the waiting time for subsidized NH places is rather long. Therefore, we have taken the initiative to introduce strategic measures on two fronts to support frail elders waiting for NH places.

Firstly, we have adopted a novel approach to increasing the supply of subsidized NH places. This entails increasing the proportion of NH places in existing contract elderly homes from an average of 50% to 90%, purchasing vacant NH places from self-financing elderly homes, and making full use of the space in existing subvented homes to provide more long-term care places offering a continuum of care. Through the abovementioned multi-pronged

initiatives, 1 095 additional NH places will come on stream from this financial year to 2013-2014, representing 50% of the existing provision of NH places (2 191 places), which is an increase of 50%.

Secondly, we will provide better support for elders on the waiting list. The Social Welfare Department (SWD) has obtained funding of \$55 million from the Lotteries Fund to launch the Pilot Scheme on Home Care Services for Frail Elders, which will provide "tailor-made" home care services for frail elders living at home while waiting for NH places. The SWD has selected three non-government organizations as operators and the new service will be formally rolled out in March this year.

Regarding subsidized C&A places, our strategy is to increase the provision of places through the Enhanced Bought Place Scheme (EBPS). In his Policy Address last October, the Chief Executive indicated that he would increase the number of bought places, particularly the higher-quality ones (that is, EA1 places). According to statistics as at the end of last year, the average waiting time for a bought place in an EBPS home was about eight months. We believe that the new round of purchase exercise under the EBPS will help to shorten the waiting time and encourage private homes to further enhance their service quality.

We believe that this series of initiatives will help to alleviate the waiting situation. In future, the Government will continue to allocate resources to strengthen residential care services for frail elders. However, I must emphasize that elderly home is not the only choice, and often not the best one. Most elders prefer to age at home. This is also the Government's policy objective and the global trend. Hence, we are providing various types of assistance and services for elders waiting for residential care places.

It is noteworthy that as at the end of December 2010, among the some 26 000 elders waiting for various types of subsidized residential care places, more than 14 000 (that is 54%) were receiving different kinds of government subsidies or services, including:

- over 11 000 elders receiving Comprehensive Social Security Assistance (CSSA);
- over 3 000 elders using subsidized community care services; and
- about 300 elders using subsidized residential care services of a lower care level.

We will continue to enhance community care services for the elderly. The Chief Executive has announced in the Policy Address that the number of subsidized community care service places would be substantially increased to provide support for elders to age at home.

In recent years, the Government has also introduced several new initiatives to further enhance the support for elders who age at home. These include the Integrated Discharge Support Trial Programme for Elderly Patients, which was launched in 2008 and aims to provide "one-stop" services for elders discharged from hospitals and also for their carers through the provision of pre-discharge planning and post-discharge home care services. As the programme has been well received, we will extend its service coverage in phases from the current three districts to all 18 districts in the territory. The number of elders served will also increase from about 8 000 a year at present to 33 000. Separately, we have launched in 2008 the Home Environment Improvement Scheme for the Elderly which assists elders who lack the financial means to improve their home conditions. Under the scheme, we have provided home environment improvement work services or purchased fittings for 15 000 elderly households. It is expected that a total of 40 000 elderly households will benefit from the scheme.

**MR WONG YUK-MAN** (in Cantonese): *President, I have raised this question for three years and this is the third year. However, no improvements have been made so far. President, this is the woe of Hong Kong. Regardless of what he said, there are currently some 20 000 to 30 000 people waiting and about 4 000*

*to 5 000 people died every year while waiting. How can he be so shameless as to give us such a reply? One paragraph of his reply is particularly enraging. I am not going to talk about what Secretary Matthew CHEUNG is good at for the time being — in response to my question which is only half-page long, he has given a three-page reply. He is very good at wasting our time in this way, am I right?*

*Furthermore, the content of his reply has actually been set out in the Policy Address and other policy papers, right? He has not answered the question at all. He said that the number of residential care places will increase ..... but how can he satisfy the prevailing demand? One would certainly be infuriated after listening to one part of his reply. (I quote) "It is noteworthy that as at the end of December 2010, among the some 26 000 elders waiting for various types of subsidized residential care places, more than 14 000 (that is 54%) were receiving different kinds of government subsidies or services, including over 11 000 elders receiving CSSA" (end of quote). It is all too natural that they receive CSSA, buddy, but how does this relate to the main question? There is no doubt that elders would receive CSSA. Elders who are eligible will certainly receive CSSA, right? How does it relate to my question concerning the serious shortfall in the supply of subsidized places in C&A homes and residential care homes, which has resulted in the deaths of many elders while waiting? Have Members watched a Japanese film called "The Ballad of Narayama"? The current situation can be seen as a Hong Kong version of "The Ballad of Narayama" .....*

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

**MR WONG YUK-MAN** (in Cantonese): ..... which is really too heavy to bear. His reply was so infuriating, especially the information about 26 000 elders waiting for residential care places, 11 000 elders receiving CSSA, 3 000 elders using subsidized community care services and 300 elders using subsidized residential care services of a lower care level, and so on. My question is: How does it relate to my question?

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

**MR WONG YUK-MAN** (in Cantonese): *I therefore hope that the Secretary will tell me when the problem will be resolved and when the number of people died while waiting can be reduced. Will you, please? Do you have any elders at home? Of course, there is no need for the elders living with you to wait for residential care places, right? Can you answer me and give me a concrete reply, okay? When can you reduce the number of elders who died while waiting? That is it.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, thanks to Mr WONG, as in the past three years ..... he has actually put forth a lot of views on this matter, and we have all along attached great importance to the issue of caring for the elderly. We should focus on the figures relating to this issue. This is very important. First of all, NH places are the hardest hit. In my reply, I have stated very clearly that from now on to 2013-2014, we ..... Mr WONG, there are currently 2 191 NH places, and as stated in the main reply, the number will increase by 50% with an additional 1 095 places. These are .....

**MR WONG YUK-MAN** (in Cantonese): *President, he said that there are currently a total of 2 191 places, and that the number will increase by 50% in the coming few years with an additional 1 095 places. However, he still has not answered my question, buddy. Every year, thousands of people died while waiting .....*

**PRESIDENT** (in Cantonese): Mr WONG, we are not in a debate session now. Please let the Secretary reply.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, apart from adopting a new mindset in nursing, we have also expeditiously identified new places and new contract nursing homes in a practical manner. Furthermore, we will also purchase a large number of high-quality NH places called EA1 places. Regarding the backup services for home care, a large

number of residential care places will be provided and the actual figures will be clearly set out in the Budget. It should be noted that the Policy Address delivered in October last year has already clearly set the major direction for improving elderly services. Not only have we attached great importance to the matter, but we also have a good understand the aspirations of the public.

President, in the main reply, I have clearly pointed out that, apart from residential care services, we must also "walk on two legs" by developing age at home in parallel. And yet, given the inadequate support at the present moment, actions must also be taken at root. This is what we meant by "walking on multiple legs". I am aware that you have ruled out the possibility of having three legs. Our existing elderly service is "walking on two legs", to increase residential care places on the one hand, and enhance home care on the other. Therefore, it is hoped that Mr WONG will appreciate that the Government is genuinely committed to injecting resources in this area. I would like to share some statistics with you. In 1997, only \$1.62 billion was spent on elderly services, but it has gone up to \$4.07 billion today. There is an increase of 150%, among which \$2.52 billion was spent on residential care homes. We hope to ameliorate the problem by increasing resource input in this regard. Also, we must adopt a two-pronged approach by promoting age at home as a support, while continuously increasing the number of residential care places.

**DR SAMSON TAM** (in Cantonese): *In my opinion, the reason why Members kept pursuing this issue with the Secretary is that the number of elderly people who died while waiting is on the increase. I think the Secretary should resolve this problem by all means. May I ask the Secretary, have you analysed if elderly people who died at home while waiting was due to a lack of care or ..... I wonder if the Secretary has studied the matter. I opine that an increase in the death rate of elderly people while waiting due to a lack of care should not be tolerated.*

*The Government pointed out that efforts have been made for elders to age at home by enabling them to receive more and better care at home. May I ask the Secretary in what way will those 40 000 potential households benefit after the introduction of the new service? Will it be in the form of longer visiting hours by nursing staff or improved facilities?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Mr TAM's supplementary question involves two aspects. Firstly, he asked if we have looked into the relevant background of elders who died while waiting. We do have relevant information for some cases, but in most cases, we were not informed as the elders concerned were only on the waiting list. We have compiled some statistics and found that the average age of elders waiting for NH places is 82, whereas that of elders waiting for C&A places (residential places for elders of better physical conditions) is 81. These are our statistics. And yet, elders aged over 80 are not quite young after all.

Secondly, elders waiting for C&A places will have priority in choosing subsidized community care services, such as day-care services or visit by nursing staff and meal delivery. They can obtain such services within a short period of time. Member ask in what way will those 40 000 households benefit. In fact, they will benefit in respect of the household environment and facilities. For instance, if the bathroom of an elder does not have any safety grab bars, anti-slippery mat or even lighting system, improvement services will be provided. This involves another programme which aimed at facilitating elders to age at home in a safe and comfortable environment.

**MR WONG KWOK-KIN** (in Cantonese): *Just now, I heard that the Secretary has placed much emphasis on age at home. If age at home can be properly implemented, there is no doubt that elders will live safely and comfortably at home. However, I wish to point out one issue relating to age at home which we often mention but the Government has never responded. As a matter of fact, many elders lack self-care ability and must be taken care of by their family members, who need to go out for work. This issue has been raised long time ago. Has the Government considered granting a subsidy for carers of elders to support their living? If not, how can the Government enable elders to age at home? Even though elders lack self-care ability, their family members cannot quit the job as they have to work for a living. So, what can they do? Is age at home just empty words? I hope that the Secretary will give a concrete reply.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, thank you, Mr WONG. Earlier, we have discussed the possibility of granting subsidies to elderly carers, and similar discussions have also been conducted by the relevant panel. We considered that, in practice, it is more effective to

provide care support to elderly households than to grant subsidies. Thus, since March, a funding of \$55 million have been earmarked under the Lotteries Fund to implement a pilot scheme to provide tailor-made home care services for elders (the frail ones) on the waiting list for NH places. All-round support will be provided for elders who are waiting. I agree with the Member that age at home should not be empty words, and complementary facilities must also be provided. We need to step up our efforts in this regard.

The University of Hong Kong is now conducting a research to facilitate the Elderly Commission to consider how it can be further developed and strengthened in future, in what respect should efforts be made if further strengthening is necessary, and whether or not social enterprises can be mobilized. We will take into consideration the full range of services and the relevant funding mode. The scheme to be launched in March is precisely a pilot scheme. Relevant ageing at home services will first be provided in East and West Kowloon (as these two districts have the largest number of elders on the waiting list and the waiting time is relatively longer), which include physiotherapy, occupational therapy, services provided by healthcare staff and social workers and meal delivery. It is hoped that by so doing, support will be provided to the elders. If the scheme proves to be successful, we do not rule out the possibility of a full launching of the scheme across the territory. This can provide more targeted support for elders who age at home, especially those frail ones.

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

**MR WONG KWOK-KIN** (in Cantonese): *Yes. You also heard that the Secretary has only mentioned complementary facilities in his reply. And yet, I have asked the Secretary if the Government has considered providing a subsidy for elderly carers.*

**PRESIDENT** (in Cantonese): Mr WONG, I did listen to the Secretary's reply. As far as I understand, consideration has been made by the Secretary, but alternative measures are considered more effective than the provision of subsidy proposed by you.

**MR WONG KWOK-KIN** (in Cantonese): *Will the Government provide the relevant subsidy then?*

**PRESIDENT** (in Cantonese): Mr WONG, the Secretary has replied.

**MR CHEUNG KWOK-CHE** (in Cantonese): *President, in the main reply, the Secretary mentioned that 1 095 additional NH places will come on stream by 2013-2014. Secretary, I wish to point out that this is a number game after all. Many residential care homes have intended to convert their NH places into C&A places since March 2006, but renovation is required. In the course of conversion, renovation must be carried out, which include widening the door frames and passageways, and so on.*

*We learn that, so far, only one residential care home has completed renovation and has officially been converted into a C&A home. While approvals have been granted to three to four residential care homes for renovation, applications for renovation submitted by the remaining 70 residential care homes are still in process. In other words, the conversion process has started since 2006, but the figures provided by the Secretary showed that the whole process will only be completed in 2013-2014. What actually has happened in the process that had tied down the Government for so many years? We are aware that some residential care homes complained about the overly stringent government regulation and complicated application procedures. We have also asked if the Government can employ unusual measures to tackle unusual problems and relax the regulation, but I fail to see the Government employing any unusual measure in this regard.*

*I wish to ask the Secretary if he can undertake to approve all applications in one year. The 1 000 places mentioned by the Government can actually be provided, but not just on paper, only if the renovation of the residential care homes can be completed within a year or two.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I would like to make an elucidation. Mr CHEUNG said that I am playing a number game, but I am absolutely not this kind of person. Rather, I am very

practical. Not all the additional 1 095 places are newly created. The converted places mentioned by the Member just now are alternative places which have not reached the standard of C&A places. Therefore, only continuum of care will be provided. Members should not mix up the two as they are different. We need to distinguish between NH places and C&A places. Since NH places are provided for elders who have the worst physical condition and are most fragile, sufficient medical services are available. We think that the demand for such places is most sincere and also the hardest hit. Hence, an additional 1 095 places will be provided.

Places providing a continuum of care will also be increased. Just as we have said earlier, the Lotteries Fund has earmarked a funding of nearly \$300 billion — what Member said just now is correct — and it is hoped that flexibilities will be provided to enable residential care homes to be expeditiously converted and the relevant works can proceed as early as possible. It is also our wish to provide more places with a continuum of care.

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

**MR CHEUNG KWOK-CHE** (in Cantonese): *I think that the Secretary cannot .....*

**PRESIDENT** (in Cantonese): Mr CHEUNG, I stress again that no debate is allowed.

**MR CHEUNG KWOK-CHE** (in Cantonese): *I see, I see.*

**PRESIDENT** (in Cantonese): You can only point out the part that the Secretary has not answered.

**MR CHEUNG KWOK-CHE** (in Cantonese): *The most important thing is that the Secretary has not informed us .....*

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

**MR CHEUNG KWOK-CHE** (in Cantonese): ..... *why the pace of approval is so slow? Since 2006, 70 residential care homes have yet to .....*

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

**MR CHEUNG KWOK-CHE** (in Cantonese): ..... *I would like the Secretary to tell us if it is possible to approve all applications in one year so that the relevant works can immediately proceed.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, in my earlier reply, I have pointed out that we have all along attached importance to this issue. A funding of nearly \$300 billion has been earmarked by the Lotteries Fund to provide funding for residential care homes in 56 public housing estates, and it is hoped that the pace of conversion can speed up. This is my response to Mr CHEUNG's question.

**PRESIDENT** (in Cantonese): Secretary, is it possible to approve all applications in one year?

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): We will try our best. The most important of all is the provision of funding to various residential care homes. Regarding the pace, it depends very much on the NGOs responsible for operating the various residential care homes. I must nonetheless convey a message that each and every place is treasured.

**PRESIDENT** (in Cantonese): This Council has spent more than 21 minutes on this question. Oral question ends here.

**WRITTEN ANSWERS TO QUESTIONS****Manpower in Prosecutions Division of Department of Justice**

7. **DR MARGARET NG** (in Chinese): *President, it has been reported that this year, three of the four incumbent Deputy Directors of Public Prosecutions in the Prosecutions Division (PD) of the Department of Justice (DoJ) have left or will soon leave office, while seven of the 15 Senior Assistant Director of Public Prosecutions positions have been vacant or will soon become vacant, which means that staff changes of an extensive scale will take place in the PD. It has also been reported that the officers to fill these vacancies do not have a lot of experience and hence, quite a number of members of the public are worried that there is succession problem in the PD which may affect the quality of prosecution. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of officers in each rank in the PD at present, including Public Prosecutors, Senior Public Prosecutors, Senior Assistant Directors of Public Prosecutions and Directors of Public Prosecutions, and among them, the respective numbers of those with experience of five or more years and those with experience of 10 or more years (set out in table form);*
- (b) *whether the DoJ has formulated measures to prevent massive manpower wastage in the PD or ensure that there will be enough senior officers to fill the vacancies; if it has, of the specific measures; and*
- (c) *whether the DoJ has formulated measures to prevent the quality of prosecution being affected by manpower wastage; if it has, of the specific measures?*

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

- (a) The respective number of officers in each rank in the PD as at 21 January 2011 and the respective numbers of those with experience (counting from the date of their joining the Government Counsel grade) of five or more years and those with experience of 10 or more years are set out in the table below:

<i>Post (Rank)</i>	<i>Number of officers</i>	<i>Years of service in Government Counsel Grade</i>		
		<i>Number of officers with less than five years</i>	<i>Number of officers with five but less than 10 years</i>	<i>Number of officers with more than 10 years</i>
Director of Public Prosecutions	1	0	0	1
Deputy Director of Public Prosecutions	3	0	0	3
Senior Assistant Director of Public Prosecutions	16	0	0	16
Senior Public Prosecutor	62	3	9	50
Public Prosecutor	36	35	0	1
Total	118	38	9	71

Currently, there are no unfilled directorate vacancies in the PD.

- (b) The DoJ, including the PD, is prepared for staff wastages, be it natural or unnatural wastage. We periodically review the Department's directorate succession plan to identify capable counsel with potential and provide them with professional and management training that meet their developmental needs. Such training would equip these counsel to rise up to the challenges and demands of different positions when they arise. Furthermore, in the light of difficulties in recruitment and retaining members of the Government Counsel grade in recent years, on the invitation of the Administration, the Standing Commission on Civil Service Salaries and Conditions of Service (Standing Commission) conducted in 2008 a review of the Grade Structure for the non-directorate Government Counsel Grade. The Standing Commission made a number of recommendations with a view to retaining capable officers by providing a reasonable career path for aspiring and competent counsel. With the approval of the Legislative Council's Finance Committee in December 2009, the recommendations made by the Standing Commission in respect of advancement and

introduction of extra omitted point were implemented with retrospective effect from 1 April 2009. The proposal to rationalize the structure of the Government Counsel grade so as to retain experienced counsel, that is, the re-creation of the Assistant Principal Government Counsel (DL1) rank, the review of the current Senior Government Counsel (SGC) posts and where justified, the upgrading of SGC to the DL1 posts, will be submitted to Finance Committee for approval on 28 January 2011. By adopting the above measures, we hope to be able to address the recruitment and retention problems. We also communicate with closely with members of different ranks of the Government Counsel grade to better understand their needs and expectations in respect of their work and to cater for such needs, for example through the provision of appropriate support staff, as far as we can. Furthermore, we would continue to recruit additional staff and brief out cases where appropriate to alleviate the impact of unnatural wastages.

- (c) The DoJ takes the quality of prosecution services very seriously. All prosecutors in the PD attend an advocacy training course in the first year upon their joining the Division to obtain intensive advocacy experience. Thereafter, they will receive regular training on a wide range of issues conducted by outside experts and senior lawyers in the Department. Prosecutors also attend overseas advocacy courses to enrich their skills. Such training helps to enhance the quality of our prosecution services. Within the PD, counsels are rotated to different sections periodically to enable them to acquire different and well-rounded legal knowledge, experience and practical skills. These together with the measures mentioned in paragraph (b) above reduce the impact of staff wastage and ensure the quality of our prosecution services.

### **Underpayment of Wages to Foreign Domestic Helpers**

8. **MR LEUNG YIU-CHUNG** (in Chinese): *President, regarding the problem of underpayment of wages to foreign domestic helpers (FDHs) in Hong Kong, will the Government inform this Council:*

- (a) *of the criteria currently adopted by the Labour Department (LD) and the Labour Tribunal (LT) to invite underpaid FDHs to come forward as witnesses for prosecutions against employers for underpayment of wages;*
- (b) *of the total number of underpaid FDHs invited by the LD and the LT to come forward as witnesses in the past five years; and among them, the number of those who accepted the invitation and the major reasons for some FDHs who were unwilling to come forward as witnesses;*
- (c) *of the total number of cases handled by the LD and the LT in the past five years in respect of claims made by FDHs to recover the underpaid wages from their employers; and among such cases, the number of those in which the FDHs concerned succeeded in recovering the full amount of their underpaid wages;*
- (d) *of the number of employers convicted for underpayment of wages to FDHs in the past five years, together with a breakdown by the penalty imposed on them; and*
- (e) *whether the Immigration Department (ImmD) will impose restrictions on further applications for employing FDHs from employers who have been prosecuted and convicted for underpayment of wages to their FDHs; if it will not, of the reasons for that; if it will, the details, and among the applications by Hong Kong employers for employing FDHs which were rejected by the ImmD in the past five years, the number of applications which were rejected on reasons related to the employers concerned having been convicted for underpayment of wages?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, the Administration attaches great importance to protecting the rights and benefits of FDHs. FDHs enjoy the same rights and benefits as local workers under the Employment Ordinance (Cap. 57) (EO). The LD encourages FDHs who are owed wages to come forward and report their cases to the LD, and we spare no efforts in handling requests for assistance. FDHs can also make use of the LD's

free conciliation service and seek adjudication from the LT. Apart from assisting FDHs to pursue their claims through conciliation, the LD will prosecute offending employers if there is sufficient evidence of an offence under the EO.

My reply to the question of Mr LEUNG Yiu-chung is set out below:

- (a) If the LD detects any suspected wage offences under the EO committed by employers, the LD will invite the concerned FDH to provide information and act as a prosecution witness (PW).
- (b) In the past five years from 2006 to 2010, a total of 197 FDHs agreed to act as PWs on wage offences upon the LD's invitation. We do not have the number of FDHs who refused to act as PWs. We understand that FDHs have various reasons for not willing to act as PWs. For example, they have secured a new job and do not have time to act as a PW; they have returned to their place of origin; or they have other unspecified personal reasons.
- (c) During the same period, the LD handled a total of 2 613 claims which involved FDHs lodging claims for arrears of wages against their employers. These claims concerned outstanding wages and other claim items. The LD does not have separate breakdown of claims regarding arrears of wages resolved through the LD. The LT does not have relevant case figures either.
- (d) In the past five years, the LD secured a total of 363 convicted summonses on wages offences, involving 36 employers of FDHs. Among these convicted employers, two were sentenced to imprisonment of three months each, nine were sentenced to community service orders of 80 to 160 hours, 24 were fined with a maximum fine of \$90,000, and the remaining one will be sentenced later.
- (e) If an FDH employer is convicted of contravening relevant labour legislation, the employer may be regarded as not meeting the criteria for employing FDHs for a period of time (in general, two years), and the relevant application will not be approved.

In the past five years, 176 applications for employing FDHs from employers were refused. The ImmD does not have breakdown by reason of refusal.

### **Internet Commercial Fraud**

9. **MR WONG TING-KWONG** (in Chinese): *President, it has been reported that culprits of Internet commercial fraud have employed many different defrauding tricks and recently some culprits have even carried out fraud activities on fake webpages set up on popular social networking sites. According to the information provided by the Commercial Crime Bureau of the police, a total of 505 Internet commercial fraud cases have been recorded in the first 10 months of 2010, representing a sharp increase of 58.3% as compared with that of the same period in the previous year. In this connection, will the Government inform this Council:*

- (a) *whether there are fraud cases involving fake bank websites among the aforesaid Internet commercial fraud cases; if so, of the total number of cases involving fake bank websites on the Internet uncovered in the past three years and the main defrauding tricks used in such cases; what measures the authorities have to assist the detection of Internet commercial fraud committed by using ever-evolving information technologies and to assist members of the public in enhancing their ability to distinguish whether a website is fake or not;*
- (b) *whether the authorities have studied the causes for the aforesaid increase of nearly 60% in the Internet commercial fraud cases; if so, of the details; of the effective measures to combat such crimes; and*
- (c) *in view of the sharp increase in the number of the aforesaid fraud cases, whether it has drawn up plans to educate members of the public to guard against Internet fraud or fraudulent acts; if so, of the details?*

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

- (a) The numbers of cases involving fake bank websites received by the police between 2008 and 2010 are six, 10 and 22 respectively. The usual defrauding trick of swindlers is that they would make use of fake bank websites to obtain login accounts and passwords of Internet banking account users. The police have maintained figures of cases involving fake bank websites in a separate category and therefore, they are not included in the figures of general Internet commercial fraud.

In order to enhance the security of Internet banking as required by the Hong Kong Monetary Authority (HKMA), the banks in Hong Kong had implemented the "two-factor authentication" since end of June 2005 to verify the identity of a customer conducting high-risk Internet banking transactions. In addition, to further strengthen the security of Internet banking, the HKMA issued a circular in July 2009, requiring banks to enhance relevant security measures, including to notify their customers immediately via effective means (for example, SMS messages on mobile phones) the details of a high-risk Internet transaction after the transaction has been conducted. As regards education to customers, banks are required to provide customers with easy-to-understand security tips on Internet banking.

In addition, the police, the HKMA, the Hong Kong Association of Banks, individual banks and the information technology sector maintain close co-operation, for example, by holding e-banking security sub-committee meetings on a regular basis, enhancing information exchange and establishing a notification mechanism to prevent and combat Internet banking crimes. To enhance public awareness of Internet banking security, they also jointly organize public education activities, including issuing educational leaflets and posters as well as spreading the message through the programme "Police Magazine".

Members of the public should stay vigilant when using Internet banking services. They should never access their bank accounts

through hyperlinks embedded in emails, suspicious pop-up windows or other doubtful channels. They should connect to their bank website through typing the website address in the address bar of the browser or by bookmarking the genuine website for access. If in doubt, they should contact the bank concerned immediately to verify the authenticity of the website. If a fake bank website is found, they should report it to the police or the HKMA. The department or organization concerned will disseminate information to the media to alert the public if necessary.

(b) and (c)

The police believe that the increase in Internet commercial fraud cases is related to the growing popularity of Internet auction and e-shopping. Among the Internet commercial fraud reports received by the police in the first 10 months of 2010, 405 cases involve Internet auction or e-shopping which account for 80% of the total figure. The commonest trick used by swindlers is that they fail to deliver goods after receiving online payment from buyers. Recently, there have also been cases in which swindlers, disguising themselves as staff of Mainland banks, claim that a payment has been made by the buyer concerned in order to deceive the seller in delivering the goods.

To prevent and combat such crime more effectively, the police have set up a task group to investigate Internet auction fraud cases. In addition to strengthening the relevant intelligence analysis, the police have taken a number of law-enforcement actions to combat such crimes. Moreover, the police have taken the initiative to contact major Internet service providers and inserted publicity messages in relevant websites to enhance the awareness of those who take part in Internet auctions or e-shopping. The police have also produced videos on the common tricks employed by swindlers for broadcast in the programme "Police Magazine".

To strengthen the publicity and education work in relation to Internet commercial fraud as well as other forms of technology crime, the police set up the "Technology Crime Prevention Unit" in 2009.

The Unit has maintained close co-operation with the "Hong Kong Computer Emergency Response Team Coordination Centre" and "Office of the Government Chief Information Officer", and assists enterprises, in particular small and medium-sized enterprises, to enhance their knowledge in information security. It also organizes, in collaboration with the above two organizations, major publicity campaigns on technology crime prevention, including the "Hong Kong Clean PC Day" held on 24 November 2010, to educate the public about Internet defrauding tricks and the necessary security measures to be adopted for e-shopping.

Moreover, the Junior Police Call and the Police School Liaison Officer organize regular talks in schools on prevention of technology crimes, so as to promote good surfing practices among young people and to prevent them from committing crimes or becoming victims of technology crimes.

The police will continue to formulate education and publicity programmes having regard to the trend of technology crimes. They will also review the effectiveness of related measures from time to time and make adjustments in the light of any changes in the *modus operandi* of such crimes.

### **Automatic Teller Machines**

10. **MR KAM NAI-WAI** (in Chinese): *President, at present, there are two major automatic teller machine (ATM) systems used by banks in Hong Kong, namely Electronic Teller Card (ETC) and Joint Electronic Teller Services Limited (JETCO). The two ATM systems operate independently, and the ATM cards of one system cannot be used in the ATMs of the other system. In recent years, banks have reduced the number of branches as they need to cut costs, which has affected the distribution of ATMs, causing inconvenience to the public. In this connection, will the Government inform this Council:*

- (a) *whether it knows the respective numbers of ATMs under the ETC and JETCO systems in Hong Kong at present, and their distribution in the 18 District Council districts;*

- (b) *whether the Hong Kong Monetary Authority (HKMA) had, in collaboration with the operators of the above two systems, conducted any study in the past three years on the feasibility of connecting the two systems, that is, making it possible for the public to use their ATM cards in both systems, so as to expand the ATM network available to the public for their convenience; if it had, of the outcome of the study; if not, the reasons for that;*
- (c) *whether HKMA had, in the past three years, conducted any study on the collaboration between banks and government departments to install ATMs in those government facilities (for example, post offices and markets, and so on) which are used by relatively more members of the public for their convenience; if it had, of the outcome of the study; if not, the reasons for that; and*
- (d) *given that the number of mainland residents coming to Hong Kong for sightseeing and shopping is increasing, whether HKMA had, in the past three years, conducted any study on further promoting the use of the Mainland's Renminbi credit card "UnionPay Card" in the ATMs in Hong Kong; if it had, of the outcome of the study; if not, the reasons for that?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, the Administration's reply to the questions is as follows:

- (a) According to the information provided by the Hong Kong Association of Banks (HKAB), at the end of September 2010, there were 2 844 ATMs in Hong Kong (of which 1 255 belong to HSBC/Hang Seng and 1 589 belong to JETCO).

According to the latest breakdown figures available from HKAB, at the end of December 2009, the distribution of ATMs in the 18 districts was as follows:

	<i>JETCO</i>	<i>HSBC/ Hang Seng</i>	<i>Total</i>
Central and Western District	173	125	298
Eastern District	122	83	205
Southern District	37	28	65
Wan Chai	124	84	208
Kowloon City	105	66	171
Kwun Tong	106	92	198
Sham Shui Po	82	70	152
Wong Tai Sin	39	52	91
Yau Tsim Mong	190	166	356
Islands	35	35	70
Kwai Tsing	69	69	138
North District	47	44	91
Sai Kung	54	52	106
Sha Tin	105	90	195
Tai Po	44	33	77
Tsuen Wan	60	51	111
Tuen Mun	65	51	116
Yuen Long	71	56	127
Total	1 528	1 247	2 775

(b) and (c)

The HKMA has been encouraging the banking industry to improve ATM services through various channels with a view to bringing more convenience to the public.

The HKMA has held discussions with the two ATM network operators about the feasibility of interconnecting the two networks. Having considered the demand of clients for cross-network cash withdrawal, convenience of current ATM services, commercial considerations such as system compatibility and service competition between the two networks, and that the public can already perform cross-network cash withdrawal through international networks (such as Visa Plus, MasterCard Cirrus and China UnionPay) at the

moment, the two companies did not pursue further the proposal to interconnect the two networks.

As for the proposal of installing ATMs in government facilities that are more frequently used by the public, ATMs are currently installed in/around the malls and markets managed by the Hong Kong Housing Authority (HA). The HA will continue to stay connected with banks and identify suitable sites for the installation of more ATMs in response to the business needs of banks, with a view to offering more appropriate and convenient banking services.

The HKMA has also studied with the industry the feasibility of installing ATMs in post offices. However, having regard to the overlap of the distribution network of post offices and bank branches, it is considered that the provision of banking services through post offices might not be an effective option.

In fact, currently over 50 ATMs are installed by some banks in some of the convenience stores and chain fast food restaurants. Since those merchants operate round-the-clock, this could provide greater convenience to the public than installing ATMs in post offices or markets.

The HKMA will continue to encourage the industry to study the feasibility of different proposals that would improve ATM services.

- (d) At present, China UnionPay cardholders from the Mainland can already use their China UnionPay cards to withdraw cash and do retail purchases in Hong Kong.

### **Implementation of Recommendations on Law Reform**

11. **MR PAUL TSE** (in Chinese): *President, it has been reported that the Law Reform Commission (LRC) has completed 27 reports since 1997, but the Government has not yet implemented the law reform recommendations contained in 22 of these reports. In this connection, will the Government inform this Council:*

- (a) *of the details of the Government's follow-up actions on the Commission's various law reform recommendations since 1997, and the reasons why some of the recommendations have not yet been followed up;*
- (b) *whether it has assessed the specific impact of the Government not following up, in a timely manner, most of the Commission's recommendations on amending legislation; if it has, of the results of the assessment; if not, whether it can immediately conduct such an assessment and make improvements accordingly; and*
- (c) *whether it will make reference to the statutory procedures of other countries, and require the Government to handle the law reform recommendations of the Commission or other relevant statutory bodies within a statutory period, so as to ensure that Hong Kong's legislation can keep abreast of time?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Chinese): President, the recommendations put forward by the LRC are the result of detailed studies by the LRC. The Administration attaches great importance to these recommendations and agrees in principle that timely actions should be taken to follow up on the recommendations of the LRC. However, it should be noted that the complexity and scope of the subject matter of LRC reports vary greatly and some reports require longer periods of time than others for bureaux to consider.

Bureaux concerned have been considering the recommendations set out in LRC reports carefully. Some of these recommendations have already been implemented. Bureaux will also inform the public on their response to those recommendations which require further consideration or remain unimplemented. Details of the follow-up actions taken by relevant bureaux on the LRC reports published since 1997 are set out at Annex.

The Administration is aware that in some jurisdictions, statutory or administrative guidelines are in place for consideration of reports of their law reform agencies. While such guidelines encourage early consideration of law reform proposals, we consider it important that any such guidelines should allow the Administration sufficient time for proper consideration of law reform

proposals, especially those involving complex or controversial matters. To improve the existing mechanism, for all new LRC reports published in future, relevant bureaux would provide a detailed public response (setting out which recommendations they accept, reject or intend to implement in modified form) to the Secretary for Justice (as the Chairman of the LRC) as soon as practicable. In any event, an interim response setting out the timetable for completion of the detailed response and the steps taken will be provided within six months following the publication of the LRC reports.

Annex

#### Follow-up actions taken by relevant bureaux on LRC reports

	<i>LRC Report (Date of publication)</i>	<i>Follow-up actions taken/ Evaluation of relevant bureau</i>
1	Extrinsic materials as an aid to statutory interpretation (March 1997)	The Interpretation and General Clauses (Amendment) Bill 1999 was introduced into the Legislative Council in March 1999. The Bill had not been enacted, taking into account the views of the relevant Bills Committee.
2	The year and a day rule in homicide (June 1997)	The Statute Law (Miscellaneous Provisions) Ordinance was enacted in June 2000 to implement the LRC's recommendations.
3	Description of flats on sale — Part 2: Overseas uncompleted residential property (September 1997)	In view of the LRC's recommendations on regulating the sale of overseas residential properties by licensed estate agents in Hong Kong, the Estate Agents Authority (EAA) commissioned a study to take stock of the laws and practices relating to sale of non-local residential properties in other jurisdictions. The study concluded that: <ul style="list-style-type: none"> <li>(a) the proposed regulatory scheme would not be effective as it would apply to estate agents only but not to the overseas developers; and</li> <li>(b) the legal frameworks of other jurisdictions might be different from that of Hong</li> </ul>

	<i>LRC Report (Date of publication)</i>	<i>Follow-up actions taken/ Evaluation of relevant bureau</i>
		<p>Kong, and the laws of other jurisdictions might not require similar protection to property buyers.</p> <p>Also, with the public education efforts of the EAA and the Consumer Council, consumers had become more aware of the higher risk of purchasing uncompleted residential properties outside Hong Kong and had become more cautious in considering buying such properties. The number of complaints about the sale of overseas uncompleted residential properties had diminished. The need for legislation was considered to be less imminent.</p> <p>To date, as far as estate agency practices and flat sales are concerned, the sale of local residential properties is the area of primary concern to the public. The Transport and Housing Bureau will continue to accord priority to this area of work. The Transport and Housing Bureau does not have a definite timetable to extend the provisions of the Estate Agents Ordinance to cover non-local residential properties, and will continue to keep in view the issue.</p>
4	Civil liability for unsafe products (February 1998)	<p>The LRC recommends in this report that a "strict liability" regime should be established to give an additional basis for aggrieved parties to seek compensation for injuries and damages arising from unsafe products. This proposal involves very complex and controversial issues. The then Trade and Industry Panel of the Legislative Council was consulted in 1999. There has been strong objection to the proposal from the Legislative Council Members representing the trade sector. Some members considered it unfair to hold a party such as an importer liable if that party did not have full control over the</p>

	<i>LRC Report (Date of publication)</i>	<i>Follow-up actions taken/ Evaluation of relevant bureau</i>
		<p>safety of the product he supplied, while others were concerned about the likely increase in litigation and compliance costs.</p> <p>As the community is unlikely to reach any consensus on this matter in the near future, the Commerce and Economic Development Bureau does not intend to take forward LRC's proposal at this juncture.</p>
5	Insolvency — Part 3: Winding-up provisions of the Companies Ordinance (July 1999)	<p>Some technical amendments were implemented by the Companies (Amendment) Ordinance 2003.</p> <p>While the Financial Services and the Treasury Bureau will not pursue the recommendation to merge corporate insolvency legislation with personal bankruptcy legislation on grounds that there is no clear benefit or market demand, other policy and technical issues will be revisited in the context of the Phase II Companies Ordinance Rewrite exercise.</p>
6	The age of criminal responsibility in Hong Kong (May 2000)	The Juvenile Offenders (Amendment) Ordinance was enacted in March 2003 to implement LRC's recommendations.
7	The procedure governing the admissibility of confession statements in criminal proceedings (July 2000)	The LRC recommended no change to the existing laws.
8	Privacy — Part 3: Stalking (October 2000)	<p>The LRC reports on privacy are highly controversial. When deciding the way forward, the Constitutional and Mainland Affairs Bureau needs to reach consensus in the community and strike a balance between different rights such as rights to personal privacy and freedom of the press.</p> <p>Among the LRC reports on privacy, the report on "stalking" is comparatively less controversial and the Constitutional and Mainland Affairs</p>

	<i>LRC Report (Date of publication)</i>	<i>Follow-up actions taken/ Evaluation of relevant bureau</i>
		Bureau will first deal with this report. The Constitutional and Mainland Affairs Bureau is examining the report to consider carefully those proposals which may impact on press freedom. As an important step to follow-up on the LRC report, the Constitutional and Mainland Affairs Bureau will make practical preparation for conducting public consultation in the coming few months. The Constitutional and Mainland Affairs Bureau plans to launch a consultation exercise in mid-2011.
9	Guardianship and custody — Part 1: Guardianship of children (January 2002)	<p>The Report on Guardianship of Children made reform recommendations in relation to the law (mainly the Guardianship of Minors Ordinance) which governs the appointment of guardians for children in the event of the death of one or both parents.</p> <p>The Labour and Welfare Bureau completed the examination of the Report on Guardianship of Children and issued its response to the report to the Chairman of the LRC in October 2009. In brief, the Labour and Welfare Bureau has accepted in principle all the recommendations of the report and is prepared to take them forward. The Legislative Council Panel on Welfare Services was briefed on the Administration's position in February 2010. A bill to implement the recommendations will be introduced into the Legislative Council in the 2010-2011 legislative session.</p>
10	Contracts for the supply of goods (February 2002)	The Commerce and Economic Development Bureau agrees that the implied undertakings for all types of contracts for the supply of goods should be standardized. It accepts the LRC's recommendation that legislative amendments should be introduced to extend to contracts for the supply of goods the implied undertakings

	<i>LRC Report (Date of publication)</i>	<i>Follow-up actions taken/ Evaluation of relevant bureau</i>
		<p>which currently apply in respect of contracts for the sale of goods.</p> <p>The Commerce and Economic Development Bureau's current priority in the area of consumer protection is to enhance legislative control over unfair trade practices and improve the operation of the Pyramid Selling Prohibition Ordinance. The Commerce and Economic Development Bureau will work on this subject in due course.</p>
11	Guardianship and custody — Part 2: International parental child abduction (April 2002)	<p>The Report on International Parental Child Abduction recommends legislative amendments to prevent, and provide remedy for, international parental child abduction.</p> <p>The Labour and Welfare Bureau completed the examination of the Report on International Parental Child Abduction and issued its response to the report to the Chairman of the LRC in October 2009. In brief, the Labour and Welfare Bureau has accepted in principle all the recommendations of the report, and is prepared to take them forward. The Legislative Council Panel on Welfare Services was briefed on the Administration's position in February 2010. The Labour and Welfare Bureau is currently working on the detailed amendment proposals in consultation with relevant bureaux/departments.</p>
12	The regulation of debt collection practices (July 2002)	<p>The Security Bureau made a detailed public response to LRC in September 2005, indicating that various legislative provisions are already in place to combat specifically illegal debt collection practices. The Constitutional and Mainland Affairs Bureau will examine the stalking practices relating to debt collection activities when following up on the recommendations of LRC Report on Stalking.</p>
13	Description of flats on sale — Part 3: Local completed residential	<p>The Administration has been keeping in view the need to regulate the sale of first-hand</p>

	<i>LRC Report (Date of publication)</i>	<i>Follow-up actions taken/ Evaluation of relevant bureau</i>
	properties (September 2002)	completed residential properties and has introduced various measures over the years. To further strengthen the regulation of the sale of first-hand private residential properties, the Transport and Housing Bureau has established the Steering Committee on the Regulation of the Sale of First-hand Residential Properties by Legislation (the Steering Committee) to discuss specific issues pertaining to the regulation of the sale of first-hand properties by legislation, including uncompleted and completed first-hand residential properties regardless of the lease conditions. The Steering Committee has commenced work in November 2010 for completion in October 2011, and will come up with practicable recommendations to the Secretary for Transport and Housing for consideration. The Transport and Housing Bureau's target is to take forward the subsequent public consultation in the form of a White Bill in order to expedite the consultation process.
14	Guardianship and custody — Part 3: The family dispute resolution process (March 2003)	Having consulted relevant bureaux and departments, the Home Affairs Bureau indicated support to the recommendations in the LRC's report. Many of the recommendations in the report have been implemented. Other recommendations are being considered and will be followed up by relevant bureaux and departments.
15	Privacy — Part 4: Privacy and media intrusion (December 2004)	See item 8 above.
16	Privacy — Part 5: Civil liability for invasion of privacy (December 2004)	See item 8 above.
17	Guardianship and custody — Part 4: Child custody and access (March 2005)	The Report on Child Custody and Access made a total of 72 recommendations on the arrangements in relation to child custody and access, including that Hong Kong should follow

	<i>LRC Report (Date of publication)</i>	<i>Follow-up actions taken/ Evaluation of relevant bureau</i>
		<p>jurisdictions such as England and Wales and Australia in applying the "joint parental responsibility" model to the Family Law.</p> <p>Some of the recommendations of the report on Custody and Access will fundamentally change the concept of "custody" underpinning the existing Family Law and have far-reaching implications. The Legislative Council Panel on Welfare Services was briefed on the progress in February 2010 where the Labour and Welfare Bureau flagged up the need to take a cautious approach on the matter and carefully consider the diverse views of relevant stakeholders before deciding on whether, and if so, how to adopt the recommendations of the report.</p>
18	Rules for determining domicile (April 2005)	The Domicile Ordinance was enacted in February 2008 to implement LRC's recommendations.
19	Privity of contract (October 2005)	The Department of Justice (DoJ) agrees with the LRC that the doctrine of privity of contract should be reformed by means of a comprehensive, systematic and coherent legislative scheme. The DoJ intends to prepare a bill to implement this proposal and will consult relevant stakeholders on the draft legislation in due course.
20	Privacy — Part 6: The regulation of covert surveillance (March 2006)	<p>The Interception of Communications and Surveillance Ordinance was enacted in August 2006 to implement the regulatory regime for interception and covert surveillance undertaken by public officers.</p> <p>As regards the recommendations on the regulatory regime for covert surveillance undertaken by non-public officers, see item 8 above.</p>

	<i>LRC Report (Date of publication)</i>	<i>Follow-up actions taken/ Evaluation of relevant bureau</i>
21	Substitute decision-making and advance directives in relation to medical treatment (August 2006)	<p>The Food and Health Bureau shares LRC's view that it would be premature to embark on any legislative process for advance directives, and will take follow-up actions in consultation with the Hospital Authority, the medical profession, relevant NGOs and other stakeholders to raise the public's awareness of advance directives.</p> <p>The Food and Health Bureau will also examine the definition of "mentally incapacitated person (MIPs)" in the overall context of the law and explore the scope for improving its clarity and consistency in its application to various parts of the law. The Food and Health Bureau will consult the relevant parties including mental health experts and seek to pursue any necessary legislative changes under a composite proposal in the long term.</p>
22	Conditional fees (July 2007)	<p>On the proposed establishment of conditional fees, the DoJ has reported the Administration's response to the Legislative Council's Administration of Justice and Legal Services (AJLS) Panel on 28 June 2010. In brief, as a privately-run Conditional Legal Aid Fund (CLAF) could only operate with the support of the legal profession, there appeared to be no prospect of establishing a CLAF in Hong Kong for the time being. In the circumstances, the Administration did not propose to take the recommendation of the Report that a CLAF be established any further.</p> <p>On the proposed expansion of the Supplementary Legal Aid Scheme (SLAS), the Administration would earmark \$100 million for injection into the SLAS fund when necessary to expand the scheme to cover more types of cases. Separately, the Home Affairs Bureau has reported progress to the AJLS Panel in September and November 2010 respectively. Members noted that the Administration had</p>

	<i>LRC Report (Date of publication)</i>	<i>Follow-up actions taken/ Evaluation of relevant bureau</i>
		received the recommendations from the Legal Aid Services Council on the proposed expansion of the scope of SLAS in December 2010, and would continue to listen to Members' views in the coming Panel meeting in January 2011. The Home Affairs Bureau plans to consult the AJLS Panel on the Administration's specific recommendations on the proposed expansion of SLAS in March 2011.
23	Enduring powers of attorney (March 2008)	The DoJ will put forward a bill to implement the recommendations.
24	Hearsay in criminal proceedings (November 2009)	The DoJ is studying the complex issues raised in the LRC report and is seeking the view of the Law Society and the Bar Association.
25	Sexual offences records checks for child-related work: interim proposals (February 2010)	The Security Bureau made a response to the LRC in November 2010 indicating that it would implement the LRC's proposed administrative scheme to reduce the risk of children and mentally incapacitated persons from being sexually abused. The police will establish an administrative scheme of sexual conviction record check in 2011 to allow employers who are going to hire persons undertaking child-related work to check such information.
26	Criteria for service as jurors (June 2010)	The DoJ will put forward a legislative proposal to implement the recommendations.
27	The common law presumption that a boy under 14 is incapable of sexual intercourse (December 2010)	The Security Bureau is examining the report together with the DoJ with a view to amending the relevant legislation to implement the LRC's recommendation to abolish the common law presumption.

## Regulation of Charitable Institutions

12. **MR ABRAHAM SHEK:** *President, according to section 88 of the Inland Revenue Ordinance (the Ordinance) (Cap. 112), "there shall be exempt and there shall be deemed always to have been exempt from tax any charitable institution*

*or trust of a public character" provided that the profits derived from the trade or business carried on by such institution are applied solely for charitable purposes and are not expended substantially outside Hong Kong. It has been reported that there are more than 6 000 registered charities in Hong Kong of which only 170 are monitored by the Social Welfare Department (SWD). In this connection, will the Government inform this Council:*

- (a) of the details of the criteria adopted for vetting and approving applications for registering charitable institutions bearing tax exemption status;*
- (b) whether any review of the Ordinance had been conducted in the past three years so as to enhance the financial transparency over the operation of tax-exempted charitable institutions; if so, whether it has considered including public access to financial information as a necessary condition in vetting and approving the applications in part (a) and of the details; if not, the reasons for that;*
- (c) of the details of the established measures for monitoring the fund-raising activities and financial operation of registered tax-exempted charitable institutions;*
- (d) given that only the "Reference Guide on Best Practices for Charitable Fund-raising Activities" was issued as a voluntary guideline in 2004, whether it has considered since 2004, with reference to the examples of overseas jurisdictions, drafting charity law to regulate the operation of charitable institutions; if so, of the details regarding its proposed timetable for conducting public consultation; if not, the reasons for that; and*
- (e) of the number of charitable institutions that had been prosecuted in the past three years for carrying out fund-raising activities not serving charitable purposes, and respectively of the details of the penalties imposed on such institutions; whether it has considered raising the penalties on such improper activities; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY:**  
President,

(a) to (d)

Currently, there is no statutory definition of what constitutes a charity or a charitable purpose, nor is there a single piece of legislation which governs charities in Hong Kong and how donations are applied. A charity can be established in different forms, including a trust body, a society established under the Societies Ordinance, a corporate registered under the Companies Ordinance, an organization established under a statute, and so on.

According to section 88 of the Ordinance, charitable institutions or trusts of a public character should apply to the Commissioner of Inland Revenue if they wish to enjoy tax exemption. Applications should be supported by copies of relevant certificates of registration, the instruments and rules governing their activities (for example, the Memorandum and Articles of Association, the Trust Deed, or the Constitution) and lists of activities carried out in the past year and/or to be carried out in the coming year, so as to demonstrate that the applicants' objects are charitable and their activities are compatible with their objects.

In processing tax exemption applications of charitable institutions, the Inland Revenue Department has all along made reference to the case law in the common law. In general, tax-exempt charitable institutions must be of a public character and established solely for charitable purposes recognized by the law. According to past case law, "charitable purposes" include (a) relief of poverty; (b) advancement of education; (c) advancement of religion; and (d) other purposes of charitable nature that are beneficial to the community.

As for monitoring of the fund-raising activities and the financial operation of charitable institutions, the Law Reform Commission of Hong Kong (the Commission) is conducting a review of the legal and regulatory framework relating to charities in Hong Kong, including the regulation of on-street fund-raising activities. The

Commission is now studying the draft public consultation document on the subject prepared by its subcommittee and plans to issue it in the first half of 2011. The Administration will keep in view the progress of the review and its recommendations.

- (e) Several government departments, including the Food and Environmental Hygiene Department (FEHD), the Television and Entertainment Licensing Authority (TELA) and the SWD, are responsible for regulating charitable fund-raising activities. The FEHD has not compiled specific enforcement statistics on unauthorized fund-raising activities concerning illegal hawking on the streets for non-charitable purposes. According to the TELA's records, in the past three years, no charitable organization granted with a lottery licence was prosecuted for carrying out fund-raising activities not serving charitable purposes. Besides, in the past three years, there were two cases prosecuted by the police for unauthorized charitable fund-raising in public places under the Summary Offences Ordinance (Cap. 228). Three persons involved in the two cases were convicted and fined from \$500 to \$2,000. Upon receipt of reports on charitable fund-raising activities suspected to obtain money by deception, the SWD will refer such reports to the police for investigation and follow-up action. According to section 16A of the Theft Ordinance (Cap. 210), anyone who is convicted of fraud may be sentenced to imprisonment for a maximum of 14 years.

### **Hong Kong's Participation in the 60th National Anniversary Float Parade and World Exposition 2010**

13. **MR PAUL CHAN** (in Chinese): *President, the Government of the Hong Kong Special Administrative Region (HKSAR) participated respectively in the 60th National Anniversary float parade held in Beijing in 2009 and the exhibitions in the World Exposition 2010 Shanghai China (Shanghai Expo). However, the float entitled "Blooming Bauhinia" that participated in the parade was criticized at that time as resembling a "paper offering", while the Hong Kong Pavilion in the Shanghai Expo was even said to be featureless. In this connection, will the Government inform this Council:*

- (a) *whether it has, when participating in the two aforesaid national events, deployed staff before, during and after the events to conduct opinion surveys among participants on site, including those from the Mainland and Hong Kong; if it has, of the details, and the discrepancies between the survey outcome and the public comments at that time; if not, the reasons for that, and whether it will consider conducting opinion surveys during its participation in major national events in future so that more comprehensive and fair comments on the participation of the authorities in such events can be obtained;*
- (b) *whether the government departments responsible for the co-ordination have conducted thorough review and make enhancement recommendations after Hong Kong's participation in the two aforesaid national events; if they have, of the details; if not, the reasons for that, and whether they will consider conducting thorough review in future; and*
- (c) *given that the report on the work of the Office of the Government of the HKSAR in Beijing (the Beijing Office) presented to this Council in 2010 merely accounted for Hong Kong's participation in the activities to celebrate the 60th National Anniversary in a few short paragraphs, why the report did not review the effectiveness of the participation in the event?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Chinese): President, as an integral part of the People's Republic of China, the SAR has been in support of and participated in national events such as the float parade in celebration of the 60th Anniversary of the founding of the People's Republic of China (float parade) and the Shanghai Expo. In view of the different nature and theme of the events, the planning of and areas involved in the participation in a major event vary. The SAR Government has endeavoured to co-ordinate, as appropriate, participation from different sectors of the community to garner the best input and to collect opinions through various channels with a view to yielding the best results.

As regards the three parts of the question, our reply is as follows:

(a) and (b)

In relation to the float parade, the design and the production of all floats for the parade had to comply with a host of regulations and requirements set by the national organizing authorities, and were subject to assessment and approval by relevant authorities and experts in the Mainland.

The HKSAR float was designed and produced by a professional design company selected through a quotation exercise. As required by the organizing authorities, all participating parties had to keep the design and content of their floats in the strictest confidence. This requirement precluded any form of public opinion survey as far as the design and content of the HKSAR float were concerned.

There was extensive coverage by the SAR and the Mainland media on the float parade. The coverage included a wide range of views. The HKSAR Government will take these views into account when participating in similar activities in future.

Community involvement was a significant feature of the HKSAR's participation in the Shanghai Expo. The HKSAR Government organized a Concept Design Competition for the Hong Kong Pavilion in as early as 2008 and the overall design of the Hong Kong Pavilion was subsequently based on the winning entry. Having consulted the local creative industries, the HKSAR Government submitted an application for the Urban Best Practices Area (UBPA) Exhibition to the Shanghai Expo organizers in early 2008. The HKSAR's application was assessed by an international selection committee and was approved as one of the selected cases for exhibition. During the planning period, the HKSAR Government reported to this Council on several occasions the concepts of the HKSAR's participation, including the theme of the Hong Kong Pavilion and the contents of the Hong Kong UBPA Exhibition, as well as overall progress of the preparation.

With the support and participation of the creative industries sector, the performing arts sector and professional sectors such as

information technology, legal and financial services, the HKSAR staged a series of cultural events and promotional activities during the Shanghai Expo period. Among them are 34 cultural and performing arts programmes, involving 100 performances which were staged outside the Expo Park and attracted an average of over 90% attendance and a total audience of 17 000 people. The two visual arts exhibitions held in the Shanghai Art Museum and Museum of Contemporary Art, Shanghai, received some 40 000 visitors. As regards the promotional activities, we co-organized with the Hong Kong creative industry sector in Shanghai the "Hong Kong: Creative Ecologies" exhibition and the "Hong Kong Ani-Com Carnival", which received patronage of some 100 000 and over 500 000 respectively. The former showcased Hong Kong's creative talent and the local creative industries' global influence and the latter presented the history and the development of Hong Kong's comics and animation industry. These events and activities attracted extensive coverage in the HKSAR and the Mainland media, including over 1 800 and over 1 300 reports generated respectively. These reports were generally positive and were conducive to promoting HKSAR's unique lifestyle and achievements.

During the Shanghai Expo period, the Hong Kong Pavilion and Hong Kong UBPA Exhibition received over 3.3 million visitors. According to the results of our daily sampling survey, around 90% of the visitors found the exhibition content interesting and were satisfied with the exhibition. Having regard to the opinions collected and actual situation, we also took immediate improvement measures such as adjusting the indoor temperature of the Hong Kong Pavilion according to the weather condition; installing cooling fans at the queuing area and the roof of the Hong Kong Pavilion; and setting up outdoor sun canopies, and so on.

- (c) We believe the report mentioned in part (c) of the question refers to the information paper submitted by the Beijing Office to the Panel on Commerce and Industry of this Council in June 2010. As with the practices of the other overseas and Mainland Offices of the HKSAR Government, the Beijing Office submits an annual report every June to report on the major work done. The major work of the Beijing Office during the period from June 2009 to May 2010

includes assisting in the preparation of the celebration activities of the 60th Anniversary of the founding of the People's Republic of China. The review on the effectiveness of the participation in the event has been explained in the above paragraphs.

### Shortage of Container Truck Drivers

14. **MS MIRIAM LAU** (in Chinese): *President, it has been reported that the throughput of Hong Kong's container freight industry in 2010 has resumed to the level in 2008 before the outbreak of the financial tsunami. Yet, there is a shortage of container truck drivers as many of them have switched to other trades in view of poor prospects during times of economic downturn, resulting in the situation of "trucks lacking drivers and cargos needing carriage". Even though the remuneration of cross-boundary container truck drivers has correspondingly been adjusted upward, only a few of them have switched back to the trade, and they are getting old. If no improvement is made, not only will the transportation cost increase, but the competitiveness of Hong Kong's container freight industry will also be affected. Further, upon the completion of cross-boundary transport infrastructure projects (including the completion of the works in respect of the Hong Kong-Zhuhai-Macao Bridge Main Bridge in 2015 and the dredging of the Kwai Tsing container basin and its approach channels in 2014), as well as the implementation of various measures to enhance the competitiveness of Hong Kong's logistics industry, there will be an even greater demand for cross-boundary truck drivers. In this connection, will the Government inform this Council:*

- (a) *whether it knows the respective numbers of drivers working in the cross-boundary container freight industry in each of the past three years (set out in the table below);*

<i>Age (years)</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
<i>below 20</i>			
<i>20 to 29</i>			
<i>30 to 39</i>			
<i>40 to 49</i>			
<i>50 to 59</i>			
<i>60 or above</i>			

- (b) *whether it has assessed Hong Kong logistics industry's demand for cross-boundary container truck drivers in the coming five years; if so, of the assessment outcome;*
- (c) *what short-term measures the authorities have to relieve the current shortage of cross-boundary container truck drivers, and whether they have considered providing subsidies for drivers' applications for cross-boundary container truck driving licences, offering programmes for cross-boundary container truck drivers under the Employees Retraining Scheme or the Skills Upgrading Scheme (SUS), as well as importing Mainland drivers; if so, of the details of such measures; if not, the reasons for that; and*
- (d) *what long-term measures the authorities have to attract more new drivers to join the trade, so as to dovetail with the future development of the container freight industry?*

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

- (a) Any person who wishes to drive a cross-boundary container truck must hold a valid driving licence for articulated vehicles and the relevant Closed Road Permit issued by the Transport Department (TD). According to the data of the TD, the number of holders of the said licences and permits<sup>(1)</sup> in the past three years are as follows:

<i>Age (years)</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
below 20	0	0	0
20 to 29	45	40	37
30 to 39	477	378	379
40 to 49	2 609	2 261	2 031
50 to 59	2 171	2 164	2 371
60 or above	144	225	317

- (b) The statistics indicate that currently about half of cross-boundary containers are handled by trucks, while the rest is shipped by river

(1) The TD has no statistics on drivers actually engaged in the cross-boundary container freight industry.

trade vessels. The "Study on Hong Kong Port Cargo Forecasts 2005-2006" projected that Hong Kong's container throughput would continue to have a moderate growth between 2006 and 2030. In addition, the commissioning of the Hong Kong-Zhuhai-Macao Bridge will further expand Hong Kong's cargo hinterland to the western part of the Pearl River Delta, thereby creating more business opportunities for the industry. We therefore believe that there will be continued demand for cross-boundary container truck drivers from the local logistics industry.

(c) and (d)

The consolidated reply from the Labour and Welfare Bureau and relevant departments including the Labour Department to parts (c) and (d) of the question is as follows:

The TD has been closely monitoring the operation of the cross-boundary container freight industry. In response to the rise in demand for container truck drivers subsequent to the rebound in cross-boundary land throughput in 2010, the TD will proactively discuss with the industry so as to expedite the flow of employment information and facilitate the adjustment of the labour market to dovetail with the manpower demand arising from market changes. Employers in the industry can also make use of the free employment services of the Labour Department to fill the vacancies of container truck drivers.

Separately, courses on specific skills training are offered to in-service cross-boundary container truck drivers under the current SUS to enhance their employability and competitiveness in the industry. With the imminent exhaustion of the funding of the SUS, the Employees Retraining Board (ERB) has begun taking over the SUS by stages. It will run the above courses for cross-boundary container truck drivers in 2011-2012 under its SUS Plus. In-service cross-boundary container truck drivers who meet the ERB's eligibility criteria may choose from over 40 training courses on the vocational skills and generic skills of the cross-boundary container freight industry and related industries. The ERB will also consider

offering some of these courses to non-trade practitioners so as to facilitate them in joining the industry. The TD will continue to review the training needs of the industry in consultation with the trade, and will liaise with the ERB and other organizations on the matter.

As regards the proposal to import Mainland drivers, it will have negative implications for our society and local drivers' livelihood. Moreover, subsidizing one particular type of professional drivers for applying driving licences will be unfair to other applicants. As such, the Government will not consider these two proposals at the present time.

The SAR Government will continue to maintain close communication with the cross-boundary container freight industry on issues for concern with a view to supporting its long-term development.

### **Regulation of Provision of Residents' Services**

15. **DR DAVID LI:** *President, it was widely reported in the media that an accident involving two residents' service coaches in which one person died occurred at a private housing estate in Tung Chung on 10 December 2010. A residents' service is operated under Passenger Service Licence A06 (PSL-A06) granted by the Transport Department (TD), and the licence is normally renewed annually. In this connection, will the Government inform this Council:*

- (a) of the total number of separate PSL-A06 licences that had been issued in each of the past three years, and among them, the number of those that had been issued to companies or individuals with an operating history of less than two years;*
- (b) of the average number of coaches operating under a PSL-A06 licence for a single private building or estate at present, as well as the median number, the smallest number and the maximum number;*

- (c) *of the total number of accidents involving coaches operating under a PSL-A06 licence in each of the past three years, and whether licensed operators are under any obligation to report accidents to the TD;*
- (d) *of the total number of complaints received by the TD concerning coaches operating under PSL-A06 licences in each of the past three years, as well as the number of investigations carried out, whether any action was taken against PSL-A06 service operators as a result of such investigations and the nature of any action taken;*
- (e) *whether the TD has any power to refuse to issue a PSL-A06 licence upon receipt of a valid application; if so, of the grounds upon which it may refuse to issue a licence, and the number of times it had refused an application in each of the past three years;*
- (f) *whether the TD has any power to carry out any review or inspection of PSL-A06 services, including the drivers and vehicles involved; if so, of the number of reviews or inspections it had carried out in each of the past three years and the nature of those inspections;*
- (g) *of the number of PSL-A06 licences issued with permission for standees in each of the past three years, and whether any special condition had been attached to the issue of such licences;*
- (h) *of the factors the TD considers when evaluating whether a particular service should be provided under a PSL-A06 licence or under franchised bus services; and*
- (i) *whether the TD will consider reviewing the rules governing the provision of PSL-A06 services with the aim of better regulating the provision of residents' services?*

**SECRETARY FOR TRANSPORT AND HOUSING:** President, for the various parts of the question, our reply is set out below:

- (a) The total number of non-franchised buses (NFBs) that were endorsed under Passenger Service Licences (PSLs)-Residents' (A06) service endorsement as at end of 2008, 2009 and 2010 were 1 135, 1 185 and 1 114 respectively. Of these, the number of PSLs that were issued to companies or individuals with an operating history of less than two years is as follows:

<i>Year</i>	<i>Companies with an operating history of less than two years</i>	<i>Individuals with an operating history of less than two years</i>
2008	25	3
2009	12	0
2010	9	9

- (b) On average, a single private building or estate is served by three NFBs. The median number, the smallest number and the maximum number of NFBs serving a building/estate are two, one and 34 respectively.
- (c) At present, a NFB may be granted with more than one service endorsement in order to provide the operator with greater flexibility to fully utilize his/her vehicles. Against this background, the TD and the police do not have any statistics on the number of accidents involving NFBs that were operating A06 service at the time of the accidents.

According to section 56 of the Road Traffic Ordinance (Cap. 374) (the Ordinance), the driver of a vehicle, including a NFB, shall report to the police an accident involving injury to any person.

- (d) During the period from 2008 to 2010, the TD received about 200 complaints concerning residents' service per year. The TD would conduct inspections to check the service level provided by the operators and issue warnings to the operators if service irregularities are found.

- (e) In accordance with section 28 of the Ordinance, in considering any application for a PSL, the Commissioner for Transport shall take into account, in addition to any other matter which he considers relevant to the application:
- (i) any policy direction from the Chief Executive with respect to the provision of public transport services;
  - (ii) any limit in force under section 23 on the number of vehicles that may be registered;
  - (iii) the need for the services to be provided by the applicant;
  - (iv) the level of service already provided or planned by other public transport operators;
  - (v) traffic conditions in the areas and on the roads where the services are to be provided; and
  - (vi) the standard of service to be provided by the applicant.

The number of A06 service applications rejected by the TD in 2008, 2009 and 2010 are 14, 26 and 15 respectively.

- (f) To ascertain the level of service provided by the residents' service operators, the TD carries out inspections from time to time. In the past three years, the TD carried out, on average, about 900 inspections/surveys per year.
- (g) The total number of NFBs with A06 service endorsement with permission for standees as at end 2008, 2009 and 2010 were 129, 167 and 151 respectively. All PSL holders operating A06 service are required to comply with all the conditions that are attached to the PSL and vehicle licence of a NFB.
- (h) Franchised buses are major passenger carriers, which act as feeders to railway stations and provide trunk services along main corridors.

Franchised buses serve the general public and play a major role in our public transport system. On the other hand, residents' services play a supplementary role in the public transport system. They are introduced to serve passengers of specific housing developments with an aim to relieve heavy demand on regular public transport services primarily during peak hours and to fill the service gaps which cannot be met by regular public transport services.

The general principles that are considered in processing applications for new residents' service are as follows:

- (i) the residents' service should facilitate commuters to connect to the nearby railway station or public transport interchange to avoid adding congestion to busy urban districts;
  - (ii) the residents' service should not pose a significant adverse impact on regular public transport services in the area concerned;
  - (iii) existing or planned public transport services in the area to be served by the proposed residents' service are inadequate or limited;
  - (iv) residential developments served by the proposed residents' service are distant from railway stations, public transport interchanges, major franchised bus stops, or Green Minibus stops and use of alternative services will result in an excessive number of interchanges; and
  - (v) the residents' service will not operate in congested areas or via local busy roads and will not cause traffic congestion.
- (i) The operation of residents' service should comply with the PSL conditions, licensing conditions for a NFB and conditions for operating residents' service. The residents' service also has to operate in accordance with the routeing, stopping places, timetable and vehicle allocations as specified in the Schedule of Service attached to the PSL.

If operators of residents' service are found contravening the above, the Commissioner for Transport is empowered under section 31 of the Ordinance to impose sanction through an inquiry process to the operators of residents' service to suspend, cancel or vary the PSL.

The existing regulatory regime in governing the provision of residents' service is considered sufficient. Nonetheless, the TD will continue to monitor the operation of residents' service and review the regulatory arrangements as and when necessary.

### **Section 39E of Inland Revenue Ordinance**

16. **DR LAM TAI-FAI** (in Chinese): *President, regarding section 39E of the Inland Revenue Ordinance (IRO) (Cap. 112), will the Government inform this Council:*

- (a) *given that in reply to my question on 12 January 2011, the Secretary for Financial Services and the Treasury has not provided a direct response to the issue relating to the "relevant authorities of the Guangdong Province" which was mentioned in his reply to the questions raised on 24 November and 8 December 2010, whether the Secretary for Financial Services and the Treasury can now provide a direct response to which Mainland authorities are actually referred to as "relevant authorities of the Guangdong Province", when the Secretary for Financial Services and the Treasury asked them for information (together with copies of the relevant correspondences and information papers), and whether the Secretary for Financial Services and the Treasury has assessed if the views of the "relevant authorities of the Guangdong Province" are correct;*
- (b) *given that the Secretary for Financial Services and the Treasury indicated in his reply to a Legislative Council Member's supplementary question on 24 November 2010 that he had conducted a lot of communication in great detail with the sectors through different opportunities, and he had conducted face-to-face communication with the sectors numerous times, of the names of the*

*associations and individuals from the industry whom the Secretary for Financial Services and the Treasury had met with in the past three years regarding the issue of section 39E, as well as the dates and venues of the relevant meetings (list in table form); if such information cannot be provided, of the reasons for that;*

- (c) whether the Joint Liaison Committee on Taxation (JLCT) has responded to the letter dated 24 November 2010 from the Secretary for Financial Services and the Treasury, indicating his refusal to accept the JLCT's recommendation; if it has, whether the Secretary for Financial Services and the Treasury can provide the relevant papers and correspondences; and whether the authorities have any further communication and contact with the JLCT thereafter; if they have, of the details; if not, the reasons for that;*
- (d) given that the Secretary for Financial Services and the Treasury indicated in his reply to my question on 24 November 2010 that the JLCT has not proposed effective measures to plug possible tax avoidance loopholes, whether the authorities, in inviting the JLCT to look into the issue of section 39E, have also clearly requested the JLCT to explore effective measures to plug possible tax avoidance loopholes; if they have, of the details and whether the JLCT has clearly acknowledged the Government's request; if not, the reasons for that;*
- (e) whether the Government will again request the JLCT or other experts to explore effective measures to plug the tax avoidance loopholes which may exist as claimed by the Government; if it will, of the details; if not, the reasons for that;*
- (f) given that the Secretary for Financial Services and the Treasury indicated in his reply to my question on 20 October 2010 that if there is a need to consult other government departments in the course of review, including the Department of Justice (DoJ) and the Commerce and Economic Development Bureau, the authorities will invite their participation, whether the authorities have consulted other government departments, such as DoJ and the Commerce and*

*Economic Development Bureau on the issue of section 39E; if they have, of the details; if not, the reasons for that;*

- (g) how the Commerce and Economic Development Bureau assesses the impact of the problem of section 39E on enterprises' investment on machinery and plant to enhance their productivity and competitiveness;*
- (h) in each of the past 10 years, of the respective numbers of Hong Kong enterprises that had declared to have upgraded and restructured from originally engaging in "contract processing" to engaging in "import processing", and the number of enterprises engaging in "import processing" that had winded up their businesses;*
- (i) given that the Chief Executive indicated at the Question and Answer Session of this Council on 13 July 2010 that he expected me to follow up the issue of section 39E with the Secretary for Financial Services and the Treasury, and if there were still problems, they could be handled by the Financial Secretary, and then by him, whether the Secretary for Financial Services and the Treasury has reported to the Chief Executive on the issue and sought his advice; if he has, of the details; if not, the reasons for that;*
- (j) given that in reply to my question on 12 January 2011, the Secretary for Financial Services and the Treasury has not explained why he refused to accept the recommendation made by the JLCT in its review report to amend the definition related to "lease" in section 2 of IRO, and whether it is too loose an interpretation for the Inland Revenue Department to indicate that the definition covers the situation of Hong Kong enterprises making available their machinery and plant for use by Mainland enterprises free of charge under "import processing", whether the Secretary for Financial Services and the Treasury can now provide a direct response to these questions; if not, of the reasons for that;*
- (k) given that in reply to my question on 12 January 2011, the Secretary for Financial Services and the Treasury has not responded to the*

*claim that when section 39E was amended in 1992, the situation in which Hong Kong enterprises made available their machinery and plant for use by Mainland enterprises free of charge under "import processing" was not prevalent, and therefore the amendments to section 39E at that time were not aimed at handling this situation, whether the Secretary for Financial Services and the Treasury can now respond directly if this claim is true; if he again refuses to respond directly, of the reasons for that; and*

- (l) *given that in reply to my question on 12 January 2011, the Secretary for Financial Services and the Treasury has not replied to my question as to whether the comments made by the Board of Review in its written decision on the case with reference no. D61/08, that section 39E had not stipulated that there should be "an intention to avoid tax" for the application of the provision, is inconsistent with section 19 of the Interpretation and General Clauses Ordinance (Cap. 1) and the principle adopted by the Court in the construction of legislation, of the reasons for that; whether the Secretary for Financial Services and the Treasury will, after consulting DoJ, submit DoJ's legal advice to this Council; if he will not, of the reasons for that?*

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

- (a) to (f), (i) to (l)

In response to the questions raised repeatedly by Members of the Legislative Council in the past two months, we have indicated clearly that we have already completed the review on whether the restriction in section 39E of the IRO should be relaxed. We have also explained in detail to the Legislative Council the outcome of our review and the relevant justifications. In short, given the established fundamental principles such as "territorial source principle" and "tax symmetry principle" of Hong Kong's tax system, as well as the transfer pricing issue, we consider that there are no

justifiable grounds to relax the existing restriction in section 39E. During the course of deliberations, we have already taken into consideration the views of the industrial and commercial sector, the accounting sector and tax experts (including the JLCT). We have also communicated with the relevant Mainland authorities with a view to understanding the operation and related taxation matters of the processing trade in the Mainland.

On 7 December 2010, we provided the JLCT's report and the Administration's response to the report to the Legislative Council Panel on Financial Affairs for information. After considering the response from the Administration, the JLCT is of the view that since the JLCT has made its recommendation and the Administration has considered and rejected it, this is a matter for the Administration, and there is nothing else for the JLCT to do at this stage.

In our reply to the written question raised by Dr LAM Tai-fai on 12 January 2011, we have already indicated that we respect the decision of the Board of Review on the case with reference no. D61/08.

- (g) The Commerce and Economic Development Bureau is aware of the trade's concerns in relation to section 39E of the IRO, and that the Financial Services and the Treasury Bureau has taken duly into consideration the trade's views in conducting the review. The policy objective of the Commerce and Economic Development Bureau is to provide support to the operation of Hong Kong enterprises in the Mainland, including maintaining liaison with the trade and the Mainland authorities at various levels on the issue of restructuring and upgrading, and reflecting the trade's views to the relevant authorities. The Mainland authorities have also responded positively to the trade's views and introduced various measures to support the restructuring and upgrading of enterprises in recent years.
- (h) We do not have the relevant data.

**Public Access to Public Records Kept in Government Records Service**

17. **MS EMILY LAU** (in Chinese): *President, the Public Records (Access) Rules 1996 (the Rules) establishes that, with certain exceptions, the public shall be granted access to most archival records that have been closed for at least 30 years. Access to archival records that have been closed for less than 30 years requires prior application in writing to the Government Records Service (GRS) Director. Upon receipt of such applications, the GRS will refer them to the appropriate records creating agency for consideration and approval (or otherwise). In this connection, will the executive authorities inform this Council, since the Rules have come into operation:*

- (a) *in respect of the records that have been closed for at least 30 years:*
  - (i) *of the number of records available for public inspection; of the percentage of such number in the total number of archival records which are at least 30 years old;*
  - (ii) *of the number of records classified as not available for public inspection and the grounds for the classification; and*
  - (iii) *of the number of applications from members of the public for access to archival records; the number of applications rejected by the authorities and the reasons for the rejection; and*
- (b) *in respect of records that have been closed for less than 30 years:*
  - (i) *of the number of applications for inspection received by the GRS;*
  - (ii) *of the number of applications for inspection approved by the GRS; the types of these applications; and*
  - (iii) *of the number of applications for inspection rejected by the GRS; the nature of these records; and the reasons for the rejection?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Chinese): President, "archival records" generally means documents and materials preserved because of their continuing or permanent value.

- (a) The information requested in respect of archival records that have been closed for at least 30 years (as at the end of 2010) is as follows:
  - (i) 573 189 archival records are available for public inspection, representing 88% of the total number of archival records that are at least 30 years old;
  - (ii) 78 151 archival records are not available for public inspection. They include records containing personal data and classified records that are awaiting transferring agencies' confirmation of their access status; and
  - (iii) since 1996, seven applications have been received from members of the public for access to archival records that have been closed for at least 30 years. Three of them also involve records of less than 30 years old. Of the seven applications, three were rejected on grounds of personal data privacy or sensitive information.
  
- (b) The information requested in respect of the archival records that have been closed for less than 30 years (as at the end of 2010) is as follows:
  - (i) since 1996, 152 applications for inspection of such records have been received by the GRS;
  - (ii) access to the records was granted in full or in part for 129 applications, which fell into two types: applications involving classified records (two cases) and applications not involving classified records (127 cases). In addition, six applications are being processed; and
  - (iii) of the 152 applications, 17 were rejected, with three involving classified records and 14 involving non-classified records.

These applications were rejected on grounds that relevant records contained or involved sensitive information, including that relating to security, external affairs, third party information, information which would be privileged from production in legal proceedings on the ground of legal professional privilege, privacy of individuals, or internal discussion within the Government.

### **Keeping of Pets by Tenants of Public Housing Estates**

18. **MR ALBERT CHAN** (in Chinese): *President, in October 2003, the Housing Department (HD) introduced a "temporary permission" arrangement whereby the tenants of public rental housing (PRH) who were then keeping dogs would be allowed to continue keeping their dogs after registration with the HD and obtaining approval, whereas those who did not keep any dog at that time are not allowed to do so in PRH. However, with economic development in recent years, more and more members of the public, including PRH tenants, would like to keep dogs. In this connection, will the Government inform this Council:*

- (a) of the number of PRH tenants who are keeping dogs lawfully at present, with a detailed list of the names of those public housing estates concerned;*
- (b) of the numbers of PRH tenants who were allotted penalty points or prosecuted for unlawful dog-keeping in PRH in each of the past three years, with a detailed list of the names of those public housing estates concerned; and*
- (c) whether the Hong Kong Housing Authority (HA) will consider relaxing the restrictions on dog-keeping in suitable public housing estates to allow PRH tenants to keep dogs; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): *President, as PRH estates are densely populated with very limited space in domestic blocks and public areas, keeping of dogs and other animals may cause adverse effect to the environmental hygiene. In this light, the tenancy agreements signed by the*

HA and all tenants clearly stipulates that the tenant should not keep any animal and livestock in the premises without the prior written consent of the HA. Under the Marking Scheme for Estate Management Enforcement (the Marking Scheme) which was introduced in 2003, unauthorized animal-keeping is included as one of the misdeeds where points would be allotted. Taking into consideration views offered by tenants and interest groups on pet and dog keeping, the HA implemented the Temporary Permission Rule (TPR) to allow PRH tenants to continue to keep small dogs that had been kept in PRH flats before 1 August 2003 until the death of such dogs. This arrangement is a one-off measure.

For desexed cats and small household pets which do not pose any public health hazard or nuisance, keeping of them is allowed and no prior registration is required.

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

- (a) As at end 2010, there were some 8 400 PRH tenants in 159 estates permitted to keep dogs under the TPR. The relevant estates are set out in Table 1 of the Annex.
- (b) From 2008 to 2010, the HD recorded some 340, 680 and 580 cases respectively involving 137 estates whereby points were allotted under the Marking Scheme for unauthorized dog keeping. The relevant estates are set out in Table 2 of the Annex.
- (c) As mentioned above, given PRH estates are densely populated, keeping of dogs and other animals may cause adverse effect to the environmental hygiene. The HD consulted about 140 Estate Management Advisory Committees (EMACs) on the policy of strictly prohibiting the keeping of unauthorized dogs in end 2010 and all EMACs concerned indicated support to continue with the policy on banning unauthorized dog keeping in PRH. With a view to providing our tenants with a clean and hygienic living environment, the HA has no intention to further relax the control on dog-keeping by PRH tenants.

## Annex

Table 1: Estates with PRH tenants permitted to keep dogs under the TPR

<i>ESTATE</i>		<i>ESTATE</i>	
1	AP LEI CHAU ESTATE	29	FU TUNG ESTATE
2	BUTTERFLY ESTATE	30	FUK LOI ESTATE
3	CHAI WAN ESTATE	31	GRANDEUR TERRACE
4	CHAK ON ESTATE	32	HAU TAK ESTATE
5	CHEUNG CHING ESTATE	33	HING MAN ESTATE
6	CHEUNG FAT ESTATE	34	HING TUNG ESTATE
7	CHEUNG HANG ESTATE	35	HING WAH (I) ESTATE
8	CHEUNG HONG ESTATE	36	HING WAH (II) ESTATE
9	CHEUNG KWAI ESTATE	37	HO MAN TIN ESTATE
10	CHEUNG SHAN ESTATE	38	HOI LAI ESTATE
11	CHEUNG WAH ESTATE	39	HONG TUNG ESTATE
12	CHEUNG WANG ESTATE	40	HUNG HOM ESTATE
13	CHING HO ESTATE	41	KA FUK ESTATE
14	CHOI FAI ESTATE	42	KAI TIN ESTATE
15	CHOI FOOK ESTATE	43	KAI YIP ESTATE
16	CHOI HUNG ESTATE	44	KAM PENG ESTATE
17	CHOI WAN (I) ESTATE	45	KIN MING ESTATE
18	CHOI WAN (II) ESTATE	46	KO YEE ESTATE
19	CHOI YING ESTATE	47	KWAI CHUNG ESTATE
20	CHOI YUEN ESTATE	48	KWAI FONG ESTATE
21	CHUK YUEN (SOUTH) ESTATE	49	KWAI SHING EAST ESTATE
22	CHUN SHEK ESTATE	50	KWAI SHING WEST ESTATE
23	CHUNG ON ESTATE	51	KWONG FUK ESTATE
24	FORTUNE ESTATE	52	KWONG TIN ESTATE
25	FU CHEONG ESTATE	53	LAI KING ESTATE
26	FU SHAN ESTATE	54	LAI KOK ESTATE
27	FU SHIN ESTATE	55	LAI ON ESTATE
28	FU TAI ESTATE	56	LAI YIU ESTATE

<i>ESTATE</i>		<i>ESTATE</i>	
57	LEE ON ESTATE	85	ON TING ESTATE
58	LEI MUK SHUE (I) ESTATE	86	ON YAM ESTATE
59	LEI MUK SHUE (II) ESTATE	87	PAK TIN ESTATE
60	LEI MUK SHUE ESTATE	88	PING SHEK ESTATE
61	LEI TUNG ESTATE	89	PING TIN ESTATE
62	LEI YUE MUN ESTATE	90	PO LAM ESTATE
63	LEK YUEN ESTATE	91	PO TAT ESTATE
64	LOK FU ESTATE	92	PO TIN ESTATE
65	LOK WAH (NORTH) ESTATE	93	SAI WAN ESTATE
66	LOK WAH (SOUTH) ESTATE	94	SAM SHING ESTATE
67	LONG PING ESTATE	95	SAU MAU PING SOUTH ESTATE
68	LOWER WONG TAI SIN (II) ESTATE	96	SAU MAU PING ESTATE
69	LUNG HANG ESTATE	97	SHA KOK ESTATE
70	LUNG TIN ESTATE	98	SHAN KING ESTATE
71	MA HANG ESTATE	99	SHEK KIP MEI ESTATE
72	MA TAU WAI ESTATE	100	SHEK LEI (I) ESTATE
73	MEI LAM ESTATE	101	SHEK LEI (II) ESTATE
74	MEI TIN ESTATE	102	SHEK LEI (II) ESTATE (INTERIM HOUSING)
75	MEI TUNG ESTATE	103	SHEK PAI WAN ESTATE
76	MING TAK ESTATE	104	SHEK WAI KOK ESTATE
77	MODEL HOUSING ESTATE	105	SHEK YAM EAST ESTATE
78	NAM CHEONG ESTATE	106	SHEK YAM ESTATE
79	NAM SHAN ESTATE	107	SHEUNG TAK ESTATE
80	NGA NING COURT	108	SHUI PIN WAI ESTATE
81	NGAN WAN ESTATE	109	SHUN LEE ESTATE
82	OI MAN ESTATE	110	SHUN ON ESTATE
83	OI TUNG ESTATE	111	SHUN TIN ESTATE
84	ON TIN ESTATE	112	SIU SAI WAN ESTATE

<i>ESTATE</i>		<i>ESTATE</i>	
113	SO UK ESTATE	137	TSZ HONG ESTATE
114	SUN CHUI ESTATE	138	TSZ LOK ESTATE
115	SUN TIN WAI ESTATE	139	TSZ MAN ESTATE
116	TAI HANG TUNG ESTATE	140	UN CHAU ESTATE
117	TAI HING ESTATE	141	UPPER NGAU TAU KOK ESTATE
118	TAI WO HAU ESTATE	142	UPPER WONG TAI SIN ESTATE
119	TAI YUEN ESTATE	143	WAH FU (I) ESTATE
120	TIN CHAK ESTATE	144	WAH FU (II) ESTATE
121	TIN CHING ESTATE	145	WAH LAI ESTATE
122	TIN HENG ESTATE	146	WAH SUM ESTATE
123	TIN SHUI (I) ESTATE	147	WAN HON ESTATE
124	TIN SHUI (II) ESTATE	148	WAN TSUI ESTATE
125	TIN TSZ ESTATE	149	WANG TAU HOM ESTATE
126	TIN WAH ESTATE	150	WO CHE ESTATE
127	TIN WAN ESTATE	151	WO LOK ESTATE
128	TIN YAN ESTATE	152	WU KING ESTATE
129	TIN YAT ESTATE	153	YAT TUNG (I) ESTATE
130	TIN YIU (I) ESTATE	154	YAT TUNG (II) ESTATE
131	TIN YIU (II) ESTATE	155	YAU LAI ESTATE
132	TIN YUET ESTATE	156	YAU OI ESTATE
133	TSUI LAM ESTATE	157	YAU TONG ESTATE
134	TSUI LOK ESTATE	158	YIU TUNG ESTATE
135	TSUI PING (SOUTH) ESTATE	159	YUE WAN ESTATE
136	TSZ CHING ESTATE		

Table 2: Estates with PRH tenants who were allotted penalty points under the Marking Scheme for unauthorized dog keeping in the past three years (2008-2010)

<i>ESTATE</i>		<i>ESTATE</i>	
1	BUTTERFLY ESTATE	27	HING WAH (II) ESTATE
2	CHAK ON ESTATE	28	HO MAN TIN ESTATE
3	CHEUNG CHING ESTATE	29	HOI FU COURT
4	CHEUNG FAT ESTATE	30	HOI LAI ESTATE
5	CHEUNG HANG ESTATE	31	KA FUK ESTATE
6	CHEUNG HONG ESTATE	32	KAI TIN ESTATE
7	CHEUNG KWAI ESTATE	33	KAI YIP ESTATE
8	CHEUNG SHAN ESTATE	34	KO CHEUNG COURT
9	CHEUNG WAH ESTATE	35	KO YEE ESTATE
10	CHEUNG WANG ESTATE	36	KWAI CHUNG ESTATE
11	CHING HO ESTATE	37	KWAI FONG ESTATE
12	CHOI FAI ESTATE	38	KWAI SHING EAST ESTATE
13	CHOI WAN (I) ESTATE	39	KWAI SHING WEST ESTATE
14	CHOI WAN (II) ESTATE	40	KWONG FUK ESTATE
15	CHOI YUEN ESTATE	41	KWONG TIN ESTATE
16	CHUK YUEN (SOUTH) ESTATE	42	KWONG YUEN ESTATE
17	CHUN SHEK ESTATE	43	LAI KING ESTATE
18	CHUNG ON ESTATE	44	LAI KOK ESTATE
19	FU CHEONG ESTATE	45	LAI YIU ESTATE
20	FU SHIN ESTATE	46	LEI MUK SHUE (I) ESTATE
21	FU TAI ESTATE	47	LEI MUK SHUE (II) ESTATE
22	FU TUNG ESTATE	48	LEI MUK SHUE ESTATE
23	FUK LOI ESTATE	49	LEI YUE MUN ESTATE
24	HAU TAK ESTATE	50	LEK YUEN ESTATE
25	HIN KENG ESTATE	51	LOK FU ESTATE
26	HING WAH (I) ESTATE	52	LOK WAH (NORTH) ESTATE

<i>ESTATE</i>		<i>ESTATE</i>	
53	LOK WAH (SOUTH) ESTATE	82	SHEK MUN ESTATE
54	LONG BIN INTERIM HOUSING	83	SHEK PAI WAN ESTATE
55	LONG PING ESTATE	84	SHEK WAI KOK ESTATE
56	LOWER WONG TAI SIN (II) ESTATE	85	SHEK YAM EAST ESTATE
57	LUNG HANG ESTATE	86	SHEK YAM ESTATE
58	MEI TIN ESTATE	87	SHEUNG TAK ESTATE
59	NAM CHEONG ESTATE	88	SHUI PIN WAI ESTATE
60	NAM SHAN ESTATE	89	SHUN LEE ESTATE
61	OI MAN ESTATE	90	SHUN ON ESTATE
62	OI TUNG ESTATE	91	SHUN TIN ESTATE
63	ON TIN ESTATE	92	SIU SAI WAN ESTATE
64	ON TING ESTATE	93	SO UK ESTATE
65	ON YAM ESTATE	94	SUN CHUI ESTATE
66	PAK TIN ESTATE	95	SUN TIN WAI ESTATE
67	PING TIN ESTATE	96	TAI HING ESTATE
68	PO LAM ESTATE	97	TAI PING ESTATE
69	PO TAT ESTATE	98	TAI WO HAU ESTATE
70	PO TIN ESTATE	99	TAI YUEN ESTATE
71	PO TIN INTERIM HOUSING	100	TIN CHAK ESTATE
72	POK HONG ESTATE	101	TIN CHING ESTATE
73	SAI WAN ESTATE	102	TIN HENG ESTATE
74	SAM SHING ESTATE	103	TIN SHUI (I) ESTATE
75	SAU MAU PING SOUTH ESTATE	104	TIN SHUI (II) ESTATE
76	SAU MAU PING ESTATE	105	TIN TSZ ESTATE
77	SHA KOK ESTATE	106	TIN WAH ESTATE
78	SHAN KING ESTATE	107	TIN YAN ESTATE
79	SHEK KIP MEI ESTATE	108	TIN YAT ESTATE
80	SHEK LEI (I) ESTATE	109	TIN YIU (I) ESTATE
81	SHEK LEI (II) ESTATE	110	TIN YIU (II) ESTATE

<i>ESTATE</i>		<i>ESTATE</i>	
111	TIN YUET ESTATE	125	WAN TSUI ESTATE
112	TSING YI ESTATE	126	WANG TAU HOM ESTATE
113	TSUI PING (SOUTH) ESTATE	127	WO CHE ESTATE
114	TSZ CHING ESTATE	128	WU KING ESTATE
115	TSZ HONG ESTATE	129	YAT TUNG (I) ESTATE
116	TSZ LOK ESTATE	130	YAT TUNG (II) ESTATE
117	TUNG TAU (II) ESTATE	131	YAU LAI ESTATE
118	UN CHAU ESTATE	132	YAU OI ESTATE
119	UPPER NGAU TAU KOK ESTATE	133	YAU TONG ESTATE
120	UPPER WONG TAI SIN ESTATE	134	YIU ON ESTATE
121	WAH FU (I) ESTATE	135	YIU TUNG ESTATE
122	WAH FU (II) ESTATE	136	YUE WAN ESTATE
123	WAH LAI ESTATE	137	YUNG SHING COURT
124	WAH MING ESTATE		

### **Proposal to Construct a Cross Harbour Tunnel for Pedestrians**

19. **MRS REGINA IP** (in Chinese): *President, in the paper entitled "Consultancy Study on Rationalising the Utilisation of Road Harbour Crossings" submitted to the Panel on Transport of this Council on 9 November 2010, the Secretary for Transport and Housing indicated that, as pointed out by the consultants, toll adjustment would be necessary to achieve a better traffic distribution among the three road harbour crossings (RHCs), and most of those better toll scenarios involved upward adjustments to the Cross Harbour Tunnel tolls and corresponding downward adjustments to the tolls of the Eastern Harbour Crossing and the Western Harbour Crossing. Yet, a member of the public has raised with me a creative option of constructing a cross harbour tunnel for pedestrians to improve the traffic of the three RHCs. According to that member of the public, the proposed cross harbour tunnel for pedestrians, which links up Central and Tsim Sha Tsui, will be of about 20 minutes' walking distance, and pedestrian conveyors may also be installed; the cross harbour tunnel for pedestrians will include a public shopping corridor, and through the offer of low rent or a profit sharing arrangement, social enterprises are*

*encouraged to operate and young people to set up their own business there. That member of the public considers that the proposal will help ease the traffic flow of the three RHCs, enhance environmental protection and reduce emissions, as well as develop public space with special characteristics, so as to facilitate members of the public to exercise and undertake leisure activities. In this connection, will the Government inform this Council whether:*

- (a) it will assess the feasibility of constructing a cross harbour tunnel for pedestrians as proposed by the aforesaid member of the public; if the assessment result is in the negative, of the specific reasons; and*
- (b) the Government has ever had the idea of constructing a cross harbour tunnel for pedestrians in the past; if it has, why such idea was shelved at that time?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, the proposal of a cross harbour tunnel for pedestrians mentioned by Mrs Regina IP in her question has in fact been brought up by the public previously.

From the works perspective, the technical and construction requirements for building the proposed cross harbour tunnel for pedestrians are basically the same as those for a vehicular tunnel. According to the Administration's preliminary assessment, a tube of about 1.5 km long would have to be built if the proposed cross harbour tunnel for pedestrians is to link up Central with Tsim Sha Tsui. Permanent or temporary reclamation of the seabed and the foreshores of the Victoria Harbour might be required, depending on the design, geographical constraints and actual construction arrangements. Given the presumption against reclamation in the harbour as set out in the Protection of the Harbour Ordinance (Cap. 531), there must be an overriding public need for the reclamation concerned to rebut the above presumption before the works may proceed. Having regard to the actual functions and the anticipated benefits of the pedestrian tunnel, it may not be possible to establish the case for overriding public need. In addition, a number of technical issues would have to be resolved in relation to the execution of the tunnel construction works on the Victoria Harbour and the foreshores on both sides, including maintaining marine traffic, avoiding the impact on underwater public utilities, accommodating changes in

seabed and ground conditions, and avoiding or minimizing the extent of reclamation works, and so on.

From the operational perspective, as the pedestrian tunnel could be as long as 1.5 km, and it is possible that shops may be located along the proposed tunnel, detailed consideration would need to be given to ventilation, pedestrian flow management, fire safety measures as well as night-time (especially late-night) security and management during the operation.

From the traffic and transport perspectives, apart from the potential impact on road traffic on both sides of the harbour and marine traffic during construction, possibly due to the need to provide appropriate feeder public transport services at the exits of the new tunnel, the proposed pedestrian tunnel may cause more acute traffic congestion at the nearby area and its road networks.

As a pedestrian tunnel compares rather unfavourably with one for use by vehicles or other public transport (such as railways and public buses) both in terms of journey time and capacity, it is unlikely that a large number of current users of the RHCs will be attracted to switch to use the pedestrian harbour crossing. Hence, the proposal should not have significant effects in easing the current vehicular flow at the RHCs, and is also unlikely to be cost-effective as a transport infrastructure project. Together with the concerns regarding construction, reclamation, safety and management mentioned above, the Administration has no plan to further consider the proposal of building a pedestrian tunnel for the purpose of reducing the congestion at the three RHCs.

### **School Textbook Assistance Scheme**

20. **MR CHEUNG KWOK-CHE** (in Chinese): *President, at present, the Student Financial Assistance Agency (SFAA) implements the School Textbook Assistance Scheme and disburses textbook assistance to needy students before the start of the school year under the Principal Recommendation Scheme (PRS). In 2010-2011, about 14 000 primary and 16 000 secondary students received the grant in August 2010. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of applications received and approved by the SFAA in each school year under PRS since the scheme was first implemented in the 2006-2007 school year; the percentages of such numbers in the total number of applications for textbook assistance in that school year; whether each school has set a limit on the number of applications;*
- (b) *apart from contacting schools, whether the SFAA has directly promoted PRS among parents, so that poor families are aware of the scheme and encouraged to use it;*
- (c) *of the criteria based on which the SFAA classified families as "families of relatively lower income" and took the initiative to invite them to submit early applications for textbook assistance of the 2010-2011 school year; the total number of students to whom such invitation had been extended this year; the respective numbers of students whose applications were subsequently approved and not approved, and those students who were found ineligible after their applications were approved resulting in action being taken to recover the assistance granted;*
- (d) *of the number of students who had been granted textbook assistance for two consecutive school years among those who had been granted such assistance in each of the last three school years; the percentage of such number in the total number of applicants in that school year; and*
- (e) *why, in the current school year, the SFAA did not invite other students, who had been granted textbook assistance in the last and current school years, to submit early applications for such assistance; how the SFAA can improve the criteria so that more students can benefit from advanced disbursement of textbook assistance?*

**SECRETARY FOR EDUCATION** (in Chinese): President, my reply to Mr CHEUNG's questions is as follows:

- (a) In the 2006-2007 to 2010-2011 school years, the SFAA implemented the PRS, under which students and families with special financial difficulty can receive the textbook assistance early in August. The number of successful applications under PRS in each school year is set out below:

<i>School Year</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010</i>	<i>2010-2011</i>
(a) Number of families submitting applications under PRS*	2 623	3 118	3 026	2 978	27 739
(b) Number of families with successful applications under PRS	2 566	3 064	2 974	2 928	26 950
(c) Success Rate ((b)/(a)x100%)	98	98	98	98	97
(d) Number of students receiving textbook assistance under PRS in August <sup>#</sup>	2 644	4 227	4 035	3 964	29 589
(e) Percentage out of students applying for textbook subsidy in the school year	0.8%	1.4%	1.4%	1.4%	11.5% (as at end of December 2010)

Note:

\* In 2010-2011 school year, the SFAA has extended PRS, that is, apart from inviting principals to recommend students to submit early applications, the SFAA has taken the initiative to invite those families with relatively lower income as indicated in the SFAA's records to submit early applications.

# As the subsidy rate for the new school year is computed on the basis of the Consumer Council's annual survey results on textbook expenditure which are usually available in mid-September each year, the amount of textbook assistance disbursed to the students concerned before the start of the school year is 80% of the relevant rates for the previous school year and the adjustments to the subsidy rate for the new school year will be disbursed to these students later in the school year.

As all applicants for the School Textbook Assistance Scheme are required to undergo the means test every year, under the existing processing procedures and with the resources available, the SFAA and schools concerned can only process a maximum of around 30 000 applications submitted under PRS each year so that the students concerned can receive the textbook assistance before the start of the new school year. Making reference to the current number of schools covered by the School Textbook Assistance

Scheme (around 1 000 schools), the SFAA estimated that each school could recommend around 30 students on average under PRS and has thus recommended schools to adopt the ratio of one student per class in recommending needy students.

Notwithstanding that the number of students recommended by some schools had exceeded the suggested "limit", the SFAA had accepted all the applications submitted by the families concerned. As many schools had not fully utilized the recommendation "limit", in 2010-2011 school year, the SFAA took the initiative to directly invite 30 000 families with relatively lower income as indicated in the SFAA's records to submit early applications (in addition to inviting principals to continue to recommend students to submit early applications), with a view to enabling more needy families to receive the subsidy before the start of the school year.

- (b) In implementing PRS, apart from notifying the primary and secondary schools concerned about the arrangements in advance, the SFAA would also contact welfare agencies, appealing to them to refer families with special financial difficulty to the SFAA for follow-up, so that these families can receive the suitable assistance as early as possible to relieve their financial burden. In addition, the SFAA has explained details of PRS to families recommended by schools so that they can liaise with their schools with a view to their being included in PRS in the next school year if necessary.
- (c) In 2010-2011 school year, the SFAA has extended PRS by taking the initiative to directly invite families with relatively lower income to submit early applications. Families invited by the SFAA are those 30 000 families with relatively lower income as indicated in the SFAA's records of assistance applications of the 2009-2010 school year. Separately, about 300 students have been recommended by school principals to submit early applications.

In August 2010, the SFAA made early disbursement of textbook assistance to 29 589 students. Besides, 188 students were not approved textbook assistance because they switched to schools not

covered by the School Textbook Assistance Scheme<sup>(1)</sup>. Seventy-nine students who had received the subsidy were later found out to have switched to schools not eligible for the School Textbook Assistance Scheme or to have quitted studies and hence would have to refund the subsidy granted.

- (d) Amongst students receiving textbook assistance in the past three school years, the number of students receiving textbook assistance for two consecutive school years is set out as follows:

<i>School Year</i>	<i>2008-2009</i>	<i>2009-2010</i>	<i>2010-2011 (as at end of December 2010)</i>
Number of students receiving textbook assistance in this and the preceding school years	247 630	239 448	227 866
Percentage of student-applicants in the school year	84%	85%	88%

- (e) As set out in part (a) of the reply, the SFAA and schools can only process applications from around 30 000 families for early disbursement of textbook assistance under the existing processing procedures and with the resources available.

To enable the majority of students to receive the textbook assistance before the start of the school year, the SFAA has recently committed to disburse the textbook assistance to the majority of eligible students early in August from the 2011-2012 school year, by re-engineering the processing procedures with suitable risk management, increasing manpower and enhancing its computer system. Specifically, the SFAA would first disburse the subsidy to those students who received textbook assistance in the preceding school year and have submitted applications to the SFAA by end of May and pass the means test of the new school year. In the past, the SFAA required schools to confirm the student-applicants'

(1) The School Textbook Assistance Scheme only covers needy Primary One to Secondary Seven students studying in government, aided, caput schools and local schools under the Direct Subsidy Scheme.

information before the disbursement of subsidy. From the 2011-2012 school year, the SFAA would only verify the students' information after the start of the school year, that is, after the majority of eligible students have received the textbook assistance. Verification will be done through student data matching between the enhanced computer system of the SFAA and that of the Education Bureau, thus reducing the relevant workload on the part of schools. If it is found out in the data matching process that subsidies have been wrongly disbursed to some students who have become ineligible for the subsidy, the SFAA would take action to recover the subsidies from the applicants.

With the re-engineered procedures to process applications, the SFAA estimates that around 170 000 families can receive the textbook assistance before the start of the 2011-2012 school year, and around 220 000 primary and secondary students can benefit from the measure. The SFAA would disburse subsidies to new Primary One students and those families who submit applications later after the start of the school year. We believe that with the new processing procedures, we can relieve the financial burden of the majority of parents receiving the textbook assistance in meeting their children's expenses for the new school year.

## **BILLS**

### **First Reading of Bills**

**PRESIDENT** (in Cantonese): Bill: First Reading.

### **COMPANIES BILL**

**CLERK** (in Cantonese): Companies Bill.

*Bill 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**

**PRESIDENT** (in Cantonese): Bill: Second Reading.

**COMPANIES BILL**

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

The Bill seeks to reform the company law of Hong Kong, so as to better fulfil the requirements for Hong Kong to be an international business and financial centre.

The Companies Ordinance (the Ordinance) was last substantially reviewed and amended in 1984. Over the past two decades or so, the Standing Committee on Company Law Reform (SCCLR) and the Government have conducted several reviews of the Ordinance. A number of recommendations about the Ordinance were made in the reviews, some of which have been implemented by means of several amendment bills.

However, the piecemeal approach to amending the Ordinance has its limitations. In order to tie in with market development, we decided to comprehensively rewrite the Ordinance, in a bid to modernizing our company law and better coping with users' needs, and thereby further enhancing Hong Kong's status as a major international business and financial centre. In the rewriting exercise, we have leveraged the developments regarding company law taking place around the world, so as to ensure that the Ordinance could meet the actual needs and thereby enhance Hong Kong's competitiveness.

The recommendations of the Bill on reforming the common law seeks to achieve four main purposes. They are (a) enhancing corporate governance; (b) ensuring better regulation; (c) business facilitation; and (d) modernizing the law.

In respect of enhancing corporate governance, major measures proposed in the Bill include:

- (a) clarifying in statute the standard of directors' duty of care, skill and diligence, with a view to clarifying the duty under the law and providing guidance to directors;
- (b) restricting the appointment of corporate directors by requiring every company to have at least one director who is an individual for the purpose of improving the accountability and transparency of company operations;
- (c) providing greater transparency and improving disclosure of company information, such as new requirements for public companies, large private companies and large guarantee companies to prepare a more analytical and forward-looking "business review" as part of the directors' report; and
- (d) fostering shareholder protection, such as extending the scope of the unfair prejudice remedy, enhancing shareholders' engagement in the decision-making process and strengthening the rights of the auditor.

The Bill has also introduced measures to ensure better regulation, which include:

- (a) introducing a number of improvements to the registration of charges scheme;
- (b) clarifying and enhancing the powers of the Registrar of Companies to ensure accuracy of information on the public register;
- (c) strengthening the enforcement regime, for instance, by empowering the Registrar of Companies to obtain documents, records and information from relevant persons for the purpose of executing provisions of the Bill concerning the making of false or misleading statements which may amount to an offence; and
- (d) empowering the Registrar of Companies to compound minor offences prescribed in the Bill, so as to better utilize judicial resources.

The Bill also seeks to facilitate business operation and cater for the needs of small and medium enterprises (SMEs). The major measures include:

- (a) facilitating SMEs to take advantage of simplified accounting and reporting requirements and thus saving their compliance and business costs;
- (b) dispensing with the requirement to hold Annual General Meetings subject to unanimous members' consent; and
- (c) simplifying some of the procedural requirements prescribed in the Ordinance, such as introducing a court-free procedure for reduction of capital based on the solvency test and a court-free statutory amalgamation procedure for wholly-owned intra-group companies.

We seek to modernize the company law to meet the needs of the business community and public expectation. We will retire antiquated concepts such as par value of shares. We will also take this opportunity to modernize the language and re-arrange the sequence of some of the provisions in a more logical and user-friendly order so as to make the Bill more readable and comprehensible.

In rewriting the Ordinance, we have made reference to the company law developments in other major common law jurisdictions such as the United Kingdom, Australia and Singapore. At the same time, we have also taken into account the special needs of Hong Kong, with emphases on engaging the participation of stakeholders and public consultations. Apart from close collaboration with the SCCLR, we have also set up four dedicated Advisory Groups to advice on rewriting specific areas of the Ordinance. The Advisory Groups comprise members nominated by the relevant professional bodies and major chambers of commerce, academics and representatives from relevant government departments and agencies. We have also formed a joint working group with the Hong Kong Institute of Certified Public Accountants to carry out an in-depth review of the accounting and auditing provisions of the Ordinance. We conducted three topical public consultations in 2007 and 2008 to gauge views on a number of complex subjects. The consultation results together with the SCCLR's other recommendations were incorporated into the draft Bill for further public consultation held in two phases in 2009 and 2010. We have kept the

Legislative Council Panel on Financial Affairs informed of progress and Members' views were sought throughout the process. Here, I would like to thank Members, stakeholders and members of the public for their valuable views.

Moreover, given the bulk of consequential amendments to other enactments in relation to the Bill, we have only included in the Bill a small portion of the consequential amendments. We will submit a separate bill later this year to deal with the remaining bulk of the consequential amendments. This arrangement is a common practice in other common law jurisdictions, such as Australia and the United Kingdom. This approach also enables us to make changes to consequential amendments arising from the Bills Committee's deliberations on policy issues when necessary, thereby reducing the number and complexity of Committee stage amendments.

The Bill is the first phase of the rewriting exercise where provisions affecting the operation of over 860 000 local companies are dealt with. We will later kick start the second phase of the rewriting exercise to review provisions relating to liquidation and insolvency.

President, given that there are 909 clauses in and 10 schedules to the Bill, the Bills Committee will have to work very hard to scrutinize the Bill. We will do our best to work with the Bills Committee and strive to pass the Bill before July 2012 when the Legislative Council expires, with a view to modernizing the company law in Hong Kong and sharpening Hong Kong's competitive edge as an international business and financial centre. I urge for Members' support of the Bill.

I so submit. Thank you, President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Companies Bill 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.

**MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' Motions. Two motions with no legislative effect.

**PRESIDENT** (in Cantonese): First motion: Equal Opportunities Commission's Formal Investigation Report on Accessibility in Publicly Accessible Premises.

The mover of this motion may speak for up to 15 minutes respectively on moving this motion and giving reply; and other Members each may also speak for up to 15 minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

**PRESIDENT** (in Cantonese): Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Mr CHEUNG Kwok-che to speak and move the motion.

**EQUAL OPPORTUNITIES COMMISSION'S FORMAL INVESTIGATION REPORT ON ACCESSIBILITY IN PUBLICLY ACCESSIBLE PREMISES**

**MR CHEUNG KWOK-CHE** (in Cantonese): President, I move the motion on the Equal Opportunities Commission's Formal Investigation Report on Accessibility in Publicly Accessible Premises (EOC Report).

I will first speak in the capacity of the Chairman of the Panel on Welfare Services.

In 2007, Equal Opportunities Commission (EOC) commenced a formal investigation to examine the progress made on the realization of a barrier-free environment for persons with disabilities, in particular on the progress of providing barrier-free access and facilities in 60 publicly accessible premises. On 7 June 2010, the EOC published a report, giving 23 recommendations on the improvement of accessibility, connectivity and interface with surrounding

environment and user-friendly management practices for publicly accessible premises.

At the meeting of the Panel on 13 December 2010, the Administration briefed the Panel on the Government's response to and follow-up actions on the 23 recommendations proposed in the EOC Report. According to the Administration, having regard to operational requirements, technical feasibility and time required for the retrofitting works, the authorities have worked out a consolidated retrofitting programme for the premises and facilities concerned. The authorities have also undertaken that the retrofitting works of 3 306 government premises and facilities will be completed before 30 June 2012. Moreover, on 22 January, the Panel held a special meeting to listen to the views of various organizations on the EOC Report.

Members of the Panel welcomed the responses and follow-up actions proposed by the Government in response to the recommendations made in the EOC Report. The authorities stated that it was the authorities' established policy objective to provide a barrier-free environment for persons with disabilities with a view to enabling them to access to premises and make use of the facilities on an equal basis with others, thereby facilitating them to live independently and integrate into society. Some members were of the view that though the issue on barrier-free facilities had a greater bearing on persons with disabilities, they were definitely not the only beneficiaries of these barrier-free facilities. The accessibility designs would also benefit the elderly, parents using baby carriages and even members of society with impaired mobility.

Hence, the building of a barrier-free and inclusive society should not be confined to the provision of barrier-free access and facilities for persons with disabilities. Members considered it most important to identify ways to change the attitude and mindset of the general public in order to meet the aspiration for barrier-free access. Members urged the authorities to adopt the principle of universal design to develop an overarching policy on building an inclusive society.

Members in general agreed with the recommendation of the EOC in setting up a high-level central co-ordinating body, headed by the Chief Secretary for Administration, to develop policies and practices on promoting universal access to public spaces, buildings as well as services owned and operated by the

Government and public bodies. Though the authorities had responded to the recommendation by setting up a task force under the Labour and Welfare Bureau to co-ordinate the response and follow-up actions of the departments concerned, members worried that the task force might fail to fulfil its co-ordinating and mediating functions. A majority of members considered that a central co-ordinating body should be led by the Chief Secretary for Administration to implement policies on providing barrier-free access and facilities.

Moreover, given the exemption of government premises or premises of certain public organizations from the requirements of provisions in the Buildings Ordinance, some members considered that the authorities should amend the Building Ordinance to repeal the relevant exemption provisions. They considered that the authorities should make continuous effort to identify room for improvement in enhancing the accessibility of government premises and addressing the problem.

Members were also of the view that the authorities should monitor and instruct public organizations, particularly The Link REIT, the MTR Corporation Limited (MTRCL) and public buses operators, as well as major private developers and premises owners, to implement retrofitting works projects and other measures at the premises and venues they owned and managed, so as to build a barrier-free and inclusive society.

The Panel agreed to appoint a subcommittee to monitor the Government's implementation of the follow-up actions on the 23 recommendations made in the EOC Report, and to study issues relating to the provision of barrier-free access and facilities to persons with disabilities.

President, I will then speak on the motion in my own capacity.

After the release of the EOC Report, the Government has responded rather positively. It has even undertaken to complete the retrofitting works at 3 000-odd premises and facilities within 18 months; apart from some 5% of the premises and facilities where retrofitting works cannot be carried out, the remaining works will be completed before 2014. I will not query for the time being whether the Government can honour this undertaking within such a short span of time. However, we will definitely monitor the work progress closely,

and we will request the Government to provide progress reports during the period to ensure accountability to society.

Some work done is better than none. However, in promoting a barrier-free environment, I think the Government's attitude is still very passive. Honestly, it only takes one step ahead whenever it is being pressed. Besides, more often than not, it stops once some cosmetic works have been done, as if it has already accomplished a great task. For instance, in the EOC Report, it was stated that among the 17 public housing estates in the territory inspected, 16 of them were found to be provided with accessible site entry points in full compliance with the Design Manual: Barrier Free Access 2008. Regrettably, with regard to other facilities which seem to be less important, such as the provision of accessible flat units and accessible common areas, only one to two estates had met the standard.

As pointed out in the conclusion of the EOC Report, "Accessibility can mean many different things and physical barriers are only the visible obstacles. In other words, getting through the door is a means to an end and not the end itself. Full accessibility means an uninterrupted path of travel to or within a building ....." Hence, I hope that the Government will change its perfunctory attitude. It should take a pragmatic and practical approach to enable the true integration of persons with disabilities into society.

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

Moreover, before the Government commences the works concerned, it should seek the views of users instead of working out everything behind close doors. As reflected by many organizations and self-help groups, despite the efforts made by the Government in creating an accessible environment, its failure to seek the views of users, like persons with disabilities, in advance has rendered certain barrier-free facilities useless upon completion. Even if those facilities can be used, there are many difficulties in using the facilities and the needs of users cannot be fully addressed.

Actually, not only the Government's awareness of accessibility is low, the awareness of the public at large is also low. After all, this is attributed to the

lack of imparting such knowledge in our civic education over the years. According to an on-site study conducted by the Federation of Hong Kong and Kowloon Labour Unions, the design of pedestrian walkways reflects the Government's lack of accessibility awareness. For instance, a sign or lamp post is placed in the middle of a narrow pedestrian walkway; or a hydrant is placed in the middle of an access ramp. How can users use the access ramp then?

Hence, I think the Government should include the concept of a barrier-free environment in the primary and secondary curriculum, so that the public can have some basic knowledge about accessibility from childhood. As for civil servants, education in this respect should also be enhanced, so as to avoid the embarrassing situation mentioned above, certain barrier-free facilities useless. For this will not only fail to assist persons with disabilities, but will also waste public money.

One of the recommendations proposed in the EOC Report is to remove the exemptions of government buildings from the requirements in the Design Manual. The response of the Government in this respect is very passive, using various excuses to evade this responsibility. I think the Government should take the lead in promoting a barrier-free culture, and the removal of the exemptions concerned will definitely bring about proactive and leading effects in society.

However, regarding the Government's proposal of designating an Access Co-ordinator in individual bureaux and departments to co-ordinate accessibility issues within individual bureaux or departments, I have some worries. As in the case of the earlier appointment of Gender Focal Points within individual departments for the promotion of gender mainstreaming, it is simply ineffective and exists only in name. Hence, the Government should undertake a serious review and consider carefully the actual duties of the proposed post, so as to ensure that Access Co-ordinators can function well and will not just do the work to satisfy the public.

Deputy President, today, I am very upset. At the special meeting held on Saturday, Members unanimously considered that the building of an accessible city involves the work on town planning, welfare system, design of roads and building structure, and so on. As such, the Directors of Bureaux responsible for various areas of work should come to this Council today to response to the EOC Report and answer Members' questions. However, today, only the Secretary for Labour and Welfare attends this Council meeting. I cannot but query the

determination of the Government in building a barrier-free environment. As proposed in the EOC Report, a high-level central co-ordinating body headed by the Chief Secretary for Administration should be set up to develop policies and practices, and monitor the implementation progress, I believe only in this way will various departments be more concerned about the issue.

The EOC has spent three years to complete this report, and we are really delighted to see this. However, I would like to remind Members that this report only focuses on the barrier-free access and facilities of public accessible premises. Hence, it is just a small move in a small step towards the target of barrier-free communities and barrier-free cities. In particular point, this report has not touched on certain aspects with greater influence on persons with disabilities and persons with impaired mobility, such as pedestrian pathways, public transport, and so on. The impact of these facilities may affect their social life, making it difficult for them to integrate into society.

In respect of public transport, measures adopted in the promotion of barrier-free facilities are really out-dated. For instance, by now, not all buses are low-floor buses to facilitate wheelchair-bound persons and the elderly. As for the MTRCL, it continues to delay the installation of platform screen doors on the pretext of technical problems. By now, barrier-free taxis have not yet been introduced in Hong Kong. Another concern is the toilets for persons with disabilities. A decade or so has lapsed, but still, many people are either using toilets for persons with disabilities as store rooms or simply keep these toilets locked.

In fact, certain organizations even ridicule the SAR Government for being out-dated in its awareness of accessibility as compared with the situation before the unification. For in the era of Chris PATTEN, that is, before the reunification, the Government would organize summits on barrier-free environment to ensure continuous improvement in this aspect.

As said in the EOC Report, the provision of barrier-free access will not only benefit persons with disabilities, some facilities, like widened pedestrian walkways or access ramps, may also bring convenience to the elderly and persons using baby carriages. This will surely benefit the public.

I hope the EOC will continue to conduct studies on the barrier-free environment of community, monitor the Government and educate the public, so as to build a barrier-free and inclusive community.

Deputy President, I so submit.

**Mr CHEUNG Kwok-che moved the following motion: (Translation)**

"That this Council notes the Equal Opportunities Commission's Formal Investigation Report on Accessibility in Publicly Accessible Premises and the Government's response to and follow-up action on the 23 recommendations in the Report."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHEUNG Kwok-che be passed.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, first, I have to thank Mr CHEUNG Kwok-che for proposing a motion on the Equal Opportunities Commission's Formal Investigation Report on Accessibility in Publicly Accessible Premises (EOC Report), and his earlier recognition and acknowledgement of the proactive efforts made by the Government in response to the EOC Report.

It is the established policy objective of the SAR Government to provide a barrier-free living environment for persons with disabilities, to enable them to access to premises and make use of the facilities and service therein on an equal basis with others, and assist them to live independently and participate actively in various activities in society, thereby facilitating their integration into the community.

Under the Disability Discrimination Ordinance (Cap. 487), it is unlawful to discriminate against persons with disabilities in relation to the provision of means of access to any premises that the public is entitled to enter or use. In 2007, the Equal Opportunities Commission (EOC) commenced a formal investigation to examine the progress made on the realization of a barrier-free environment for persons with disabilities, in particular on accessibility and barrier-free facilities to

publicly accessible premises. For the purpose of the investigation, the EOC conducted access audits on 60 publicly accessible premises owned or managed by the Hong Kong Housing Society, The Link Management Limited, the Housing Authority (HA) and eight government departments.

In June 2010, the EOC published the investigation report and made 23 recommendations on the improvement of accessibility, connectivity and interface with surrounding environment and user-friendly management practices for publicly accessible premises.

The SAR Government attaches great importance to the investigation report of the EOC and has taken follow-up actions immediately after the release of the report. A task force has been set up under the Labour and Welfare Bureau to co-ordinate the Government's responses to and follow-up actions on the EOC Report. The Task Force is comprised of representatives from 19 government departments concerned, which include departments responsible for managing various government premises and facilities, as well as departments responsible for co-ordinating works projects. This is a large-scale working group straddling different departments.

With the vigorous efforts made by the Task Force and various government departments in follow-up and co-ordination, the authorities manage to lay down comprehensive and specific timetables for the retrofitting works of existing premises and facilities under the Government and the HA, and take proactive follow-up actions on and responses to the various recommendations in the report within six months. In early December last year, the Government gave a full report to the EOC on the particulars of retrofitting works projects and various follow-up actions and responses, and reported all the details to the Panel on Welfare Services of the Legislative Council on 13 December. The Panel on Welfare Services also held a special meeting on 22 January this year to listen to the views of persons with disabilities and other stakeholders on the EOC Report and the follow-up actions of the Government.

The SAR Government as a whole endeavours to implement the policy on building a barrier-free environment. We will not only make vigorous efforts in implementing retrofitting works and following up various recommendations, but will also listen attentively to the views of Members, persons with disabilities and

other stakeholders. We will make continuous effort to improve the barrier-free facilities of the Government and the HA with a view to building an equal and barrier-free environment.

Deputy President, these are my remarks. After Members have expressed their views on the subject, I will give a more detailed reply. Thank you, Deputy President.

**MR WONG KWOK-HING** (in Cantonese): Deputy President, the motion today is very meaningful. I have to thank Mr CHEUNG Kwok-che for proposing a debate on the investigation report of the Equal Opportunities Commission (EOC). Deputy President, I am also glad that the Chairperson of the EOC, Mr LAM Woon-kwong, comes in person to listen to this debate. I very much agree with the recommendation set out in paragraph 17.25(c) of the investigation report, and I quote, "Set up a high-level central co-ordinating body, headed by the Chief Secretary for Administration, to develop policies and practices on promoting universal access to public spaces, buildings as well as services owned and operated by the government and public bodies." (End of quote) Regarding the investigation report as a whole, I think this proposal goes straight to the heart of the matter. It points out precisely that without this central co-ordinating body headed by the Chief Secretary for Administration, various government departments will shift their responsibilities, simply play the "Tai Chi" tactic to dodge their responsibilities. This proposal brings out another point, that is, the Government's response of setting up a co-ordinating task force under the Labour and Welfare Bureau has not met the target set by the EOC.

As a matter of concept, the equal opportunities for persons with disabilities should ..... the provision of barrier-free access is not a matter of welfare but rights and equal opportunities. Hence, the appointment of the Secretary for Labour and Welfare as the head of the task force reflects how the Government considers this issue. The authorities have not considered the provision of barrier-free access a right to equality, but merely welfare measures for persons with disabilities. This not only lowers the level of the issue, but also fails to address the problems relating to the Government's mindset of governance, as precisely pointed out in the EOC investigation report. In my view, the real solution to the problems concerning barrier-free access is to remove the barriers in the brain of the executive authorities. Only when the barriers in the

Government's mindset in governance are removed will it face squarely and pragmatically the equal opportunities for persons with disabilities, and the core issues of the problem will naturally be solved with ease. All the policies of the Government, all premises and buildings planned by the Government and all facilities under its regulation will attain universal accessibility. The existing problem is that certain areas of the Government's brain are accessible but certain areas are blocked. Sometimes it is accessible but sometimes not. For this reason, I will elaborate my views on the recommendation set out in paragraph 17.25(c) of the EOC investigation report.

Deputy President, I would like to point out that the first obstruction found in the Government is its response to the needs of persons with disabilities in the community. The first tactic employed by the Government is "toothpaste squeezing". When stronger pressure are exerted and louder voices are expressed, be it at the district level, or in communities or estates, the Housing Department (HD) or the Hong Kong Housing Authority will make some improvement or do something in response to the pressure. When pressurized, it will make slight improvement. This is the so-called the "toothpaste squeezing" approach adopted by the Government in giving response, it is not responding to crisis. People studying social work, like myself, know what crisis response means. This is not crisis response in any sense, but response under the "toothpaste squeezing" approach. When certain people in certain places express dissatisfaction, the authorities will make some improvement. But still, it will bargain with the persons concerned, telling them only that much can be done within the limited resources available within the year. Among the 10 items required, perhaps only one item or less than one item will be completed, and the authorities will claim that it has done its work. These cases are not uncommon.

I am a Member of the Legislative Council representing New Territories West. In Kwai Chung and Tsuen Wan, many old estates are built on the hill. When residents first moved into these estates, they were young and surely they did not care about the location of the estates. However, after 30 to 40 years, they have become elderly persons aged 70 to 80. Many of them have knee problems, and some of them are even wheelchair-bound. Nonetheless, there are no access roads for wheelchairs between buildings and from one floor to another. Worse still, for certain housing estates more than 40 years of age, lifts are not provided. Take the case of Fuk Loi Estate as an example. We have been

striving for the installation of lifts for many years. Now that the authorities have agreed to grant funds for lift installation for five blocks, but some of the lifts cannot provide access to the top floors. The HD has responded by assisting these residents to transfer to other estates. However, the Government has never taken into consideration that several decades later, residents living in housing estates built on the hill, such as Kwai Shing Estate, On Yam Estate and Kwai Chung Estate, will age and they will find it inconvenient to go out. By then, many of these residents may have to use wheelchairs. Under such circumstance, how can universal accessibility be achieved?

Deputy President, you write spring couplets, so do I. I wrote spring couplets on 30 occasions in New Territories West. Do you know what the most popular blessings are? They are: "Wishing you safety wherever you go", "Wishing you safety whenever you travel" and "Smooth access to everywhere". People wish to have these blessings because they can hardly enjoy smooth access and safety when travelling around. It is evident that the mindset of the Government in governance is out-dated. This is the first obstacle: the "toothpaste squeezing" approach.

Deputy President, I would like to point out another obstacle: the brilliant application of "Tai Chi" tactic by government departments. I play Tai Chi too. However, in the face of the Tai Chi Push Hands played by government officials, I surrender voluntarily. They are real experts in "shifting blame", "dodging responsibilities" and "shirking duties". Deputy President, I only have to cite one example to well illustrate this point. If one wants to go from Kwai Chung Estate to Kwong Fai Circuit, he has to walk a flight of stairs of 100 steps, which is dubbed the "100 steps". Since the market and the nursery are located down the hill, residents have to walk down the stairs to buy vegetables, send their kids to school and pick them up; and they have to go up the hill to visit their elderly family members at the elderly homes. Every time they go out, they have to walk down 100 steps. We had expressed our request to the HD, the Transport Department (TD) and the Highways Departments. We had negotiated with each of these departments but they just shifted the responsibilities to others. The District Officer is the most senior official in the district. In the District Management Committee, he is half a rank higher than other heads of departments, and he had received our petition in person at the time. The District Officer, who was senior in age then and has now retired, did climb that flight of stairs. He

considered it tiring to climb up and down those stairs, and he thus understood the plight of residents in bearing sun and rain in climbing those stairs.

Deputy President, when we approached the Home Affairs Department, they said the issue was not within their purview, they could at most build several pavilions for the residents; when we approached to the Buildings Department, they said that since the road was located just outside the boundary, it should be within the purview of the TD; when we approached the TD, it said that the area fell within the purview of the Lands Department. How many departments had we approached? Five. We had negotiated with a number of departments and they just shifted the responsibilities to others. In the end, one to two years ago, we managed to convince the TD to install escalators or lifts at the highly used staircase access. However, the TD said that a consultancy study had first to be conducted to identify all places in the territory where improvement was required. A point system was then introduced to set the priorities of works, and only the top 10 places on the list would be handled in the first round. Unfortunately, Kwong Fai Circuit ranked 11th on the list. Sorry, nothing could be done. This is outrageous! The Government is not without money, it has a lot of money now. If those improvement works are required, why can they not be carried out throughout the territory at the same time? Why a point system has to be adopted?

When we told the residents about the results, they said, "Mr WONG, by the time they finished the work, I would have gone to heaven!" The Government said that priorities had to be set according to the points system. It is just ridiculous! Why does it not give regard to the plight suffered by residents every day? It is simply unjustified. This is the second tactic: "Tai Chi Push Hands".

The third tactic is: "One step at a time". How do we know it takes "one step at a time"? Take the shopping arcades under The Link REIT as an example. It is said that funds will be invested to carry out retrofitting works. Deputy President, I wonder if you know that after retrofitting, extremely heavy doors are installed to reduce the leakage of air-conditioning. These doors are so heavy that wheelchair-bound elderly are not strong enough to push open those doors. It is evident that the retrofitting works have not been duly considered. Another example is that some access roads are too narrow for wheelchairs, but the management just ignores the problem. The access linking Yat Tung (II) Estate and the shopping arcade is a case in point. Again, various departments keep

shifting the responsibilities to others. Let us look at the case of the MTRCL. It is making several billions of profit every year. In Hong Kong, the MTRCL is the only railway company dominating the market. Under this circumstance, the MTRCL definitely has the power, the justification and the obligation to provide barrier-free access. It should install more lifts at MTR stations to enhance the mobility of wheelchair-bound passengers. This is essential and the MTRCL should undertake this obligation. However, like the Government, it adopts the "toothpaste pressing" tactic. By the end of last century, I requested the MTRCL to install a lift at North Point Station to cater for the needs of persons with disabilities. After striving for a long time, the lift was eventually installed, only after repeated pressure and demand. If no one makes any demand, they will just turn a blind eye. Members may check this out. Can you find a lift at the Central Station opposite to the Legislative Council Building? Just try to find one. How about Tsuen Wan Station? The station has been built for a long time. If a person with disabilities get off the car or taxis at the roadside, he cannot possibly go inside the MTR station. Secretary, have you tried this before? Persons with disabilities just get stuck there; they find no way to go inside the MTR station. Why has the MTRCL not taken proactive and comprehensive measures? Why has the MTRCL not considered addressing these problems properly but wait until they are pressurized to do so? Had the Government been mindful of the core issues, it would have been aware that persons with disabilities are entitled to equal opportunities, and we should provide them with such right. This is not a matter of welfare but a matter of right and equality, and the authorities are obliged to do so.

Allow me to tell you an unhappy experience. Just now, I mentioned the strenuous process in requesting the MTRCL to install lifts. Deputy President, what is the unhappy experience that I have? One day, I went to the headquarters of the MTRCL, which is located at the International Finance Centre, to have a meeting ..... Deputy President, I wonder if you know that there is a dedicated lift accessing floors where offices of the MTRCL located. Their staff members are not lame, they can walk and run. However, a dedicated lift accessing the office floors is provided. How ridiculous it is! It has been giving all kinds of excuses to refuse the requests for installing lifts for persons with disabilities. It is unjustified. This is my experience and I have to express my feeling here. I hope the senior management of the MTRCL will hear my comments through radio or television broadcast.

The issue is that the Government is the major shareholder of the MTRCL. Even if the management officials of the Government are not aware of this fact, the Government should know. How come we cannot install lifts at all MTR stations to make it more convenient for persons with disabilities?

Deputy President, finally, I would like to talk about the fourth tactic. The Government has not taken all factors into consideration in building design, and it has not considered the need to facilitate access of persons with disabilities. Deputy President, let me just cite one example to illustrate this point. At present, in the community halls built by the Government, there are no access ramps or other access to the stage. If persons with disabilities rent these government community halls to hold major events or performance, how can they get to the stage on their wheelchairs? They have no way to get to the stage on their wheelchairs.

Similarly, around the 1990s in the last century, we finally strived to have access ramps built in the hall at the Causeway Bay Community Centre, so that persons with disabilities can get to the stage. The case has brought to light the problem why the Government would have failed to think of this (*The buzzer sounded*) .....

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

**MR IP KWOK-HIM** (in Cantonese): Deputy President, dining out, going to movies, going to toilet, these are all part of our daily life. Perhaps we have never imagined that nowadays, there are still some people who cannot easily go to restaurants or cinemas or go shopping. Why do I say so? Just imagine, if you are wheelchair-bound, you have to check whether the restaurant or cinema you intent to go to is accessible to wheelchair users, whether there are toilets for wheelchair users and seats for the wheelchair-bound. For the visually impaired, they are exposed to all kinds of danger in a new place, and they take every step in fear. I believe we being able-bodied have never thought about these concerns.

Honestly, I believe many people would not want to bother others or their relatives to carry them upstairs and downstairs; they do not want to check which streets and shops they can go to before they go shopping; they do not want to

check whether toilets facilities for persons with disabilities are provided in restaurants or cinemas, otherwise they cannot go toilet even if they have such a need. Moreover, they have to check whether there are suitable seats for wheelchair users in a cinema, so that they will not be watching the movie along the aisle. Actually, just like anybody, persons with disabilities want to lead a normal life. They have to work and have their social life, and bring their strengths to full play to contribute to society. We may not consider our daily environment full of barriers; but for persons with disabilities, it may be a disturbing environment full of barriers.

Earlier, in response to the report published by the Equal Opportunities Commission, the Government formulated retrofitting works projects for barrier-free facilities provided at government venues. We consider these projects encouraging. However, I would like to put forth some proposals with better effect for the consideration of the Government.

The authorities plan to carry out retrofitting works in 3 692 government premises and facilities. However, retrofitting works will not be carried out at 193 government premises, either because the facilities will soon stop providing service or will soon be demolished, or there are insurmountable technical constraints. Although there may be certain difficulties in carrying out retrofitting works in these venues, I hope that the Government will re-examine the feasibility of introducing enhancement measures at these 193 venues, and install additional facilities to make it more convenient to the needy. We should not say lightly that "it is impracticable" and then do nothing, leaving persons with disabilities with no choice but avoid using those venues. If it is found genuinely impracticable after re-examination, I still hope that the management staff of the venues concerned will provide adequate support, including manpower, to provide assistance to the needy to enhance the accessibility of these venues.

Moreover, I hope that the plan will cover all public toilets in the territory. Public toilets are provided for the convenience of the public and every citizen will have the opportunity to use them. Though every public toilet is provided with universal accessibility, it may not necessarily be adequate. At present, toilets with universal accessibility mainly cater for the needs of the physically disabled. I think they can all be up-graded to a higher level. They can be transformed into multi-purpose rests rooms suitable for different target users, apart from wheelchair users, other people, such as persons with mobility impairment,

pregnant women, baby carers, the elderly and the infirmed may use such facilities.

In Hong Kong, the Disability Discrimination Ordinance stipulates that persons with disabilities have the right to barrier-free access to workplaces, housing, hospitals, libraries, restaurants, shops, commercial centres, transport hubs, recreation and cultural facilities, and so on. In short, all public and private facilities are subject to regulation. Failure to provide access or means in equality for the use of these facilities to persons with disabilities, or the offer of unequal treatment in the provision of service, may constitute an offence. The subject of the case may lodge a complaint according to the Ordinance.

Actually, the Ordinance has been in place for a long time. However, more often than not, the barrier-free facilities provided by the Government or private organizations are just cosmetic. The facilities are provided simply to meet the minimum requirements under the manual. The Government or private organizations do not have a caring heart to understand the needs of persons with disabilities, and they have not considered the suitability of those facilities in practical situation. As a result, certain barrier-free facilities become "nonsensical" facilities.

The most typical examples are the Lok Ku Road Public Toilet and the Pound Lane Toilet in Sheung Wan. These toilets are inaccessible to wheelchair users because of the staircase leading to the entrance. The authorities have spent several millions of public money to construct these two "nonsensical" facilities. In the face of these cases, I do not know whether I should laugh or cry.

We have received various complaints from persons with disabilities from time to time. For instance, the height of toilet roll holders is unsuitable, the lavatory basins are too high, and they may have to push open heavy smoke doors which weigh nearly a ton to take the lift. Mr WONG Kwok-hing has also mentioned some examples earlier. The problem of facilities provided failing to serve their purpose is very common. When the organizations concerned receive complaints, they will rectify the problems unhurriedly, wasting time, manpower, as well as money. In that case, why do they not deal with the issue more carefully at the beginning so that the problem can be settled once and for all?

At present, we have the Design Manual: Barrier Free Access 2008, which provides guidelines for installing barrier-free facilities. However, guidelines are just some hard and fast rules, whereas people can offer living guidelines. After all, first-person opinions given by users will be the most suitable. As a common saying goes, only the victim knows the pain. Hence, only persons with disabilities fully understand the difficulties they encountered in their daily lives, even the closest persons around them may not know exactly the assistance they need in every circumstance. As such, the most convenient and considerate approach is to consult the views of users, which means persons with disabilities. In respect of the retrofitting works projects to be carried out by the authorities, I earnestly hope that they will do it thoroughly, without leaving some problems unsettled. Hence, I would like to remind the departments concerned that improvement to barrier-free facilities should be people-based. The authorities should consult the concern groups of persons with disabilities and understand their views. More so, they should invite persons with disabilities to try out the relevant facilities to ensure that enhanced facilities will better suit their needs.

Apart from the retrofitting works, the Government has also planned to appoint an Access Co-ordinator in individual bureaux and departments to co-ordinate accessibility issues within individual bureaux or departments. We consider that the authorities should give priority to the employment of persons with disabilities. On the one hand, this will enable various departments to gain better understanding of the needs of persons with disabilities, so that the facilities provided can suit their needs better. On the other hand, the Government can take the lead and set a good example in encouraging private enterprises to employ persons with disabilities and promote equal opportunities. I wholeheartedly hope that upon the completion of the retrofitting works projects, we will no longer see those "nonsensical" facilities.

Deputy President, another area of concern is the repair and maintenance of these facilities. I learn that some persons with disabilities complain that they have to be extremely cautious in using barrier-free facilities, for fearing of damaging these facilities. Why? Because it takes for a long time to get the facilities repaired. Previously, I mentioned the "nonsensical" toilet for persons with disabilities at Pound Lane. In response to our intense pressure, the authorities eventually built a simple ramp next to the entrance to solve the problem of blocked access. For such a small move or a simple task, how long do you think it took? Deputy President, you cannot imagine, it took a year to

complete. It was only completed in the past few days in early 2011. I think this progress is absolutely unsatisfactory. The authorities must step up its effort in conducting regular inspection, prompt actions must be taken to repair damaged facilities and improve facilities under complaint, so that these facilities will not be out of service for a long time.

The rights of the underprivileged can very easily be overlooked. Hence, the Government must take the lead to raise the awareness of society on this subject, so that private organizations will follow suit to make improvement.

The Link REIT is a case in point. Last year, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) conducted a large scale survey on all shopping arcades under The Link REIT. It was found that the provision of barrier-free facilities was far from satisfactory. Nearly 40% of the shopping arcades failed to provide adequate access ramps, and nearly 60% of the shopping arcades did not provide adequate guiding facilities for the blind, and the lifts were not equipped with voice announcers. Persons with disabilities will encounter difficulties every step they take at shopping arcades of The Link REIT. The results of the survey were covered extensively by the media, and The Link REIT was prompt to respond. Last week, The LINK REIT eventually announced the retrofitting plan, proposing to spend \$200 million in the next five years to enhance the facilities concerned.

We really need this kind of power to urge private organizations, including public transport organizations, shopping arcades, private estates, and so on, to face these problems squarely. The Government is in the best position to take the lead to bring this power to full play. The DAB hopes that in future, persons with disabilities can freely eat out and go to movies, and enjoy the rights they are entitled to.

Deputy President, I so submit.

**MR WONG SING-CHI** (in Cantonese): Deputy President, if the Government wants to do a good job in respect of barrier-free access, it must first have a barrier-free mindset, as its thinking is very often blocked. For example, it often uses excuses such as this is not a proper procedure, the need is not great, no funding, or not being identified, and so on. The Government's brain is blocked

and has to be criticized. It is not until the publication of the Formal Investigation Report: Accessibility in Publicly Accessible Premises (EOC Report) by the Equal Opportunities Commission (EOC) that the Government's brain, which is similar to a blocked sewer, is cleared. The Government is finally aware that there is a lot to be done, and it must hastily complete more than 3 000 retrofitting works within 18 months. That is better than nothing for it has proven that the sewer is just blocked but not going to burst, we do not want to see it burst.

Deputy President, for many persons with disabilities, the EOC Report is meaningful, and I earnestly hope that this Report will serve as a comprehensive reference for the Government. Although the investigation conducted the EOC only focuses on 60 publicly accessible premises, it reflects that, from these premises selected randomly, the Government has made major mistakes in many areas and its performance in the past was disappointing.

Deputy President, when the EOC Report was discussed at the meetings of the Panel on Welfare Services on 13 December last year and last Saturday, a number of deputations expressed their views. My impression is that, though the Disability Discrimination Ordinance has been enacted, the protection for persons with disabilities still seems to be very inadequate, and many things have been said but not done. In particular, The Design Manual: Barrier Free Access 1997 and The Design Manual: Barrier Free Access 2008. We all think that these manuals are excellent in telling us how the access should be designed. How are we to know that these two manuals would temporarily exempt housing estates built before 1997 from extensive alteration works? Government and Housing Authority (HA) premises are also exempted. I wonder if exempting these premises is tantamount to thinking highly of the Government, or really believing that the Government and the HA do not need monitoring for they will automatically undertake the relevant work. As it turns out, that is not the case. With the exemption, the HA and the Government do not need to do anything. Is there anything wrong? We are shocked, although laws are enacted, the Government is set free and it will not be punished for violating the law, and no follow-up actions are required. We can imagine how disappointed people are.

The exemption of government buildings from the provision of accessible facilities will create many problems. This issue does not simply involve government buildings but also streets, roads and a lot of open space managed by

the Government. As these places are exempted, the provision of accessible facilities is not required, so persons with disabilities may even not be able to go out. The Design Manuals only covers some internal facilities, it has not even covered some detailed requirements, such as whether elevator buttons should be located at a higher or lower position. It may only cover general issues such as the gradient of roads and whether doors are wide enough to allow wheelchair access; but it has not touched on detailed requirement. Furthermore, it has not mentioned the space outside buildings because it is mostly Government land. In that case, the scope of regulation is just limited to certain building structure and old buildings are not regulated. Hence, this is not very helpful to many persons with disabilities.

Deputy President, I would like to give some examples to prove that we are between tears and laughter in learning that the Government claims that it is determined to establish barrier-free access to care for persons with disabilities. I have read a report in the *Oriental Daily News* about the lack of shower facilities in the disabled toilets at the Hin Tin Playground in Tai Wai managed by the Leisure and Cultural Services Department (LCSD), which caused inconvenience to many persons with disabilities who want to take a bath after exercise. They want to go to ordinary toilets but these toilets are either inaccessible or lacking sufficient space. When enquired by the press and many organizations, the LCSD staff explained that the venue was built in 1992, and disabled toilets were provided at that time in accordance with the then Buildings Ordinance. Regarding the lack of space for shower, the LCSD staff said, no big deal, just remove some parts of the male and female changing rooms and additional shower facilities could be installed for persons with disabilities. In response to the remark that persons with disabilities often have to sit upright while bathing, the LCSD staff said, no big deal, persons with disabilities just need to ask and they could provide plastic chairs for them to sit upright while bathing. If that is feasible, the Government no longer needs to provide disabled toilets in future. Persons with disabilities can borrow mobile toilets from the LCSD offices and use the toilets there. If the LCSD, in making such remarks and arrangements, still claims that that it has taken care of persons with disabilities, this is really a laughing stock.

Deputy President, I really hope that the Government would be more thoughtful when considering this issue. If it fails to take care of persons with disabilities in providing such basic and minor services, I believe that we should not expect it to do better in the provision of larger-scale facilities. According to

Ms Amy WONG, Chief Executive Officer of People of Fortitude • International Mutual-aid Association for the Disabled, instead of lending plastic chairs to persons with disabilities for bathing, it would be better to provide them with Rehabus services to take them home for bathing. This suggestion does not respect the needs of persons with disabilities. The LCSD performs its work perfunctorily, just to avoid being criticized by the public for not taking care of persons with disabilities. It is conspicuous to all that the Government just wants to muddle through.

We agree that many areas of the Design Manuals need improvement, but who is responsible for monitoring after the introduction of the Design Manuals? It is the Government's responsibility. To my surprise, the Government has neither monitored the situation nor taken any actions. How can we expect the Government to play the gatekeeper's role and properly monitor the provision of barrier-free access in the future?

The Government has responded after the EOC Report was released. I attended a rehabilitation activity with the Secretary after the release of the EOC Report, I remember that the Secretary told me delightfully on that day, "Sing-chi, more than 3 000 projects will soon commence". It is desirable for the Government to take actions right after the release of the Report. However, if no such report has been released, I think the Government may not take any actions. The Secretary has reacted very quickly, and I hope that the Government can really complete over 3 000 projects within 18 months. Within these 18 months, we also hope that the Panel on Welfare Services would set up a task group to follow up these projects. Deputy President, we are now fully "loaded" and the proposal of setting up a task group is on the waiting list. We hope that the task group can be set up expeditiously; moreover, we hope that the Secretary will not muddle through and handle the 3 000-odd projects perfunctorily. Incident similar to Hin Keng Playground in Tai Wai, as mentioned just now, should not occur again. We should not just provide plastic chairs to persons with disabilities so that they can sit upright while bathing in toilets, and then consider the problem settled. We must do all we can to provide facilities for persons with disabilities, so that they will feel respected and the facilities are accessible to them.

Deputy President, another example concerns the Housing Department. The Housing Department has, out of good intentions, constructed an access ramp

as barrier-free access, but things turn out wrong because a curb has also been constructed, I do not know if the purpose is to intercept water flowing down or for other purposes. Anyway, wheelchairs will be stuck when they pass the curb. Which housing estate am I referring to? I am talking about Hing Wah (II) Estate. The ramp is shoddily built, and a curb is included for no reasons at all. Many complaints are raised and what has happened afterwards? Everything has been removed and even the ramp has been removed; we do not know whether we should laugh or cry. The Housing Department is a government department, and the same situation also happens in many government venues. If that remains the case, we would question how the Government could play its monitoring role well.

Deputy President, I have rebuked the Government and the Housing Department, and I think that many groups and organizations are not doing a good job. More than half of the buses are not low-floor buses. Similarly, many MTR stations including Sheung Shui Station do not have elevators. When I discussed the matter with the MTRCL, I was told that elevators were unnecessary because there was a ramp for access to the station. Nonetheless, this ramp is located near Sheung Shui Centre and wheelchair users living near Choi Yuen Estate have to spend around 20 minutes making a detour to the ramp before taking a train at the station. Honestly speaking, a wheelchair user may have reached Kowloon if his wheelchair is motor-driven. It takes persons with disabilities so much time to make a detour to the ramp, and the ramp is not access friendly, this reflects that the MTRCL has just casually done something to keep the mouth of those who criticize them shut.

Deputy President, I hope that the Government, the MTRCL and the bus companies would attend to the interests of persons with disabilities. I am not saying that we should help or serve them, but I am just saying that they have the right to accessibility. We cannot just casually attend to their interests and we should really consider their practical needs and provide greater convenience for them. It is not enough just to provide the facilities, we must make things more convenient for them.

Deputy President, I have recently visited a number of shopping centres, and from my observation, there are many commercial organizations with inadequate facilities. The business environment of shopping centres is definitely important, the shopping centres may not — I am not sure if that is really the case, though I

hope it is not — welcome patronage by persons with disabilities, hence many obstacles are set which are unacceptable.

Deputy President, I would like to talk about The Link REIT. The Link REIT has been censured by people for so many years. Luckily, after a report was released by Mr LAM Woon-kwong, the Chairperson of the EOC, the Government responded that more than 3 000 projects would be undertaken. The Housing Department also declared that immediate actions would be taken, and The Link REIT immediately committed to spend \$200 million on the provision of complementary facilities in 180 shopping centres within three phases in five years. This is certainly better than nothing, and I have to praise The Link REIT for its speedy response though actions are only taken after it has been rebuked by people for so long, which is not so good.

I am going to give my personal experience as an example. The Link REIT has driven away all previous commercial tenants of the old shopping centre in Choi Yuen Estate. I was furious at that time, as the elderly cannot buy things they want any more. We have a new scene today. The shopping centre is beautifully decorated, with hamburger shops, fast food restaurants and a nice restaurant. There are also some shops selling things at low price. I thought that the elderly could buy from these shops. Yet, after walking up the flight of stairs or taking the escalator to the shopping centre, the elderly persons cannot push open the big and magnificent glass door, no matter how hard they try. Is that what we call barrier-free access? I can only open the door after pushing it with my shoulder. If strenuous efforts are needed for a strong person like me, how can elderly persons push open those doors? I really do not understand why designers of these shopping centres have not considered the accessibility of the public in using the facilities. Why have they not considered designing these facilities from the angle of users?

Deputy President, we are not just discussing barrier-free access today; we are not helping persons with disabilities to get welfare benefits, these are their rights. Deputy President, if we want to take care of persons with disabilities, or if we want persons with disabilities to enjoy human rights, to be accessible to a barrier-free environment, it is not enough just to provide the facilities. In future, we have to work harder in connection with other services, such as information technology. It is very simple. For example, my wife recently suffers from hearing impairment and she cannot hear any sound. She realizes that she cannot

understand the news reports by some television stations because there are no subtitles. Nowadays, iPad is very popular, but the blind cannot use it. I know that a bar can be added to an ordinary computer. I learn that Mr CHONG Chan-yau can read the information on the computer screen by touching the bar. Yet, the mobile phone technology (*The buzzer sounded*) .....

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

**MR WONG SING-CHI** (in Cantonese): ..... fails to allow the blind to receive information through the sense by touch.

**DR RAYMOND HO:** Deputy President, people with disabilities and even elderly persons with mobility impairments are most affected by access barriers to physical environment. The unsuitability of premises for them to enter and use will deprive them of the opportunities in using the facilities and services there. Accessibility in publicly accessible premises will therefore mean a lot to them.

In line with the growing public attention given to the well-being of the people with disabilities, Hong Kong has made significant strides to improve the accessibility in publicly accessible premises in the past few decades. But there is still room for improvement, particularly when compared to what have been done in many other advanced countries or developed economies. Thanks to the efforts of the Equal Opportunities Commission (EOC), its "Formal Investigation Report on Accessibility in Publicly Accessible Premises" highlights some of the accessibility issues of the publicly accessible premises in Hong Kong.

It is particularly encouraging that the Government has made positive responses to the 23 recommendations made in the report. Indeed, the Labour and Welfare Bureau has convened a task force to co-ordinate the response of the Government to, and follow-up action on the report. Concrete measures including issuance of a General Circular by the Labour and Welfare Bureau on accessibility in publicly accessible premises for compliance by all government bureaux and departments, and the appointment of access co-ordinators and access officers will be taken to improve accessibility in government premises.

However, the recommendation of the EOC on setting up a high-level co-ordinating body, headed by the Chief Secretary for Administration, is worth considering. The proposed arrangement would demonstrate the commitment of the Government to providing a barrier-free environment for people with disabilities and will ensure that accessibility issues of different complexity can be handled quickly and efficiently with the involvement of senior government officials. Indeed, the establishment of this high-level co-ordinating body would help ensure compliance of the Government with the requirements in barrier-free access in its premises. Some members of the public have expressed their concerns about the exemption given to the buildings belonging to the Government and the Housing Authority from the Building (Planning) Regulations under the Buildings Ordinance, which prescribe the design requirements to ensure that reasonable barrier-free access and facilities are provided on the premises to meet the needs of persons with disabilities.

Apart from incorporating the barrier-free access designs in the new public buildings, providing barrier-free access to public premises may also involve retrofitting and upgrading works of existing government buildings, particularly those that have been built for some time. Cost-efficiency factor should not be the sole guiding principle in these projects. Instead, it is preferable for the Government to seek the best practicable option as recommended by the EOC. The rights of people with disabilities rather than the price tags should be the major concern as they are entitled to have access to these premises as an equal citizen.

In addition to the continuing improvement in the accessibility in publicly accessible premises, the Government has to work with public transport operators to improve the accessibility of public transport service. Otherwise, barrier-free access premises may still mean nothing to those disabled persons who have to rely on public transport service. Without the access to public transport, they would be confined to their own homes and barrier-free government premises would still be beyond their reach.

With these remarks, Deputy President, I so submit. Thank you.

**MR FREDERICK FUNG** (in Cantonese): Deputy President, first, I would like to declare that I am a member of the Board of the Equal Opportunities

Commission (EOC) and the Convenor of the Task Group on Accessibility established by the Policy and Research Committee. Therefore, I am very much concerned about this motion debate. I would like to share with Honourable colleagues my views, some of which are about the EOC. As I support the work of the EOC, I am going to share my views and some of my views are about the EOC.

First of all, I would like to tell Honourable colleagues, they may also be aware that the People's Republic of China ratified the Convention on the Rights of Persons with Disabilities (Convention) in August 2008. The Convention also applies to Hong Kong and it not only covers persons with disabilities, but also persons with physical handicap, visual impairment, hearing impairment, speech impairment, mental illness, elderly persons, and so on.

The subject today focuses on accessibility as mentioned in the report of the EOC, and a few documents published in Hong Kong are relevant to our discussion. The Government introduced in 1984 the first Design Manual: Access for the Disabled 1984; in 1997, it introduced the Design Manual: Barrier Free Access 1997, and in 2008, it introduced the Design Manual: Barrier Free Access 2008. These three manuals are not binding, the Government hopes that the business sector, developers and constructors can comply with the design manual in the provision of hardware, that is, the means of access to and facilities of the buildings. This being the case, buildings constructed before 1984 were not affected by the design manual introduced in 1984; buildings constructed before 1997 were not affected by certain new provisions in the design manual introduced in 1997; and buildings constructed before 2008 were not affected under the design manual introduced in 2008. In other words, buildings that mostly comply with international standards are constructed in or after 2008. At present, most buildings in Hong Kong are constructed before 2008 and they have lawfully failed to comply with the stipulation of the Convention that persons with disabilities should have the rights to access.

Last Sunday, I participated in an activity organized by the Hong Kong Society for Rehabilitation, persons with disabilities, wheelchair users and ordinary people were invited to travel from various places to Central. Some of them travelled to Central from Tsim Sha Tsui, Mong Kok and the Western District and the activity aimed at finding out the problems they encountered during the process. Some Honourable colleagues have just discussed some of

these problems and I would like to highlight a few points. Firstly, though it is agreed that persons with disabilities should have equal rights in some aspects, there are problems with regard to accessibility of facilities.

For instance, some toilets for persons with disabilities have been turned into storerooms; and some persons can hardly come out after getting into these toilets. Deputy President, why is that so? When a wheelchair user gets into a toilet and closes the door, there is insufficient space for the wheelchair to make a 180-degree turn before leaving the toilet. Therefore, a wheelchair user can only move the wheelchair backwards and open the door with his hand bent, but still he cannot open the door. This is really disappointing to have such toilets.

Let me give another example. I visited a shopping centre yesterday. I asked the management staff where the disabled toilets were and he did not know. I was told that I could take the lift to the shopping centre, but how? It turned out that I had to go outside the shopping centre to take the goods lift; worse still, there was no instruction. If such problems exist in some modern shopping centres, the situation in some less modern shopping centres would be even worse.

Deputy President, as many examples are given in the report and a number of Honourable colleagues have given some examples just now, I will not give any more examples. Conversely, I would like to discuss the direction and policies. The EOC has spent one and a half year compiling the report, and the Government has recently promised to handle 80% of the 3 300 problems identified within 18 months, that is, by the end of 2012, and all problems will be solved by 2014. The Government has also promised that an Access Co-ordinator at directorate rank will be appointed in individual department. Moreover, The Link REIT has recently announced that it would improve the problems based on the recommendations of the report. We welcome the actions to be taken by the Administration and The Link REIT; yet, are these actions adequate? As some Honourable colleagues have rightly pointed out, since the Government and The Link REIT are not users, they may just carry out retrofitting works based on the recommendations of the report, but in fact actual improvements may not be made. They must pay attention to this point.

I think the Government can do something else. Deputy President, I would like to make a few suggestions to be considered by the Government. The basic

level is payment; a higher level is to introduce policy and the highest level is to enact legislation. Regarding "payment", now that the Treasury is "flooded with money", despite the projection of having a deficit of more than \$20 billion, I guess we may eventually have a surplus of over \$70 billion, can a certain amount be allocated in the Budget to be announced soon for retrofitting works? The Government has established a few funds for maintenance, yet, none of them covers barrier-free access. For example, the Urban Renewal Authority subsidizes building maintenance by owners; the Hong Kong Housing Society provides interest-free loans and low-interest loans to enable owners to carry out maintenance works; and the Buildings Department provides low-interest loans to subsidize owners' corporations in undertaking maintenance works. Can these maintenance projects include ..... Can maintenance works be undertaken on buildings constructed before 1984, 1997 or 2008 that failed to comply with the provisions in the manual introduced in 2008? Can certain amount of money be allocated from these funds? If this measure cannot be implemented now, can it be implemented in future? Can the Government propose the allocation of funds when the Budget is to be announced in late February?

Apart from the provision of funds, it is essential to formulate policies. If funds are provided without formulating any policies, this can at most solve the problems related to government departments, it cannot solve the problems in other public funded organizations, such as universities, secondary schools and voluntary agencies, or even the business sector. The last step is of course enactment of legislation. Can we enact legislation to require buildings constructed before 1984, 1997 or 2008 that failed to comply with the manual introduced in 2008 to attain the 2008 standard in phases and in prescribed order? The Government must consider taking these three steps.

Even if the Government promises to adopt all my suggestions, most of the hardware is not related to government buildings but private buildings or developers' buildings. Can the Government canvass developers to handle the matter themselves? Or, can the Government take one further step, apart from asking the private sector to inject \$5 billion into the Community Care Fund, can it also ask the private sector to make a "10% contribution" to establish a fund for carrying out access maintenance works for persons with disabilities? That is, if developers have a profit of \$10 billion, they will allocate \$1 billion. I believe with \$1 billion allocation from the developers, the problems of most buildings would be solved. Can the Government take the lead? After it has promoted

the establishment of the Community Care Fund, can it also promote the work in this respect?

Deputy President, the Task Group on Accessibility that I have just mentioned does not just focus on barrier-free access, it also focuses on increasing accessibility of public transport, so that everybody can enjoy the use of information and communication technology. In addition, it focuses on increasing the participation of persons with disabilities in economic, social (including education), political and cultural activities. I would like to give an example that is unrelated to access. For persons with visual impairment, can we provide them with voice prompts? In case of fire, an alarm will set off, but the persons with hearing impairment cannot hear the alarm. Can the Government simultaneously provide voice and light prompts? Another example is that sign language interpretation is generally not provided for the cultural programmes on television, can sign language interpretation be provided for persons with speech impairment? Even though sign language interpretation cannot be provided for all programmes, such interpretation should at least be provided for information programmes. The shopping centres have now become increasingly artistic. In the past, the symbols for male and female toilets are a man and a woman; but now the symbols have changed to be a pipe and a high-heel shoe. For persons with intellectual disabilities, they can hardly associate that a pipe signifies a male toilet. I am not saying that they cannot learn the symbols, but it takes a long time for them to learn. Can we put the symbols of a pipe and a man side by side? All these points need our consideration.

I give these examples to tell Honourable colleagues that the EOC Report just focuses on the issue of accessibility. Yet, we have set up another working group to follow up the work on accessibility and the compliance with the Convention in various aspects, including the four aspects that I have just mentioned. For this reason, the working group invited Mrs Carrie LAM, Secretary for Development, to have discussion with the EOC. She pointed out that the Development Bureau would fully comply with the manual introduced in 2008 in future, yet she could only take actions that were within her scope of authority. As for matters outside her scope of authority, she could not take actions. She also strongly encouraged us to discuss these issues with the Secretary for Labour and Welfare.

Nevertheless, she assured us that, in developing the site at Kai Tak, she would provide the facilities I proposed just now to facilitate access by persons with visual impairment, hearing impairment, speech impairment, mental illness, as well as elderly persons. As the Development Bureau was in charge of the Kai Tak Development project, she could be in control in all aspects. According to the Secretary, if these persons wanted to see movies, there would be subtitles and sign language interpretation; if they wanted to attend a painting exhibition, verbal introduction was available for people who were unable to see; if they wanted to admire sculptures, mock sculptures would be provided for them to touch and feel what the real sculptures were like. These measures could break through all the barriers I just mentioned. I further asked Secretary Carrie LAM whether the practices adopted for West Kowloon ..... Sorry, it should be Kai Tak; I often mixed them up ..... whether the practices adopted for the Kai Tak project could become policy. That is, the practices will not just be adopted at Kai Tak but also in West Kowloon? In fact, many cultural activities would be held in West Kowloon, but she responded the work was not within her scope of authority.

I am not sure if the Secretary will also respond on behalf of the Policy Secretary today. Does he have the authority? If he does not, why is he sitting here? He should respond later if he has the authority.

Deputy President, Hong Kong is an international city and the per capita income of Hong Kong people is US\$30,000; in other words, each person makes \$20,000 a month. As our society is very rich, I cannot see any reasons why it is claimed that we lack the resources, money, knowledge or technology to do the few things that I have just mentioned. I have to say that we have the resources, knowledge, technology and capacity to allow every people in Hong Kong, no matter what kind of disabilities they have, to have the respect they deserve as ordinary people.

What I am worried about is that we do not have regards for persons with disabilities, we do not have our own judgment, and no one is willing to make a decision. Generally speaking, these are the illnesses of our society governed by the Administration. Hong Kong people also share my worries. Last Sunday, some persons with disabilities told us that, when they sometimes accidentally bump into other pedestrians on the street, these people would glare at them and scold them. I am not going to repeat the curse words used by these people, as

that would violate the ordinance related to equal opportunities. As we have observed, Hong Kong people should have regards for persons with disabilities. Apart from requesting the Government to have regards for persons with disabilities, I would also like to ask the Government if education in this respect could be included in regular school curriculum, such as Liberal Studies. Education in this respect should be included in traditional civic education by schools, as well as in the publicity of non-governmental organizations and the Government. Our society also needs to promote such education.

I trust that the EOC is willing to play an important role in pointing out the problems, and proposing solutions and recommendations. Yet, we cannot solely rely on the EOC, we also need the Government's support by making greater efforts and providing more money; and the concerted efforts of Honourable colleagues in this Council, the community and different organizations, so that every one of us can play a part in the campaign to build an accessible city. In this way, Hong Kong can really become an accessible city, not just in terms of the means of access, the four sense organs (eyes, ears, mouth and nose) as I have just mentioned, but also the mind.

Thank you, Deputy President.

**MS AUDREY EU** (in Cantonese): Deputy President, in order to gauge how civilized a society is, one must observe its treatment for the disadvantaged groups in the community. That is why the Civic Party is highly concerned about the problems faced by persons with disabilities in Hong Kong. Just now, I had a little chat with Dr Margaret NG. We noticed that there were only about 10-odd Members around and all five of us, Members belonging to the Civic Party, were sitting in the Chamber. I do not know whether this speaks for our grave concern about the topic under discussion today. I am particularly grateful to the Panel on Welfare Services for proposing this motion debate so that we can discuss the Report at the Council meeting. Not being a Panel member myself, I am glad to have the opportunity to discuss this topic today. Meanwhile, I would like to extend my thanks to Mr LAM Woon-kwong, Chairperson of the Equal Opportunities Commission (EOC), who has been observing the meeting in the public gallery all morning. I notice that he has been taking notes about the views expressed by Honourable Members meticulously.

Having conducted a time-consuming investigation on 60 public spaces managed by the Housing Authority (HA), Hong Kong Housing Society, The Link REIT and various government departments, the EOC has prepared this Report which identifies many inadequacies or deficiencies. Of course, the Government has, to a certain extent, responded to the Report proactively because by its indication, more than 3 300 items of retrofitting works will commence in the coming 18 months and these represent 85% of the 3 900 items of retrofitting works required. But as many Honourable colleagues have pointed out, it is uncertain whether the Government can actually meet its target. Nonetheless, even if we believe that the Government can manage to complete all the 3 000-odd items of works as pledged, I think it is still highly regrettable that, as highlighted in the EOC Report, the Government is actually exempted from certain requirements in the current legislation or design manuals. As such, the EOC Report has recommended that the Buildings Ordinance (Cap. 123) (the Ordinance) be amended to remove the relevant exemptions for government buildings or any land vested in the HA so that the Ordinance and its subsidiary legislation, the design manuals, and so on, will apply to all government and HA buildings. However, I do not see any response from the Government in this respect.

As a matter of fact, the Government can ask itself this question: If it does not take the lead in the provision of barrier-free access, how can it convince the business sector to measure up? As EOC Chairperson LAM Woon-kwong once said, "The Government is obliged to eliminate various forms of discrimination. As compared to individual homeowners, the Government and related public entities are likely to be more resourceful and capable to rectify any deficiency that may exist, and by so doing will be in a position to set an example for the private sector." In their speeches today, many Honourable Members have highlighted the problems about the Government's channels being blocked and the need for the Government to "unclog" its mentality block. Moreover, some Members considered that the Government lacked sincerity.

Although I am not a member of the Panel on Welfare Services, I have paid close attention to the views expressed by various organizations on this matter. Today, I would like to talk about an example. In fact, more than a decade ago, the Government has already established a working group to study the standardization of sign language. But to date, the topic on how to standardize our sign language is still being raised in discussion forums about persons with

disabilities. We do not even have official or standardized expressions for MTR stations in sign language, and there are as many as nine versions in sign language for the name "Tuen Mun".

Every Tuesday from 9 pm to 10 pm, I host a one-hour programme for a community Internet broadcaster called OurTV. Every time, two friends from the Silence Association would act as sign-language interpreters for my programme. This is far from a popular mainstream programme and it is only produced with limited resources in the community, yet we still manage to have friends from the Silence Association to provide interpretation service every time. Therefore, if there is a will, there is a way.

Also, I am very impressed by something mentioned by those friends who came to give views on the matter last week. They said that in order to gauge whether enough had been done in this matter, one could just imagine the situation in 20 or 30 years' time. I think all colleagues now present in this Chamber will be quite old by then. Sometimes when I look at my father, I can see that his movements have become very slow indeed. One can easily image how difficult it must be for him to move around even if barrier-free access is provided. Hence, we should not consider the provision of barrier-free facilities from the perspective of cost-effectiveness, saying that these facilities are only needed by very few people in society. Otherwise, we just fail to meet their needs. Instead, we should bear in mind that many ordinary people will actually have the same need for such facilities in future.

Furthermore, the provision of barrier-free access is not only limited to the hardware issues raised by the EOC. This is also about the demands we have been fighting for in various aspects over the years. A case in point is the demand made by Mr LEUNG Yiu-chung in this Council year after year about the provision of concessionary transport fares for persons with disabilities. This is about the genuine need of persons with disabilities. However, even though the motion was passed by this Council every year (or at least in the past few years), little progress has been made in actual implementation.

I recall that when Secretary Sarah LIAO was in charge of the former Environment, Transport and Works Bureau, I had already mentioned in this Council some 20-odd years ago that all buses in Manhattan, New York, were equipped with low floors. In such a busy place as Hong Kong, one can easily

imagine the situation when a bus must stop and allow persons with disabilities or wheelchair users to board the bus slowly. Indeed, life in Hong Kong is always on a fast track. At the time when I was living in Manhattan, the centre of New York, no matter it was Fifth Avenue, First Avenue or wherever, all buses had the same installation. Moreover, whenever a bus driver spotted some senior citizens waiting at a bus stop from afar, he would pull in and push the button to lower the bus floor slowly so that the senior citizens or wheelchair users could get on and off the bus. This was common place in Manhattan and it was as early as 1984. Thereafter, I returned to Hong Kong and eventually became a Member of the Legislative Council. When Sarah LIAO was the Secretary for the Environment, Transport and Works, I had asked her why Hong Kong, being such a wealthy place, could not do the same thing as in other places. Sometimes, I have this feeling that the problem lies not with resources, but Hong Kong's culture. This is a question about whether Hong Kong is a wealthy but heartless society.

Moreover, we often talk about "accessibility". But this term should refer to the places that are "accessible", and not merely an "access". I must mention this particular point because EOC Chairperson Mr LAM Woon-kwong is now in the Chamber. On an occasion when the issue of local legislation was discussed a few days ago, I raised a point about the current requirement that voters must attend the polling stations in person to vote in elections. This is often a big problem faced by persons with disabilities because currently 20% of the polling stations are quite inaccessible to persons with disabilities.

I visited "Ah Pun" a few weeks ago. You may still recall that "Ah Pun" had written to Mr TUNG Chee-hwa several years ago to demand the right to euthanasia. Having spent 19 years in hospital, he was recently discharged from hospital after he finally got allocated a public rental housing unit. Hence, I went to visit him in the estate. When I asked him whether there were things that Members of the Legislative Council could help him with, he said he had only one request. He hoped that persons with disabilities could vote electronically through the computer in the upcoming elections. As a matter of fact, postal voting is adopted in many overseas jurisdictions. But of course, Hong Kong has no such arrangement. However, if a voting system can be designed specially for persons with disabilities so that, for example, they would be assigned a code for voting electronically through the computer to indicate their preferences, voting will be much easier for them. Of course, if they so wish, they can still attend the polling stations in person to participate in the voting process. The most

important point is that if it is impossible or inconvenient for persons with disabilities to attend the polling stations in person to vote, they should be allowed to do so electronically through the computer.

With advanced technologies, we can consider some alternative methods so that persons with disabilities can pre-register and gain "accessibility". With the availability of alternative methods, they can achieve a certain goal or accomplish a certain task.

There is another point I would like to raise. In order to enable the integration of persons with disabilities into society, we must, in addition to providing barrier-free access, take care of their needs at work. I hope the Government can actively respond to the many voices in the Council that it should take the lead to employ a certain percentage of persons with disabilities. In this respect, the Civic Party has been doing as much as we can in our Members' Offices. For example, a colleague with amblyopia is working in Miss Tanya CHAN's Member Office. In fact, just as the point made by EOC Chairperson LAM Woon-kwong about the provision of barrier-free access, I am certain that if the Government is committed to taking the lead, this good example will be followed by the business sector.

Hence, I hope our discussion today is not only focused on the 3 000-odd items of retrofitting works or the fact that over the years, the Government has failed to take good care of persons with disabilities or has even, so to speak, perpetuated slight discrimination against them. I hope Members can speak about the needs of the disadvantaged groups in Hong Kong as a whole and especially the needs of persons with disabilities (including the mentally handicapped persons) in various aspects.

Thank you, Deputy President.

**MR RONNY TONG** (in Cantonese): Deputy President, Hong Kong is fortunate enough to have enacted the Disability Discrimination Ordinance. But the Ordinance has only laid down the requirements against certain negative actions. In terms of positive actions, there is still a lot of work to be done. While we should not discriminate against persons with disabilities, there are in fact many things that we can and should do to facilitate their integration into society. One

of the many things that we should do is the provision of barrier-free access. However, the formulation of a policy on barrier-free access is not only related to law, it also concerns resource allocation, and more critically, our social culture.

Deputy President, allow me to talk about a case I received the year before last, which involved the podium of a housing estate. As in other housing estates, the concerned housing estate had installed many recreational facilities. But unfortunately, no barrier-free access was provided between the residents' flats and the recreational facilities on the podium. In other words, persons with disabilities actually have no access to these recreational facilities as other residents. As such, a complaint was lodged by a physically disabled resident. Deputy President, the strange thing is that my assistance was sought not by the physically disabled resident but the owners' corporation (OC) of the housing estate. It turned out that when the physically disabled resident lodged a complaint with the OC, the case was unresolved as expected. Then, he took his case to the EOC. The EOC was very responsible and had negotiated with the OC for quite some time before deciding to institute legal proceedings against the OC. At that time, the OC had actually considered that it should put up a defense and even more surprisingly, the decision was supported by most of the residents. Hence, the OC had disputed the case with the EOC in court. This lawsuit, which I consider to be absolutely groundless, had gone on for years with costs amounting to several millions dollars. Finally, justice had prevailed when the OC was overturned. Upon its establishment, the new OC sought my assistance right away to resolve the dispute through dialogue and mediation, rather than engaging in further court battles. Fortunately, with the help of the EOC Chairperson and genuine efforts made by both parties, an agreement was reached and the court case was settled. I was very happy to see that they had eventually spent more than a million dollars to install barrier-free access in the housing estate. On the day of commissioning, the EOC Chairperson had also come to inspect the new access and the matter was finally resolved.

Deputy President, why do I mention this case? This is because the case has illustrated a very critical problem. There are in fact a considerable number of people in Hong Kong who have no thorough or proper awareness about the needs of the disabled persons as well as their rights to enjoy fair and equitable treatment, or they still think rather selfishly that these are irrelevant issues that they should or need not be concerned about.

If some members of the public are willing to spend millions of dollars in a lawsuit to circumvent the provision of barrier-free access, I think this represents a major problem in our social culture. Hence, I think the SAR Government, being responsible for the administration of our society, is certainly obliged to formulate a policy on the provision of barrier-free access to facilitate persons with disabilities and stipulate the legal requirements on ordinary citizens and other organizations to implement this policy in respect of public premises. More importantly, the SAR Government has great responsibility in promoting a culture which facilitates the integration of the disabled persons into society. How can we promote such a culture? Deputy President, the answer is simple. The SAR Government must take the lead. In this regard, the SAR Government should no longer delay full implementation of this initiative by hiding behind a myriad of excuses such as resource constraints, planning considerations, other work commitments and time constraints.

Deputy President, as we can see, the Government's attitude in this regard is far from active or caring. Deputy President, this is quite clear. Regarding our transportation system, there is no policy at all to facilitate the integration of the disabled persons into society through the means of public transport. Let us draw a comparison with other jurisdictions. For example, the Hong Kong Council of Social Service has recently — it should be the year before last, Deputy President — released a report which pointed out that Quebec in Canada had as early as 1976, Deputy President, the year was 1976, set up a dedicated department to deal with transport arrangements for persons with disabilities. Later in 2006, a public transit policy honoured by Quebec under the title of "Better Choices for Citizens" was passed. Under this open transportation policy, financial commitment was made to meet the transport needs of persons with disabilities and seek improvements.

Deputy President, even our neighbouring city of Shenzhen has, as early as 1985, issued a circular on the provision of facilities for persons with disabilities in public premises to require relevant departments to consider the needs of persons with disabilities in project design. Separately, another requirement was made to enhance the provision of barrier-free facilities on various modes of public transport by 2010. Moreover, under the Regulations of Shenzhen Municipality on the Creation of Barrier Free Environment which went into operation in March 2010, the Shenzhen Municipal Government was required to incorporate the

planning and development of barrier-free environment as components of its social and economic development planning.

By comparison, Hong Kong not only lacks a long-term and comprehensive policy to facilitate the integration of persons with disabilities into society through the means of public transport, it fails even in terms of the provision of basic road infrastructure. Deputy President, an obvious example is that many footbridges in Hong Kong have no access facilities for persons with disabilities such as barrier-free ramps or lifts. There is no provision at all. Deputy President, there are still many such footbridges around. In 2009, Mr LAU Kong-wah had raised a written question about the progress of improvement in this regard. According to the Government's written reply then, retrofitting works for ramps or lifts at footbridges currently without standard barrier-free access facilities would be implemented continuously. From February 2006 to February 2009, the Highways Department had completed the retrofitting works for lifts at 17 footbridges. The works for retrofitting lifts at one more footbridge was in progress. In addition, the Highways Department was planning to retrofit lifts at seven footbridges and conducting feasibility studies on enhancing barrier-free access facilities at another 28 footbridges.

Deputy President, I recall that when the matter was discussed at the Panel last year, we were baffled by the need to conduct feasibility studies for those 28 footbridges. Why is it necessary to spend money to study whether barrier-free ramps or lifts should be provided? Actually, the matter is very simple. If we want to facilitate persons with disabilities getting around and integrating into society, it is only natural that barrier-free ramps or lifts should be provided for all footbridges. The only consideration needed may be certain design alterations. According to the reply given by the authorities, there are still a considerable number of footbridges without these facilities. Hence, should it not be an urgent priority to complete these retrofitting works as early as possible?

Deputy President, on that occasion, Ms Emily LAU — I do not know if she is in the Chamber now — had asked a very direct supplementary question. But surprisingly, the Government could not provide an answer to the question. She asked the Government how difficult was it to install a lift and how much did it cost? Given that we have currently over \$2,000 billion of foreign currency reserves and government reserves, do we not have enough money to install some lifts? Deputy President, this is really mind-boggling. Notwithstanding our

repeated questions, the Government had all along failed to give us a logical and acceptable answer.

Deputy President, it is exactly or probably because the Government's attitude on this matter is far from focused and proactive that Hong Kong as a whole cannot foster a culture of total commitment that is conducive to the integration of persons with disabilities into society. Without such a culture, how can we expect business organizations, ordinary members of public and housing estates to make best efforts in providing barrier-free access for persons with disabilities? Deputy President, I hope the Government will further consider how it can best play a leading role on the matter so as to promote a culture in Hong Kong that is conducive to the integration of persons with disabilities into society. Only by doing so can the topic under discussion today be given real effect and a policy on the provision of barrier-free access be promoted to facilitate the disabled persons in Hong Kong.

Thank you, Deputy President.

**MR IP WAI-MING** (in Cantonese): Deputy President, this topic has been discussed on various occasions including the motion debates on the relevant subject matter held in this Council every year. But very often, we feel the Government is lacking in responses. Of course, the Government has now undertaken to retrofit barrier-free facilities in more than 3 000 locations. We consider this a case of better late than never and hope the authorities will strive for their implementation.

Deputy President, barrier-free access or facilities are provided to facilitate persons with disabilities in meeting their livelihood needs. I agree with the views expressed by many Honourable colleagues that the Government invariably fails to "put itself into their position" or lacks empathy in planning the provision of these facilities. Many a times, even though barrier-free facilities are provided, they cannot be actually used by persons with disabilities. Lacking empathy, the relevant government departments cannot understand the genuine needs of persons with disabilities. Therefore, there are no suitable and comprehensive barrier-free facilities in the community or the facilities installed simply fail to serve the purpose. This has directly prevented the integration of

persons with disabilities into society and undermined their proper rights as safeguarded under the Convention on the Rights of Persons with Disabilities.

I will talk about transportation first. Take for example, the MTR. It has been over three years since the merger and there are in total more than 50 cases involving passengers falling onto the track accidentally or attempting to jump off the platform. Most of them (over 20 cases) occurred on the East Rail Line and Ma On Shan Rail Line. Even able-bodied persons may accidentally fall onto the track, not to mention persons with disabilities such as the visually-impaired. All along, we are aware that quite a number of accidents have happened involving visually-impaired persons fallen onto the track because they heard some mistaken signals or took a wrong step. The consequences ranged from minor scratches or broken bones to unfortunate cases of deaths. Notwithstanding, the retrofitting of platform screen doors at all MTR stations is far from completion. As for the retrofitting of platform screen doors on the East Rail Line which was discussed recently, it will take eight-and-a-half years before the first set of platform screen doors can be installed and the whole project will only be completed after 10 years. It is unacceptable that such a long time is required.

(THE PRESIDENT resumed the Chair)

Moreover, lifts have yet to be installed at individual MTR stations of the older lines. Generally, there is only one exit at every station where a stair lift is installed. It can be quite inconvenient for persons with disabilities to access a relatively large station because they may have to take a big detour before reaching that particular exit. Another genuine problem is that many signs in the stations are unclear and persons with disabilities might be misguided to take an indirect route. Secretary, I want to make a declaration of interest here. One of my family members is wheelchair-bound after he suffered from a stroke. It is quite difficult whenever I take the MTR with him, particularly because there is no lift at the Sai Wan Ho Station which I commute frequently. We can only use the stair lift and must go pass several flights of stairs. Access is very time-consuming indeed. Moreover, the stair lifts have a weight limit and not all wheelchairs are supported. Basically, they cannot accommodate some heavier electric wheelchairs. Even MTR staff members do not suggest the use of stair

lifts by these wheelchair users. For many wheelchair-bound persons with disabilities, they just cannot commute by the MTR.

Last Sunday, I was invited to attend a function called "Barrier Free City Orientation" organized by the Hong Kong Society for Rehabilitation. As part of the programme, I travelled with a person with disabilities as a team from Chater Garden in Central to Park Lane Boulevard in Tsim Sha Tsui. Even though I have some experience myself, the journey took us an hour. President, you were the officiating guest that day. If we travel between these two places, how long would you say it takes normally? I think it will take 30 minutes at most. But as I gather from some press reports, it took some teams three or four hours to travel from the Pedestrian Precinct at Chater Garden to Kowloon. This function has given us the opportunity to experience for ourselves the prolonged travelling time required by persons with disabilities as compared with able-bodied persons. Notwithstanding MTR's provision of the so-called access facilities for persons with disabilities, the actual function of these facilities is in fact quite limited.

Regarding franchised bus services, low-floor buses are deployed to facilitate access by wheelchair users. But as far as I know, not all buses in the franchised bus companies' fleets are equipped with low floor. Information shows that as at early 2009, low-floor buses only accounted for less than 50% of the Kowloon Motor Bus fleet. Besides, the number of runs of low-floor bus services is very low, with only two runs of such services out of 10 on average for certain routes. Some persons with disabilities complain that they have to wait for as long as two to three hours before a low-floor bus comes along. When these low-floor buses have to undergo maintenance and no replacements are available, it will become all the more inconvenient for persons with disabilities to commute.

I have recounted a personal experience at the meeting of the Panel on Welfare Services held last Saturday. President, with your permission, I would like to share this experience with Members again. Two or three weeks ago on a relatively cold and windy afternoon, I met a lady in Sham Shui Po and she was travelling with a wheelchair-bound child. I was waiting at the bus station for about five minutes and she had been waiting for quite some time before I arrived. Finally, a low-floor bus pulled in and the bus driver had actually got off quite quickly preparing to pull down the floor ramp for their boarding. But the floor ramp was stuck. The driver tried to fix it for more than five minutes but to no

avail. Eventually, he said apologetically to the lady that as he could not fix the problem, he could only drive away. The lady was very understanding about the driver's plight and I could not help but ask her, "Now you must wait for the next bus and when will that be?" She told me, "I honestly don't know." Secretary, I have mentioned this incident at the meeting of the Panel on Welfare Services last Saturday. Why do I repeat it today? This is because I can still remember vividly the hopelessness and helplessness in her eyes when she replied me.

Is this an isolated case? When asked by the Transport Department which route that was, I paused to think for the answer. When attending the function on Sunday, I chatted with some persons with disabilities and found that this was definitely not an isolated case. They said such a situation was quite common. One of them told me that he would always bring a small screwdriver with him. When something like that happened, he would pass it to the driver to loosen the floor ramp. According to him, this situation was common. The franchised bus companies always stress the importance of their repair and maintenance work. Yet it seems that work in this area is far from adequate.

We hope the Government would urge the franchised bus companies to properly maintain these facilities so that drivers can operate the floor ramp more easily to facilitate access by persons with disabilities. Moreover, we consider that low-floor buses should run more frequently. At present, bus schedules would usually be posted at bus stations specifying the frequency of services. Is it possible to indicate the runs of low-floor bus services in the schedules so that persons with disabilities can have some idea of the estimated arrival time of low-floor buses? Otherwise, as in the case I mentioned, the lady just had no idea when the next low-floor bus would arrive. Was that one hour? Two hours? Nobody could give her an answer. I also could not give her an answer that day.

Therefore, I hope the Government can make some arrangements with the franchised bus companies in this regard. Given that the Government has provided subsidies to the franchised bus companies to replace their existing fleets with the so-called greener buses, is it possible to provide further subsidies to the franchised bus companies so that their full fleets can be upgraded to low-floor buses to facilitate access by persons with disabilities? I hope the Government will consider this proposal.

Another point of concern is the practicability of barrier-free facilities. We often receive complaints from family members of persons with disabilities that no lift is installed at certain footbridges. This point has been mentioned by some Honourable colleagues just now. In some cases even if lifts are installed, they are too small to accommodate both a wheelchair and other persons.

Furthermore, there is the question of ramps. Some ramps are so steep that ordinary users find them intimidating, let alone electric wheelchair users. An example I often quote is the footbridge at Kwong Fook Road, Tai Po. The Secretary can go there and try pushing a wheelchair with a dummy weighing about 100 pounds along this footbridge. I think he would also feel somewhat frightened. This is particularly so when an elderly person is pushing another elderly person on wheelchair along such steep ramp. Just imagine the weight ..... under this circumstance, if one of the elderly persons suddenly feels sick and his hand slips, I am afraid an accident would happen. This is something nobody wants to see. In fact, as mentioned by some Honourable colleagues earlier, there are many similar cases around including the ramp at Sheung Shui MTR Station as well as the spiral ramps at Choi Yuen Estate and Tai Ping Estate. The spiral ramp at Tai Ping Estate near the North District Hospital has the same problem.

Very often, we have the feeling that even though barrier-free facilities are installed, they are practically unusable to persons with disabilities. This really goes back to my earlier point about whether the designers have a feeling of empathy when designing these facilities. We must also ask whether the Government or relevant departments have consulted the views of persons with disabilities as users in terms of practicability when providing these barrier-free facilities. If these so-called barrier-free facilities are designed from the perspective of ordinary users, it seems that even though the facilities are physically present, they are practically useless to persons with disabilities. In this sense, these so-called barrier-free facilities have actually become barriers.

Hence, President, I hope the Secretary can listen to our views today and relay them to the relevant departments. Sometimes, barriers are created as a result of the lack of co-ordination and communication among the relevant departments.

Moreover, the matter is also related to private sector organizations. It is the Government's pledge to undertake more than 3 000 items of retrofitting works for government facilities within the next 18 months. Regarding private sector organizations, we also hope the Government can do more to urge private sector organizations to improve barrier-free facilities in shopping malls so as to facilitate access by persons with disabilities.

Lastly, I would like to call on the Government to launch a comprehensive civil education and publicity programme, so as to instil members of the public with a positive attitude towards the use of public transport services by persons with disabilities. Although this may sometimes bring inconvenience, we hope members of the public will adopt an open and embracing attitude and provide assistance to persons with disabilities when needed, so that an atmosphere of harmony and integration will be created in the community through concerted efforts.

President, I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, in response to the Investigation Report of the Equal Opportunities Commission (EOC), the Government has pledged to complete 3 000 items of retrofitting works in the coming 18 months (that is, by 30 June 2012). I do not want to comment on whether the Chief Executive has made this pledge for the purpose of increasing his popularity and support rate, but as Ms Emily LAU had said a few days ago at the special meeting of the Panel on Welfare Services, Members would closely monitor these works and never allow the Government to pull the wool over our eyes. Here, we would like to tell the Secretary again that Members are very concerned about the scheduled completion of these 3 000 items of works as well as their quality. The Government will not get away easily with sloppy works.

President, are we confident that the Government can complete these 3 000 items of works? Personally, I have no high hopes. President, a few days ago, Mr Roy TANG, Deputy Secretary for Labour and Welfare, told us that the final decision to set up a co-ordination task force was made by the Chief Executive and Chief Secretary for Administration Henry TANG. Moreover, the EOC's Investigation Report also recommended the setting up of a high-level central

co-ordinating body headed by the Chief Secretary for Administration to handle the matter. President, regrettably, today's meeting is only attended by the Secretary for Labour and Welfare. The Chief Executive would certainly not come, but what about Chief Secretary for Administration Henry TANG? He is not with us today either. We really have doubts about the Government's determination, initiative, sincerity and motivation in tackling the problem. Recently, Chief Secretary for Administration Henry TANG has held many consultations about the Community Care Fund. While the Community Care Fund is undoubtedly intended to help the disadvantaged groups, are persons with disabilities not one of the disadvantaged groups? If this is what the Chief Secretary for Administration is doing, why can he not be more thorough and come to listen to our views about the needs of the disadvantaged groups? President, we are indeed gravely disappointed about the Chief Secretary for Administration's performance in this respect.

Notwithstanding our many criticisms, we hope the Government can win credit for making some achievements. I believe this hope of ours is also shared by persons with disabilities who are affected.

President, insofar as the entire Investigation Report of the EOC is concerned, I notice in particular the paragraph under the heading, "Accessibility: beyond the entrance". At the special meeting of the Panel on Welfare Services, I had also highlighted the importance of such and read out the content of this particular paragraph as follows. "Accessibility can mean many different things and physical barriers are only the visible obstacles. Full accessibility means an uninterrupted path of travel to or within a building providing access to all required goods, services and facilities. It also means the ease with which the facilities are used and connected." President, the key word here is "access". It is not enough just having an uninterrupted path of travel within a building; the path of travel to the building must also be uninterrupted.

The Secretary is a very down-to-earth person. I really want to take a bus ride with the Secretary, both of us both blindfolded to experience how we can get on a bus and get to our destination. President, this must be very difficult. Imagine myself being blind and the only person waiting at a bus stop, how do I know the bus I want to take is approaching? How do I signal to the bus driver I want to board the bus? Unless a blind person holds a placard to indicate his intended route, there is really no way he can stop a bus of that particular route.

We have suggested time and again that facilities such as voice system and digital screens should be installed at bus stops so that blind persons can push a button to indicate their intended routes. Even though this is not something difficult, not one single bus stop has installed with such facilities and this has prevented persons with disabilities from reaching their intended destinations. At that special meeting, both representatives of the deputations and Mr Roy TANG had repeatedly stressed the importance of publicity and education so that members of the public were aware of the importance to provide barrier-free access for persons with disabilities. President, I must repeat what I have said last time and that is, the first ones to be educated are not members of the public but the Secretary, the Chief Secretary for Administration and even the Chief Executive so that they understand how difficult the path of travel to a building is for persons with disabilities. It will just be meaningless unless they understand this point.

Just now, I have talked about some of the hardware issues in the provision of barrier-free access. As Mr LAM Woon-kwong, EOC Chairperson, is observing the meeting in the public gallery, I would like to tell him that there are several shortcomings in the Investigation Report. The first shortcoming is related to our long-standing demand for public transport half-fare concessions. At present, franchised bus companies have not offered half-fare concessions for persons with disabilities. If they have no money, how can they travel to their destinations? Moreover, when persons with disabilities go out, they may have to be accompanied by other persons. If they have no money, how can they travel to their destinations? Instead of touching on this point, the Investigation Report has only concentrated on hardware and tangible issues. But money is also a tangible thing. While we always commend the MTR for providing half-fare concession to persons with disabilities, this concession can only be enjoyed by persons with 100% disability. Persons with less than 100% disability cannot enjoy any fare concession. Are they not persons with disabilities? They are also persons with disabilities but they are ignored. How can they integrate into society then? How can they travel to the buildings? This is the first shortcoming.

The second shortcoming is related to the Hospital Authority in respect of public clinics. It is very difficult for persons with disabilities to go to public clinics. While they can make use of the Rehabus service, this is not a 24-hour service and the number of Rehabus is inadequate to meet the demand.

As we all know, hospitals are usually built on inaccessible and faraway locations such as on the hill. They are quite inaccessible by public transport. For example, there is no direct bus access to the Princess Margaret Hospital. After getting off from the bus, one must walk up a very long and steep road before reaching the Hospital. Just imagine how difficult it must be for wheelchair users to go to the Hospital. Apart from the Princess Margaret Hospital, the situation is more or less the same for Peng Chau Clinic which is located at the top of a hill. At least two persons are required to push a wheelchair up the slope. Otherwise, it is quite an impossible feat for a single person. However, how many patients with disabilities can be accompanied by two family members who are strong enough to push them up the hill to seek medical treatment? This is very difficult. Of course, they can call an ambulance from the fire station to take them up the hill. However, the vehicles are small in size. If they are to go uphill while carrying the load of the wheelchair and the patient, it is frightening not only to the driver but also the patient.

We have been seeking improvement from the Government in this regard, but to no avail. Therefore, the second shortcoming is that the EOC has neither taken up these issues with the Hospital Authority or Secretary Dr York CHOW, nor highlighted the issue of resources in the Investigation Report. Given the clinic's dilapidated state and the patients' difficulty in climbing up the steep road, the Government might as well relocate the clinic to the level ground. There is in fact a lot of flat land available.

However, the relocation of the clinic has resource implication. How can the problem be addressed? Separately, if lifts are to be constructed, what is the source of funding? The EOC has mentioned nothing about resources in the Investigation Report. Of course, the EOC's focus is improvement rather than resources, but there is no response from the Government that resources would be allocated to resolve the problems. The Government has only singled out 3 000 items of works, and nothing has been said about how to take forward other items of works.

President, why do I mention the issue of resources? The Secretary for Transport and Housing, Eva CHENG, has not attended today's meeting. The Transport and Housing Bureau is responsible for identifying "black spots" over the territory where there are steep roads or long flight of stairs (hundred-step

stairs) and studying the provision of lifts at those locations, so that persons with disabilities and the elderly will no longer need to commute through the steep road or flight of stairs. If a road is too long and too steep, it is very dangerous for them and they must be accompanied by other persons. As I have said just now, not every patient has a carer and not every carer is strong enough to push the patient in his wheelchair up the steep road. Hence, the installation of lift is a necessity. But under the Government's point system for the assessment of the 18 identified "black spots" over the territory — there are actually more than 18 such locations — works will only be carried out at 10 "black spots", and there is no timetable for works at the remaining eight "black spots". The works at these 10 "black spots" have yet to commence.

Regarding these situations, we can only sigh with regret. Although we know there is a plan, we have no idea when it will be implemented. An elderly person living in Kwai Chung Estate has been waiting for more than 40 years. Unfortunately, under the Government's point system, the "black spot" located in his estate ranked 11th. As Mr WONG Kwok-hing just mentioned, the "black spot" which ranked at 11th is not qualified for the improvement works. Moreover, no timetable is given that such works will be undertaken eventually. According to Eva CHENG, improvement works could only be undertaken at 10 "black spots" due to financial constraint. While the Government told us to have confidence that improvements would be made, I think it is all empty talk. How can improvements be made without resource allocation? Even though the Government is aware of the problem, it refuses to allocate the necessary resources. It is just telling us that there is no alternative but wait. How much longer must the elderly persons wait? It is not easy to wait for something for 10 years, yet this elderly person has waited for 40 years. Must he wait another 40 years? Nobody can wait another 40 years. The residents have been climbing up and down the stairs since they were young. Now, their knees ache and they can hardly walk, but they still have to climb up and down the stairs. Why? This is because they must take this route to go to the market; otherwise, they will be cut off from the society. As EOC Chairperson LAM Woon-kwong has cautioned the Government repeatedly, the problem of an ageing population will aggravate in the next 10 to 20 years. Out of every 10 elderly persons, two to three will suffer from disabilities, say, because of rheumatism or a stroke. They can only move around with the help of a walking stick or they are wheelchair bound. Barrier-free access is a pre-requisite for them.

How can the problem be solved then? There is absolutely no response from the authorities. Notwithstanding the Government's quick response to the ECO's Investigation Report, it can bring no credit for the Government because the crux of the problem remains unaddressed. I recall one of the criticisms made by Ms Emily LAU against the 3 000 items of works proposed by the Government was that they might all be piecemeal, minor and cosmetic in nature. For instance, if the installation of one sign post is counted as one item, there will be 10 items of works if 10 sign posts are installed. The removal of pillars obstructing wheelchair access may count as another item. With all such works taken together, there will be 3 000 items of works. If the authorities are asking how come we are still not satisfied with the implementation of 3 000 items of works, I would say we are just not satisfied. Notwithstanding the need of these retrofitting works, the Government should not exaggerate by saying that 3 000 retrofitting works will be implemented. The Government should be more practical.

The Secretary's pet phrase is to "do things right". I honestly hope that the Secretary will truly and practically "do the right things" in this matter.

President, it is stipulated in Article 1 of the Universal Declaration of Human Rights that "All human beings are born free and equal in dignity and rights." We should give due regard to the true meaning of the word "equal". How can all human beings be "equal"? As a matter of fact, persons with disabilities usually compare less favourably with able-bodied persons. They have to take greater efforts to integrate into society. How can we talk about fairness and justice if we do not give them assistance? I hope we can respect persons with disabilities and improve our environment to facilitate their integration into society. I also hope the Government can do more in this regard as soon as possible.

President, lastly, I must reiterate my hope that half-fare concession be offered to persons with disabilities as early as possible to facilitate their integration into society. I hope the Government will not just talk big. If the objective of "A Society for All" is to be achieved, the Government must provide support for persons with disabilities in this regard. Thank you, President.

**MS EMILY LAU** (in Cantonese): President, I rise to speak in support of Mr CHEUNG Kwok-che's motion. I am glad that the House Committee has endorsed today's motion debate and let each Member speak for a maximum of 15 minutes.

President, you also know that I do not support having so many debates, but when it is necessary to do so, we should speak. It is really a rare opportunity. The Equal Opportunities Commission (EOC) has spent three years on drafting the Formal Investigation Report: Accessibility in Publicly Accessible Premises (the EOC Report). President, three years have been spent, but what has the EOC investigated? It has only investigated 60 publicly accessible premises, including 17 public housing estates, nine shopping centres located in public housing estates, two car parks located in public housing estates, five food markets, seven library and cultural facilities, three community hall/centres, five government offices, five government clinic and health centres, and seven leisure and miscellaneous premises of swimming pools, post offices, piers, holiday villages and sports grounds. President, these premises are only the tip of an iceberg among all such premises in the territory, but over 3 000 cases have been identified in these premises alone. I do not know how long Mr LAM Woon-kwong will remain as Chairperson of the EOC, or how many more such cases the Government has to deal with.

President, Members are correct in saying just now that these 3 300 items of "works" ..... Perhaps the Secretary can first tell us what is meant by "works". Members of the EOC are here. These items of "works" may possibly involve slightly moving a displaced direction sign or filling a small ditch. President, the works which you and I usually think of frequently involve tens of millions or even hundreds of millions of dollars. The Secretary thus needs to explain what he meant by "works".

I hope the Secretary will answer this question ..... President, actually, the Secretary should not be the only one to answer this question, because last week when we convened a meeting to discuss the issue, we asked other public officers attending the meeting to respond; no accountability officials attended that meeting even though representatives of many civic groups attended the meeting, no accountability officials showed up — We said at that time, as today's meeting would be convened by the President, let us invite accountability officials to attend this meeting. Which accountability officials should be invited then? As

mentioned by a Member just now, someone suggested at that time that the Chief Executive or the Chief Secretary for Administration should be invited, I supported this suggestion, saying that these officials should not only focus on the Chief Executive election. Other relevant Secretaries, including the Secretary for Transport and Housing, the Secretary for Development, the Secretary for Food and Health and even Secretary Stephen LAM should also attend this meeting. President, why do I say so? You and I both attended the event to promote a barrier-free city, and Mr LAM Woon-kwong said on that occasion that the Government should not be the only party to promote a barrier-free city, the Legislative Council as well as other stakeholders should also play a part.

President, one of the speakers of the event said that the Secretary for Labour and Welfare was always invited to respond to questions on this subject because matters related to this subject were all regarded as welfare issues. However, what we are discussing now concerns human rights. Who should be responsible for human rights affairs? It is Stephen LAM. Why is a human rights issue turned into a welfare issue? Issues about woman are also regarded as welfare issues. President, the Government has in fact designated Stephen LAM to take charge of human rights affairs. Would Secretary Matthew CHEUNG later please indicate in his reply whether the one taking charge of human rights affairs should be Stephen LAM? This is outrageous. How could a human rights issue turn into a welfare issue?

President, you must have read the United Nations Convention on the Rights of Persons with Disabilities (the Convention). Our country signed the Convention in 2008, which was then applied to Hong Kong. What is the Convention about? President, the content of the Convention is straightforward and it is about time for us to go to the United Nations to report on the implementation status of the Convention. Article 9 of the Convention is about accessibility. It reads "To enable persons with disabilities to live independently (President, please note 'live independently') and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others (President, the term 'others' should be used instead of 'normal persons', because the latter means that we are normal while they are not; hence, we should never say so and we should use the term 'others' instead), to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to

the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility .....

President, the above measures are applicable to buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces. A lot has been discussed in the past, but only a small number of the premises are covered in the EOC Report. President, of course, we are not putting the blame on the EOC, but why did the EOC only manage to investigate such a small number of premises during the three-and-a-half-year period? If the investigation was territory-wide, as "Ah Chung" has just mentioned, would the EOC take 40 or even 50 years to complete the investigation? By then, we will all pass away and will not be able to witness the result. What should be done then? We said that we should not only invite .....

I guess Secretary Matthew CHEUNG will definitely attend today's meeting because the Labour and Welfare Bureau does not have an Under Secretary and he cannot send his Political Assistant to attend this meeting. The Legislative Council Secretariat issued a circular yesterday, informing us that it had notified the Government to designate public officer(s) to attend today's motion debate. The Director of Administration, however, notified the Secretariat in return that apart from the Secretary for Labour and Welfare, no other public officers would attend the debate because the Administration was of the view that the Secretary for Labour and Welfare was the appropriate person to respond to questions on the motion on behalf of the Government and that the Secretary would draw reference from views of other Policy Bureaux as appropriate. I hope that there are really views for the Secretary to draw reference from.

President, I just mentioned Stephen LAM. Apart from taking charge of human rights affairs, he also takes charge of election affairs. The EOC has repeatedly criticized him because an election will be held in November, but almost 30% of the polling stations are still inaccessible to persons with disabilities. Accessibility is a frequently discussed subject. What happens if persons with disabilities wish to cast votes? When they arrive at the polling station, they will have to be lifted upstairs by others. State Parties to the Convention are required to enable persons with disabilities to live with dignity and live independently. It is against the spirit of the Convention if the wheelchair-bound voter has to be lifted upstairs by others. How did he respond to the criticism? He said that arrangements have been made for persons with disabilities. If a wheelchair-bound voter is unable to access upstairs polling

stations, he or she can contact the authorities several days before the voting day, so that arrangement can be made for him or her to vote at other barrier-free polling stations. What if the wheelchair-bound voter forgot to make the phone call? Who could have thought that one has to contact the authorities several days before the voting day? The MTR Corporation Limited (the MTRCL) adopts the same practice. Persons on wheelchairs are required to contact the MTRCL staff beforehand. Some members of the public hold that this practice is unreasonable, adding that the MTRCL can provide a calling device to solve the problem. President, I am talking about the MTRCL's "monster machine". President, you certainly have not used the "monster machine", but many people have. The public hold that the MTRCL can provide a calling device so that wheelchair users can press the button and call platform staff for assistance. How did the MTRCL respond to this suggestion? The MTRCL responded that there was already such a device but it had been of little use because the staff had no time answering the call. It further questioned whether it was much more unwelcoming for wheelchair users to wait in the cold for half an hour at the station entrance after pressing the calling device with no staff coming to their assistance.

Hence, I cannot help but ask what is the meaning of "barrier-free", "live with dignity" and "live independently"? Do our officials really understand these terms? Perhaps this is the reason why they are unwilling to come here to answer questions. President, none of them has come today. Let us see whether Secretary Matthew CHEUNG can later answer why 30% of the polling stations are still inaccessible to persons with disabilities. I am surprised that he alone should represent the entire Government.

President, let us not discuss the 3 300 items of works, be they large or small in scale, for the time being. By 30 June next year, the term of the Chief Executive will come to an end. I hope that Mr CHEUNG Kwok-che can by then propose this motion debate again and each of us again can be given 15 minutes to speak, so that we can once again raise all our proposals and see whether the Government can implement them all. I hope that at that time, all public officers will show up, so that not just the Secretary but all of the public officers will be held accountable. Members might as well wait and see how things turn out next June. They are sure that the Government cannot implement all our proposals. Besides, we are not talking about implementing the proposals in a perfunctory manner. As "Ah Chung" said, the Government must take quality actions. As

for quality control, the EOC can and has undertaken to take up this job and a subcommittee has been set up to this end. Another subcommittee has been set up under the Secretary. However, no matter how many subcommittees are set up, would you please do a good job?

President, Mr CHEUNG Kwok-che just made a valid criticism about the Access Co-ordinator, which reminded me of another policy which I now forgot its name. Yes, it is the policy of gender mainstreaming. No one in the entire Government knows what it is, including the Deputy Commissioner under the Labour and Welfare Bureau who came to the Legislative Council to respond to questions on the legislation of minimum wage. I talked to him about gender mainstreaming but he asked me back what it is. In his reply, he told me that several thousand training places are provided every year on gender mainstreaming. However, despite the fact that the policy of gender mainstreaming has been adopted for 11 years, no one knows what it is. The subject which we are debating now may well be a replica of gender mainstreaming. President, do you think we have confidence? Regarding this subject, it is even ..... I am not sure whether this subject involves greater difficulties. In fact, we really have to seek advice from the EOC Chairperson, is it more difficult to promote gender equality or is it more difficult to promote anti-discrimination against persons with disabilities. No matter what, one thing I am sure is that the Government has little interest in both matters because it has casually designated a Secretary to take charge of them. He can tell us later whether he echoes this point. Members have also mentioned that last Saturday, some civic groups came to the Legislative Council to express their views, but they were shoved around by various government departments. The government departments were only interested in matters related to their portfolio and they were indifferent to these civic groups. I am not sure whether the Secretary alone is capable of handling matters related to so many government departments. I really need to invite the Secretary to answer this question. The departments involved include the Highways Department, Lands Department, Leisure and Cultural Services Department, Housing Department and many more. What is he going to do? I hope he can later tell us what he is going to do. I hope that he can tell us because Members also wish to get the problems solved properly, but they are worried that the government departments will fail to address the problems. Hence, President, if you look at the EOC Report, you will know that Mr LAM Woon-kwong has done quite a good job. In the first chapter, he pointed out that the first manual on barrier-free access in Hong Kong was

prepared a quarter of a century ago. By 1995, the Government enacted the Disability Discrimination Ordinance; and the Convention was adopted in 2008. To date ..... What is more, the Transport Department has published the Transport Planning and Design Manual and the Architectural Services Department has published the Universal Accessibility — Best Practices Guidelines. There are many such regulations. Nevertheless, I wish to invite the Secretary to go out with me now for a half-hour walk around Central and see how many access roads are barrier-free and how many are not. The Government has made such a fuss over this issue, but in the end, persons with disabilities are still facing many obstacles. The persons affected not only include persons with disabilities, but also people who deliver goods, those who push baby strollers and those who anticipate the provision of barrier-free access. They all have a hard time because of the authorities.

Hence, I hope that the authorities will expeditiously take forward the 3 300 items of works and list out on the Internet — will the Secretary please also respond to this point later — the details, location and cost of these items of works, as well as the hundreds of outstanding items of work. Then we can check their progress on the Internet when we have time or when we cannot sleep. The Commissioner for Rehabilitation sitting beside the Secretary will be very busy in the coming 10 months or so. Would he please supervise the work of his colleagues. We really hope that the authorities can take actions as soon as possible.

President, some organizations came to the Legislative Council last Saturday, expressing the difficulties encountered by their wheelchair-bound members in their daily life, such as dining out. Why? If they want to dine out at fast food shops, they can hardly access to the dining table as the chairs are fixed to the ground, and no one would bother to help them. The difficulties they encounter in taking public transport is another issue, as mentioned by many Members just now. What do these organizations lobby for? President, they urged that low-floor bus (those retrofitted with a detachable wheelchair ramp and not those with an undetachable wheelchair ramp) should be included as a licencing condition.

Some organizations have relayed to us that wheelchair users always long for a trip to outlying islands. That is a big problem, President. Why? It is because each ferry can only accommodate two wheelchairs, and each bus can

only accommodate one wheelchair. That is to say, if 10 wheelchair users want to go out, they have to take five ferries, or if they wish to go by bus, they will have to go alone in 10 separate buses. Just now, it is mentioned that people have to wait for half an hour for buses. If the 10 wheelchair users wish to go in a group for a trip, they have to spend the whole day on transportation. How can they live with dignity? President, how can they live independently?

Our current fiscal reserve has reached \$500-odd billion and the accumulated surplus has also reached \$500-odd billion. Hence, over \$1,100 billion is disposable under the Exchange Fund. However, when it comes to this subject under discussion, our situation is comparable to the fourth world countries. Should the Secretary, who represents the entire Government, not feel ashamed? Thus I hope that the Secretary can really, as mentioned in the Government's reply to the Legislative Council, represent the entire Government to speak on all policy portfolios and make specific commitments to complete all items of works by June next year and ensure that the works have attained a high standard of quality.

As for the EOC Chairperson Mr LAM Woon-kwong, I hope he can continue to investigate other premises and institutions. As some Members have questioned just now, how come the Hospital Authority is not investigated? Why is the MTRCL not covered in the investigation? As Mr WONG Kwok-hing has said, the MTRCL is not even willing to install lifts for the passengers, but it has lifts directly reaching its offices. Is there something wrong? This is outrageous. Hence, I hope the EOC will continue with its investigation and the authorities will complete the outstanding items of works as soon as possible, so that we can hold ourselves accountable to the people who need to use barrier-free access. Thank you, President.

**DR PRISCILLA LEUNG** (in Cantonese): President, a number of colleagues have expressed their views on this report today. I wish to use some of the cases which I have handled to illustrate that all along, the Government has not formulated a comprehensive policy on persons with disabilities, and it has not shown any determination in solving the related problems.

In September 2009, I received a request for assistance from a mother whose family was overtaken by misfortune. Her 28-year-old daughter

contracted a disease called paratyphoid fever during her business trip to Indonesia. On her return to Hong Kong, the daughter became ill and was struck with complete paralysis. Initially, we handled the case in the direction of work injury. Her employer was one of the largest consortia in Hong Kong. In the beginning, her employer did not want to handle her case but later, succumbed to pressure, the employer agreed to give special consideration to her case and pay her medical fees. Hence, she could be transferred from a hospital of palliative care to a hospital which provided medical treatment. Later, this young lady, who should have a prospective future, gradually woke up from a coma, only to find that she was completely paralysed. She wanted very much to go home, so her mother approached me for help. We hoped that the Housing Department could allocate a public rental housing unit to her. With the help of the media, they were quickly (at least quicker than others) allocated a flat. Unfortunately, the flat is not wheelchair-accessible. To date ..... In fact, it all boiled down to red tape and nothing could be done. At first, the mother said that if they could not be allocated another flat, they could make some retrofitting themselves to adjust the front door and the toilet for wheelchair user. This should be the quickest solution. However, it turned out that this was not feasible because they had to go through a lot of formalities again. Her mother said she has never taken care of her daughter in such a way ..... I mean, she said she has never carried her in such a way. I only learn by then that a paralysed person is much heavier. Her mother is not strong enough to carry her, but she insists on doing so because the flat is wheelchair-inaccessible. In fact, I think 90% of the problem has been solved, but not the remaining 10%. Despite the fact that the family is willing to spend some money, though not a lot, on doing the retrofitting themselves, the matter has remained unresolved because of the policy. The crux of the matter is obvious. The Government must do a better job in co-ordinating various departments.

The second unforgettable experience took place in November last year. I went to Taipei with a group of friends to observe the election. Sign language interpretation was provided in all television coverage about the election. Although people who needed sign language interpretation might only account for a very small percentage of the population, all broadcasted debates had sign language interpretation. From this we can see that their policy attaches great importance to the death-mute. I was really impressed at that time.

The third incident took place back in the 1980s. At that time, my roommate at university suffered from severe Cerebral Palsy. She majored in history, she graduated with flying colours and was awarded a first class honour. Many classmates were very happy for her at the graduation, later she worked in a library and I left Hong Kong. In less than half a year, I received a message telling me that she had passed away. We were all very sad. How could she perform so well at university? It is because adjustments have been made in the university to cope with her condition and the classmates were very understanding. But once she went out to work, particularly at the library, she could never really adapt to her work and the environment. She graduated from the faculty of history with a first class honour. In fact, she should be very suitable for work such as collating documents, except that to her, the working environment was not so easy to cope with. Hence, in retrospect, I note that there are many more such cases, some of which I even know the persons involved; back in the year, they were all ..... Some of them now work for the community and the Government. There is a very competent Social Welfare Officer in West Kowloon whom I have known since college. He is very active and has extraordinary determination and has been selected as one of the Ten Outstanding Young Persons. However, they are the minority. People whom I know personally ..... No need to mention the athletes, because there are too many outstanding disabled athletes in Hong Kong, there are many cases which are unknown to the public. The first case which I mentioned just now is one such example. The persons involved were entrenched in a dilemma and were neglected. Another example is my roommate at university who quietly left this world in the end. Such cases should account for the majority.

A Member just mentioned the example of "Ah Pun" who happens to live in my constituency. Last Sunday I went to visit him with some other women and we talked about a disabled Australian named Nick. I am not sure if Members have heard of him. Nick was born with no hands and feet, but he is a very gifted orator and his talks are appealing. Hence, his talks which have been broadcasted in Australia and around the world have touched the hearts of countless young people. This is the example which "Ah Pun" has shared with me. When I visited "Ah Pun", I noticed that he has put some thoughts in decorating his home. If my judgment is correct, his home should be around 600-odd sq ft. However, why is "Ah Pun" able to live relatively happy today, and why is he even able to write his experience to encourage young people? In fact, he has betted on his life when he said that he wished to end his life by means of euthanasia. The

wish of "Ah Pun" later caught the attention of the Chief Executive and was then given special treatment. However, when I walked out of the lift, I suddenly wondered how many similar cases like "Ah Pun" are now in hospital waiting to be helped? Does each one of them have to resort to such a means? Hence, I earnestly hope that the Government can conduct a survey and take the initiative to find out these cases. Many people are born with a disability, but there are also many people who become disabled because of an unexpected accident.

Members have mentioned different cases. What Members can do is very limited. We can raise very few cases for discussion and there are even fewer cases which we can offer help. The only thing that we as Members can do is to convene press conferences to draw the media's attention and write to the Government, but many people do not even have the ability to seek help. Thus, I hope that the Government can act actively instead of passively, and that it will not take actions only when someone has attempted suicide or someone was dead due to inability to adapt or when the matter has become the focus of public concern or sympathy.

I always consider that Secretary Matthew CHEUNG is the most hard-working Secretary. Sham Shui Po is one of the districts which I serve. Whenever I invite him to visit the district, he always accepts my invitation. After hearing our views on the problem from different angles, I hope the Secretary can make an effort to relay these views to the upper level.

I agree with most of the recommendations of the report. One of the recommendations proposed is that the Chief Secretary for Administration should play the co-ordinating role. He is often the one to co-ordinate the recommendations which we have made. Despite the fact that the implementation will be difficult, having the Chief Secretary for Administration as the co-ordinator can symbolize that we and the Government attach great importance to this matter. I thus consider that even if the Chief Secretary for Administration cannot take up the role of a co-ordinator, I hope the Government can give the green light in its policy, so that the Secretary can start co-ordinating different projects under his social welfare portfolio. I believe that if the Government has truly given the green light in the policy, the situation of these people can be improved. Although the hourly rate of the minimum wage remains contentious, the Government has after all straddled the toughest hurdle of

minimum wage. This precisely exemplifies the saying that if there is a will, there is a way.

I speak in support of the Equal Opportunities Commission report. As for the recommendations of the report which are technical in nature, I will hand them over to Prof Patrick LAU of the Professional Forum, who is more specialized in this regard than us. I will thus end here. Thank you, President.

**PROF PATRICK LAU** (in Cantonese): President, as an architect, certainly I greatly support the provision of barrier-free facilities in public places as this is an essential task for all advanced cities. And yet, what are the difficulties involved? Secretary, Hong Kong has already made a late start in this regard. After the Design Manual: Access for the Disabled 1984 was introduced in 1984, nothing has been done for quite some time since then. Relevant work has been carried out in many places when I was studying in the university. Hong Kong should really feel shameful for not doing anything in the past. This is the first point.

It was more than a decade later when the relevant legislation was enacted. In 1987, I was the first architect to introduce tactile guide paths in Sham Shui Po's Jockey Club Centre for the Blind of the Hong Kong Society for the Blind. I wonder if the Secretary has visited the Centre. At that time, tactile guide paths were commonly used in Japan and were nothing new at all. What is more important is that I had introduced lifts with voice announcements. This is the first move. As we all know, the facility is now very common and is essential in all new buildings.

This facility had won me the Design Award for the Most Accessible Building in Hong Kong in 1989, but later I found that the Government's commendations for innovative designs are insufficient. I just heard a lot of criticisms from Members, and they are not without effect. While it is certainly useful for Dr Priscilla LEUNG to sing praises of the Secretary, I consider that criticisms are more useful to the Secretary as they serve other purposes.

President, I want to be more realistic as the topic under discussion today is the 23 recommendations made by the Equal Opportunities Commission (EOC) in

the Formal Investigation Report on Accessibility in Publicly Accessible Premises (EOC Report).

In my opinion, this EOC Report is very important. Firstly, I think that this investigation report is commendable as strenuous efforts have been made by the EOC to look into the matter and it has highlighted a number of problems. Just as I said earlier, Hong Kong has some intrinsic problems which may not be overcome. As a number of Members have said just now, Hong Kong has a hilly terrain and some places are not easily accessible. This is a matter of principle. How should we tackle this problem? In some cases, this is a very difficult problem to tackle.

Never mind. I would like to discuss the recommendations in the Report one by one. Some of them are being implemented now. I find this pretty important as it is precisely the issue under discussion today.

First of all, the EOC Report suggests that we should build an inclusive society. This is very important because in order to live with persons with disabilities, we must have an "inclusive" thinking. However, this does not mean that we have to provide tailor-made facilities for them because it is meaningless to do so. Rather, it is the design that matters. The so-called universal design not only caters for persons with disabilities, but also for all other people, including children, adults and elders. By so doing, the problem can be resolved. I strongly support this approach.

Dr Priscilla LEUNG just now suggested that the Chief Secretary for Administration should assume a leading and co-ordinating role. In the Legislative Council, we always suggest that the Chief Secretary should assume a leading role for all kinds of work. Perhaps Members wish to have the Chief Secretary become our next Chief Executive. I wonder if we need to create the post of "Mayor" to deal with the urban problems of Hong Kong in view of the heavy workload of the SAR Government.

Regarding the improvements in urban design, after visiting a number of Mainland cities, I notice that they are pretty successful in their greening projects and the beautification of footpaths. The performance of Hong Kong pales in comparison. Let us take Queen's Road Central as an example. The pedestrian flow on that road is high but the road surface is rugged and manhole covers are

not tidily arranged. Normal people can easily tripped and fall while walking on this road, how then can it be named a barrier-free access? From the perspective of urban beautification, there is room for improvement. This is very important as our city is ageing. Members may consider along this line.

Regarding the EOC Report's proposal to remove the current exemptions of buildings belonging to the Government or buildings upon any land that is vested in the Hong Kong Housing Authority (HA) from the provisions of the Buildings Ordinance, I consider it essential as all private buildings are required to comply with the relevant provisions. Being a member of the HA, I am aware that staff of the HA and Housing Department are now carrying out the relevant work. Exemption is therefore unnecessary, particularly when many people (including persons with disabilities) will frequent access to government buildings. There is no reason to grant exemption to these buildings. I strongly agree with this proposal.

President, it is also very important to follow the direction of the "best practicable option" as many old buildings can hardly be altered. For instance, how can persons with disabilities access to this Chamber? The numerous staircases here are just for our convenience. I do appreciate this, but the location is not so desirable. What will happen if a person with disabilities is elected the President? There are actually a lot of problems. Although no such person has been elected the President, consideration should be made to the design of this Chamber in case there is one. Yet, as the Chamber has been used for long time, no one would bring up this issue and take an exemplary role. Why is that so? I guess Members should understand the meaning of inclusive and will choose the best practicable option.

I would like to talk about legislation. Sometimes, we have gone too far. For instance, facilities built on rugged surfaces in kindergartens are also subject to the same legal requirement. However, this is inappropriate as young children may not walk so well and may therefore fall down easily on rugged surfaces. Although we had put forward alternative designs for kindergartens, they were turned down by the Government. I bring up this issue for the consideration of the Secretary.

Regarding the geographical constraints of Hong Kong, take my office located at Lyndhurst Terrace and Pottinger Street as an example. How can

pedestrian walkways be built to facilitate public access? This is really very difficult as the road is terraced. If comprehensive improvements have to be made, ramps should be provided to facilitate wheelchair users. We need to find a way to deal with this matter.

It is not easy to apply overseas experience to Hong Kong's situation and use it as a common yardstick as roads in overseas countries are generally wider. Hong Kong is a special city and we need to take into account its geographical constraints.

I have also made a lot of efforts in respect of heritage buildings. As a matter of fact, there are conflicts between the need to provide barrier-free facilities in heritage buildings and the need to refrain from making any alterations. In order to achieve inclusion, considerations should be made from various perspectives, and a lot of efforts are needed.

At present, we are very puzzled as many heritage buildings do not have lifts. And yet, the installation of lift may become an eyesore. These questions have to be considered carefully. If you ask me what I would do, I would say that we might have to sacrifice a certain part of the heritage building to install a lift, but the lift must be built inside but not outside the building to avoid affecting its aesthetic value. Secretary, as I am a representative of the architectural sector, I hope that members of the trade will contribute more efforts in this regard.

What are the greatest difficulties? This is the issue what I am going to talk about. In Hong Kong, we do not have any institutions to conduct studies to help persons with disabilities. President, I had conducted some studies in Japan and I found that enormous efforts have been made by the country in this regard. Many research centres have been set up and the citizens are well aware of the research and development projects being undertaken. In Hong Kong, there are only a few studies on persons with disabilities.

It is very difficult for persons with disabilities to go to the University of Hong Kong. Although a lot of work has been done, many problems still remain unresolved as the university was built on a hill. What is more, no relevant course is offered by universities, and students can only acquire the relevant knowledge from the work done by professionals. Furthermore, we do not have

an institution to carry out the relevant studies to explore what facilities can be used by persons with disabilities, what can be done to help them and what are the inadequacies. I therefore opine that a research and development centre should be established in Hong Kong.

Nonetheless, it is not necessary for us to develop all the facilities on our own as foreign products can be imported. We have to be aware of the unique situation of Hong Kong, and hence modify the products to make them suitable for use in Hong Kong. This is the kind of work that we can do. Otherwise, it would be very difficult to provide publicly accessible facilities for persons with disabilities. This is a practical problem. I hope that the authorities can do more to enable people from all walks of life to have a better understanding of the situation and cast aside their discrimination.

There is one thing which we have done well, and that is, persons with disabilities need not enter and exit through the side entrance. Architects have done a good job in the design of new buildings by enabling persons with disabilities to enter and exit through the main entrance like any other people. This is in no way easy as it requires a lot of space.

We all know that Hong Kong is a tiny place. President, you should also be aware that the present buildings are all space-saving. For instance, given that the size of flats of THE ICON, an incident which is currently followed up by Miss Tanya CHAN, is so small, how can we include complementary facilities for persons with disabilities? This is downright impossible. We should therefore consider how the space can be fully utilized. Has the Government enacted any laws that exempt the plot ratio of facilities for persons with disabilities? If no laws have been enacted, nothing can be done to help them. Nonetheless, if exemption is granted, the development projects will then become "inflated buildings", and Mr LEE Wing-tat would not be too happy to see that. There are problems that need to be considered. I therefore hope that Members will cast aside discrimination and be accommodating in various respects. This is very important.

Education is also essential. I support the incorporation of topics relating to persons with disabilities into the curriculum of primary and secondary education so that our children will accept and understand the needs of these

people. Only by so doing can we genuinely achieve the target of having persons with disabilities live harmoniously with the able-bodied.

Thank you, President.

**MISS TANYA CHAN** (in Cantonese): President, on 31 August 2008, the United Nations Convention on the Rights of Persons with Disabilities (the Convention) was confirmed to be applied to China. Being one of the special administrative regions of China, the Convention naturally applies to Hong Kong as well. The core concept of the Convention is that all people with disabilities shall enjoy equal rights and opportunities, and the building of a barrier-free society is essential in embodying equal rights. Over the years, organizations representing persons with disabilities have strived to promote Hong Kong as a barrier-free society.

Undoubtedly, Hong Kong is a world renowned metropolis. Being a world-class city, it should certainly respect equal rights and the social needs of persons with disabilities and the disadvantaged groups. However, the Formal Investigation Report on Accessibility in Publicly Accessible Premises (EOC Report) released by the Equal Opportunities Commission (EOC) earlier is like stamping this international metropolis with a black mark. According to the EOC Report, persons with disabilities still face great barriers when using the facilities of government buildings and public organizations.

The EOC Report has highlighted the inadequacies of barrier-free facilities for persons with disabilities in many government buildings, public organizations and shopping centres in public housing estates. For instance, it pointed out that those barrier-free facilities of some government buildings are only limited to the main entrances and passageways, and persons with disabilities may not have free access to different parts of the buildings.

Regarding the criticism of a lack of barrier-free facilities in government buildings, the Central Government Office is already a very good example. As the Secretary may aware, my assistant has weak sight. However, the press buttons in elevator are heat-sensing without Braille, neither is there any voice announcement to indicate the floor destination. Members may aware that in some elevators, there is a voice announcement system, announcing, for example,

"second floor" in Cantonese, English and Putonghua respectively. People are in a rush, as the elevator goes up, the announcement is made in different languages, he is afraid that he would miss the floor he intends to go, but at least, he know which floor he has reached. However, every time, my assistant is ..... as he cannot differentiate the press buttons, he has to ask other people to press the button for him. Can Members believe that in the building where the office of Secretaries of Departments and Directors of Bureaux are located, the facilities are in such a state? What else can I say then?

Although the Administration has responded to the EOC Report and undertook to carry out retrofitting works on facilities criticized by the EOC within 18 months, it also stated that about 10% of retrofitting works will not be completed until 2014. Worse still, retrofitting works cannot be carried out in some facilities. Regardless of what improvements the Government has undertaken to make, there is no way we can ascertain if government buildings can in future be accessed by persons with disabilities in an equal, independent manner without assistance. Corresponding amendments should be made to the relevant government policies.

The existing Buildings Ordinance (the Ordinance) does not cover all government buildings. In other words, regardless of what legal requirements have been imposed on barrier-free facilities of buildings, they are theoretically not binding to all government buildings. Of course, the Government did stress time and again that it would seriously consider and comply with the Ordinance as far as practicable, and provide barrier-free facilities for persons with disabilities in various government buildings. Yet, after all, I think the most effective way is to review the legal provisions that do not apply to government buildings.

President, apart from reviewing the arrangement that the existing Ordinance does not apply to government buildings, even if the Government is willing to provide barrier-free facilities for persons with disabilities in government buildings in strict compliance with the existing provisions, it may not necessarily resolve the accessibility problem, as there is only one Design Manual governing the provision of barrier-free facilities under the Ordinance.

Earlier, Members mentioned the Design Manual: Barrier Free Access introduced by the Housing Department in 1997, which provided for the provision of barrier-free facilities for persons with disabilities in buildings, for instance, the

specifications of ramps for wheelchair users, the level of lighting in internal passageways of buildings or the specifications of toilets for persons with disabilities. The Design Manual was comprehensively reviewed and substantially amended in 2008 to include the views expressed by people with disabilities. However, the Design Manual alone absolutely cannot remove all the barriers in buildings caused to people with disabilities.

The guidelines and regulations set out in the Design Manual can be classified into two categories. One category is the regulation that buildings must comply with, the other category is the regulation proposed to be complied with. When designing a building, architects or engineers may decide whether they will design the building as suggested in the light of the needs and requirements. According to the information provided by organizations representing persons with disabilities, they were told by many architects and engineers that if buildings have to be designed as suggested, creativity would be gravely undermined and too many restrictions would be imposed. Hence, if architects and engineers are to decide the proposed provisions to be complied with, we are aware that these provisions may not be complied with in most cases.

On the other hand, the Design Manual only applies to buildings which have, after the Manual has come into effect, submitted plans to the Buildings Department for construction or major conversion. It is not binding to existing buildings at all. That is why improvements have yet to be made to the barrier-free facilities in shopping centres, government buildings and public facilities with heavy flow of people.

In order to make all Hong Kong buildings barrier-free, I consider that the Government should more proactively review the relevant regulations under the existing Design Manual and the Ordinance. For instance, it should list more barrier-free facilities for mandatory compliance under the Design Manual, and consider extending the provision of certain barrier-free facilities to all buildings. We can only have accessible buildings through proactive promotion of barrier-free facilities at policy level, coupled with the imposition of appropriate mandatory measures.

President, another issue that has been severely criticized in the EOC Report is the lack of barrier-free facilities in shopping centres and properties managed by The Link Management Limited (The Link). This is indeed very

incomprehensible. In the past years, The Link has been carrying out numerous major expansion, conversion and renovation works in its shopping centres, so as to attract the patronage of kaifongs. In converting these kaifong-style shopping centres into major shopping centres like those in Central or Admiralty, The Link should have improved the interior environment of these centres by providing more barrier-free facilities. However, shopping centres under The Link are still full of barriers.

Take a shopping centre in a public housing estate managed by The Link in Kwai Tsing District as an example. The shopping centre has undergone major renovation works in recent years, but no barrier-free facilities have been provided. Although ramps for wheelchair users have been provided at the ground floor entrance, no elevators have been installed and wheelchair users who want to go to other floors have to make a detour or use the cargo elevator. Another example is the presence of staircases at major entrances, which makes it impossible for wheelchair users to access to the shopping centre.

What has the same shopping centre done to cater for persons with visual impairment? Since not all the staircases in the shopping centre have warning tiles, persons with visual impairment may easily fall down the stairs if they are not careful. Neither is there any tactile surface. Then, how about escalators? Audible signals for escalators, commonly found in MTR stations, are nowhere to be seen in the shopping centre. There is no voice announcement inside lifts to indicate floor destinations. How can persons with visual impairment enjoy shopping freely in this shopping centre?

As a matter of fact, the Housing Department has been improving the barrier-free facilities for persons with disabilities in various public housing estates for a long time. Also, the Government has incessantly put in resources for the provision of ramps and other facilities for wheelchair users in public housing estates. In 2005, the Housing Department even launched a \$100 million project to provide barrier-free facilities for persons with visual impairment in all housing estates under its management. What is more, in recent years, elevators and lift towers have also been installed in some housing estates to facilitate wheelchair users to access along hillside ramps. Given that the Government has so actively improved the facilities in public housing estates, why does it not exert some pressure on The Link which manages the various shopping centres in public housing estates, and demand the provision of more barrier-free facilities? I hope

the Government will put in more efforts to proactively discuss with The Link on how improvements can be made to these facilities.

Apart from The Link, there is another problem in the provision of barrier-free facilities in public housing estates. In view of the fact that some flats in certain Tenants Purchase Scheme estates have already been sold to tenants, and owners' corporations have been formed in various housing estates for easy management, the costs of maintenance and repair of barrier-free facilities would have to be shared among owners in future even if the Government is willing to bear the setup costs. Some owners may find these facilities unnecessary and refuse to share the costs. I therefore suggest that the Government should carefully review the matter and discuss with owners of these housing estates. It may have to make a long-term financial commitment so that barrier-free facilities can be expeditiously introduced into these housing estates.

The Design Manual which I mentioned earlier governs the barrier-free facilities of buildings. In the 2008 version, the concept of universal design was proposed. I opine that this concept should be properly utilized in the provision of barrier-free facilities for persons with disabilities, with a view to fully manifest equal opportunities and rights. The so-called universal design is the provision of barrier-free facilities not intentionally or purely designed for persons with disabilities, but also for the convenience of the general public.

For instance, many people think that the ramps installed in buildings only facilitate wheelchair users, but this is not true as they also facilitate wheelchair-bound elders or housewives using shopping carts, or even mothers pushing baby strollers. Another example is that, in a crowded elevator, the voice announcement system can also alert people whose sight has been blocked, bringing convenience to them. In fact, not only persons with disabilities benefit from barrier-free facilities, the general public can also be benefited.

After all, the aim of tackling the accessibility problem of buildings is to remove all intangible barriers that the society has imposed on persons with disabilities. If persons with disabilities are regarded as a special entity and must be differentiated from all others, Hong Kong will never become a genuinely barrier-free society, regardless how many additional barrier-free facilities we provide. Only when we treat persons with disabilities on an equal footing can we think of how to remove the barriers in their living.

In the past two years or so, I learned how to work with my assistant and get along with this group of people, who we regard as special. In fact, they are not special at all. I must also point out here that a major part of my script today was prepared by my assistant who has weak sight. What I said are actually words from his heart. This shows that persons with disabilities and able-bodied persons can make the same contribution.

I therefore earnestly hope that when Members consider the provision of additional facilities, they will also think about this concept. It is most meaningful to do so. I very much agree that this is not the sole responsibility of Secretaries of Departments. The Chief Secretary should also assume a co-ordinating role. Just as Prof Patrick LAU has said earlier, certain requirements on buildings have actually exceeded the scope of a Secretary. Without the co-ordination of the Chief Secretary, the roads ahead will be obstacle-ridden, just like walking along an inaccessible walkway.

I hope that the Chief Secretary will assume such a responsibility by building a barrier-free society not just for persons with disabilities, but also for the Government and members of the public. I also hope that a barrier-free government will be set up, which will not merely give simple responses, but will genuinely honour its pledges by expeditiously building a barrier-free society.

Thank you, President.

**MR LEE CHEUK-YAN** (in Cantonese): Whether a society is civilized or not mainly depends on how it treats the disadvantaged people. The treatment received by persons with disabilities in Hong Kong is far worse than that in overseas countries. Barrier-free facilities and half-fare concession on public transport are yet to be introduced. Just as Mr LEUNG Yiu-chung has said earlier, the Government is still reluctant to provide persons with disabilities with an opportunity to integrate into the society in this regard, that is, removing the financial barriers. For a society as well-developed as Hong Kong, it is woeful to have such an uncivilized phenomenon.

It is understandable that poverty may lead to uncivilized conditions, as being poor, there are certain limitations, and it is very difficult to give due consideration to civilized acts. However, in the present case, Hong Kong being

well-off is uncivilized. This is most annoying. To say that Hong Kong is well-off, it does not mean that Hong Kong people are rich; only the Government and the major consortia are very rich. Actually, they can do more for persons with disabilities. Regrettably, although the accessibility issue has been discussed for so many years, this well-off city is so reluctant to take any actions. It was not until today that the Government announced a belated "military order", undertaking to complete 3 306 items of improvement works in government premises by 30 June 2012. Members may recall that at the meeting of the Legislative Council Panel on Welfare Services, government officials advised that with this undertaking, all non-compliances must be justified. Why do I say that it is a belated "military order"? Because the Secretary would have to step down by 30 June 2012. For a genuine "military order", whoever fails to comply with the order should assume responsibility by stepping down. And yet, the Secretary would have to step down by 30 June 2012 in any way. Why is the "military order" not issued earlier? If the "military order" was issued two years ago, stating that the Secretary who failed to comply with the order has to step down, people would attach greater importance to the matter. However, if there are uncompleted works on 30 June 2012, follow-up actions would have to be taken by the next term government and the Secretaries concerned can just walk away. That is why I said this is a belated "military order". Certainly, this undertaking is better than none. However, as the urgency to honour this undertaking is not that great, we are very worried if the mission can be fully accomplished by then. Given that the Legislative Council will probably set up a subcommittee to follow up on the accessibility works, it is hoped that all the works will eventually be completed.

On the other hand, we are gravely disappointed about The Link Management Limited (The Link), the Hospital Authority (HA) and the MTR Corporation Limited (MTRCL). At the meeting of the Panel on Welfare Services held on that day, many organizations also criticized that the present proposal only involves some 3 000 government premises. What about the facilities under The Link? Will all the necessary works be completed? The Link claimed that funding will be provided for the improvement works, but will the improvement works be comprehensive? We never know. So, we have requested The Link to list the necessary works for our reference. It is hoped that the Equal Opportunities Commission (EOC) will follow up to see if the list is exhaustive. For the HA, however, no list has been provided, which means that it has no intention to make improvement at all. The HA has failed to provide any

information about how improvements would be made. As we may be aware, HA facilities are usually used by persons with impairment. Frankly, why would a person without impairment go to the hospital? Hong Kong, in particular, is currently facing the ageing problem and elders with mobility impairment definitely have very tough times. It is important for hospitals to be publicly accessible. So is the MTRCL. Being the largest shareholder, the Government is absolutely duty-bound to carry out such works. And yet, no progress has been seen so far.

Furthermore, I wish to talk about the major consortia, and Ms Emily LAU has also mentioned the facilities in fast food shops earlier. As a matter of fact, I had received complaints from organizations representing persons with disabilities more than a year ago. Subsequently, letters were sent to various fast food corporations, but only cold response was received. I really cannot see the difficulty in making the relevant improvement. All they need to do is to replace the fixed chairs adjacent to the tables with movable chairs, which can be taken away to make room for persons with disabilities when necessary. That is it. When there is no disabled client, they can put back the movable chairs for other clients. I do not ask them to provide tables and chairs specially designed for persons with disabilities. All I ask for are tables that can be used by all people and movable chairs. What is so difficult about this? There was also a beautiful misunderstanding on that day. I made a mistake in saying that the Chairman of Direction Association for the Handicapped LAW Wai-cheung once told me he had met with Café de Coral and Maxim's. However, he later clarified that he had only met with Café de Coral but not Maxim's. I called CHAN Yue-kwong of Café de Coral, not to talk about the issue of paid meal breaks, I asked him if something could be done in this respect. He replied that 63% of the premises have been installed with relevant facilities, and this proved that the proposal is practicable. While 63% of some 150 Café de Coral fast food shops managed by him have completed the necessary access improvement works, what has Maxim's done? How about Fairwood? No response has been made and nothing has been done so far. They have taken more than a year to discuss such a minor issue, and they are still reluctant to convene a meeting for this purpose. I really do not understand why it would be so difficult for them. How can we claim ourselves as civilized when making money is the only goal? I am really gravely disappointed that the major consortia, being so rich, are so reluctant to make the slightest improvement. I wonder what corresponding actions will be taken by the Secretary, who is now present at the meeting. I guess he will probably

respond by saying that the concern will be relayed to the authorities concerned. But what action will be taken then? We will continue to work in conjunction with the organizations representing persons with disabilities. It is believed that a social movement will have to be organized in the end to exert pressure on these corporations.

President, the EOC has also raised another proposal which I consider pretty important, and that is, who will be the co-ordinator? Today, Secretary for Labour and Welfare is sitting here quite lonely. I really worry about him. How can he spare the time to handle all these matters when he is already overloaded with other tasks? Since the Chief Secretary for Administration has been idling, and even has the time to lecture young people, he should do something more meaningful. Instead of taking up some meaningful work, he chided young people for being unable to compromise and stubbornly charging ahead with their ideals. Yet, we fail to see the Chief Secretary charging ahead in the face of the accessibility problem. I would rather have Chief Secretary Henry TANG charging ahead on this issue. Unfortunately, he is not present today. We consider that accessibility is a long-term task. I am not saying that this is the work of Chief Secretary Henry TANG alone; rather, in the long run, the accessibility issue should be tackled by various Policy Bureaux under the leadership of the Chief Secretary for Administration. This is not the responsibility of a single Policy Bureau. What is most unfortunate is that the Secretary for Labour and Welfare is only entrusted with the responsibility but not the authority. This is evident in many cases, but not just the present incident. In the alleviation of poverty, he is also entrusted with the responsibility but not the authority. Honestly speaking, Secretary, can you persuade other Policy Bureaux to work together? Not that I do not trust you, but we all understand that the Government is not an entity under the bureaucratic system, as often claimed to be. Under the bureaucratic system, there are far too many strongholds, and the final decision certainly has to be made by the Chief Executive and the Chief Secretary. In my opinion, there is no reason why the accessibility issue is not co-ordinated by the Chief Secretary. He should not just be responsible to co-ordinate the work at the moment, but also in the long run, thereby formally recognizing the co-ordinating official under the system. We are very disappointing that the Government is still reluctant to establish a centralized co-ordinating mechanism.

President, let us see if this "military order" issued by the Government really works in the end. Not only will the Legislative Council monitor the works, so will the community organizations. It is hoped that this well-off society will not show any sign of regression in civilization again. It is also hoped that by treating all persons with disabilities in a civilized manner, Hong Kong will become a community to be proud of. Only by so doing can we live up to the reputation of being a well-off city. Thank you, President.

**MS CYD HO** (in Cantonese): Hong Kong is indeed an unfriendly place for the old and feeble. People are competing against each other all the time. The pace of this city is so rapid that it is indeed frightening. Our mass transit system is a case in point. The speed of escalators at MTR stations is faster than that in other buildings. Using these escalators during peak hours can be difficult for the elderly, not to mention persons with disabilities, wheelchair users and the visually impaired. Hence, it is all the more difficult for these persons to make use of the mass transit system and various public facilities.

Given the overriding consideration of cost-effectiveness in terms of monetary gains, the provision of public facilities invariably follows the same pattern and fails to cater for pluralistic needs. As such, less-abled persons will encounter many difficulties in public premises. Such difference in treatment is particularly evident in the provision of access facilities in the city. This really illustrates the heartlessness of this city towards people around us, the old and feeble, and persons with disabilities; as well as the lack of moral obligation towards these people.

In fact, the provision of barrier-free access is not difficult at all. As the saying goes, there is no problem if money is the solution. Hong Kong has a financial reserve amounting to some \$500 billion, not to mention the Exchange Fund which has not been used. Under the current list of projects announced by the Government, more than 3 000 items of works will be carried out. Many of these "works" as claimed by the Government may just be simple tasks. Although both the current terms of the Government and the Legislative Council will soon expire and we have less than 18 months left in office, we absolutely have the financial means to resolve the problems. Then, what actually are the obstacles in the provision of barrier free access? I must say the biggest obstacle lies with the heartlessness of government officials. If this obstacle is to be

removed, we must first and foremost have empathy and sympathy towards the difficulties faced by persons with disabilities and the frail elders.

As the saying goes, one can only become aware of the difficulty involved through actual experience. I am thankful that due to my back pain, I must walk with a crutch whenever possible, and hence, I can gain first-hand experience about how difficult it is for persons with mobility impairment to make even a slight move. However, it seems that many public facilities are designed by able-bodied persons who are tall. For example, strap hangers inside buses and MTR trains are installed in a high position. The situation in Japan is not the same, strap hangers inside various means of public transport are of different lengths so that they can be reached even by children aged 11 or 12. In that case, passengers who are standing in the middle of the compartment will not lose their balance when there is a sudden brake. Therefore, in designing these public facilities, the designers should not apply their own standards for all other people. They probably have no ill intentions; they just do not understand what should be done.

Therefore, many organizations have held various activities for this purpose. For instance, one can try travelling on a wheelchair from one place to another in urban areas; or persons without visual impairment are invited to take a meal in a dark room so that they can learn from visually-impaired persons how to eat without spilling their drinks. I encourage people participating in these meaningful activities. Through these activities, we will better understand that a wheelchair user is effectively barred from accessing to a building by a six-inch step in the walkway. He must then take a big detour on his wheelchair precariously before finally gaining access via a ramp.

Interestingly, while these activities are often attended by Honourable Members, government officials are rarely seen. Hence, I invite the Secretary to act as co-ordinator and liaise with these organizations to reserve some special sessions for the attendance of the Chief Executive, three Secretaries of Departments, 12 Directors of Bureaux as well as all Deputy Directors of Bureaux and Political Assistants. They will then know through actual experience how difficult it is for persons with disabilities as well as the old and feeble to undertake these day-to-day activities.

The Panel on Welfare Services held a special meeting last Saturday. The speech delivered by Mr LAM Woon-kwong, Chairperson of the Equal Opportunities Commission (EOC), was most enlightening. He said barrier-free access facilities were not only provided for the benefit of physically-impaired persons, they also catered for the need of the elderly, because according to the Government's estimation, one third of our population would be elderly persons by 2030. By that time, must this population of almost two million people use the fast-paced access facilities and live under difficult conditions? How could we exclude these elders from public facilities? Our Government is interesting. In dealing with healthcare financing, discussions had been held as early as 1998. To date, the matter is still under discussion and the Government has always focused on the charging of fees. Moreover, a charging scheme has been devised a long time ago and it has now proposed to allocate \$50 billion to subsidize the public in taking out medical insurance. But when it comes to promoting measures to provide barrier-free access that can facilitate the disabled and benefit the future ageing population, the Government is only willing to commit on the implementation of 3 000-odd items of retrofitting works after the present report of the EOC Chairperson was released. The Government has indeed acted too slowly. I must also point out that these 3 000-odd items of works are not exhaustive. The authorities should take the lead to implement the necessary measures and provide various hardware and software facilities. In this connection, an access audit checklist has been appended to the report of the EOC Chairperson. The checklist which set out in detail various operational barriers is more comprehensive than the Design Manual: Barrier Free Access 1997 and Design Manual: Barrier Free Access 2008. Therefore, I call on the Secretary to expeditiously review the Design Manual on the provision of barrier-free access. In fact, the authorities should also consider extending the scope of the law to include those facilities which are now listed in the manual for reference purpose. If the facilities listed in practice notes or guidelines are just for reference purpose without any legal effect, it will be difficult to ensure compliance by the public in general.

The report of the EOC Chairperson has provided an even better checklist — the so-called checklist on attitudinal obstacles. I think government officials should study the checklist carefully because attitudinal barriers on the part of officials, the authorities and managers of public facilities have indeed created deeper and wider discrepancies. After all, it is the people and not the facilities

that count. Even if the relevant facilities are provided, they would be wasted without proper maintenance and management.

Earlier, Ms Emily LAU has talked about the "monster machines" in MTR stations. Notwithstanding the provision of stair lift, it will take at least 20 minutes for an MTR staff to come and help operate the lift. Just imagine, a wheelchair has to park on the busy Nathan Road for 20 minutes. It will undoubtedly create inconvenience to all passers-by and they will stare at the wheelchair user as if he were a monster.

The situation of travelling on buses may be slightly better. Although there are low-floor buses, bus driver has to get off the bus to operate the facility. Moreover, each bus only has one wheelchair parking space. Hence, it is impossible for wheelchair users to travel in a group of two by bus together.

President, I want to give an example which fully illustrates these attitudinal barriers. One day, I went to have a meal at the squash centre on Garden Road. At the entrance of the squash centre, a voice machine with a braille map is installed to indicate various access facilities inside the building. On pressing a button, the machine will broadcast a message so that the blind will know how to get around and use the facilities inside the building. On that day, the machine was out of order. The staff of the squash centre had actually covered the machine as well as the braille signs with a piece of paper, with the message to the effect that the machine was out of order and those who required assistance could approach the front desk. As the machine is provided for the blind, there is really no need to cover it with paper even though it is not working. If no sounds come out after the button is pressed, the blind person using this machine will know that the machine has broken down; but he can at least read the braille map by touch. This is what I meant by attitudinal barrier. Although a facility has been installed, if the people who manage the facility do not understand the limitations and needs of persons with disabilities, the functions of the facility will be undermined.

Hence, in addition to reviewing the practice notes and laws as well as monitoring the implementation of the 3 000-odd items of works by the Government, it is necessary to provide basic training to the managing staff of these public facilities so that they know how to maintain and manage the facilities properly.

Moreover, the Government has not given due consideration to the need for the provision of barrier-free access during the privatization process. Just now, some Honourable colleagues have talked about the problems with properties under The Link Management Limited (The Link) and public housing estates with private ownership under the Tenants Purchase Scheme. We often proudly say that one third of the population in Hong Kong are living in public housing estates, reflecting that we have taken good care of the grassroots by providing them with quality public housing. However, many persons with disabilities and elderly persons also live in public housing estates. Some elders are feeble and as they live alone, they have to do everything themselves, such as going to the market to buy vegetables, oil and rice. But, as pointed out in the ECO's report, The Link has repeatedly refused to improve barrier-free access as proposed and requested. Instead, it has installed additional lighting, lifts and signs in the shopping centres of various public housing estates, including the Lok Fu Plaza, in order to attract more patronage and make more profits. The share price of The Link has more than doubled from the initial offering price of \$10 to the present level of over \$20. Why does it refuse to accept any social responsibilities? Will The Link only take heed to the demands in society after drastic actions such as protests and boycotts are taken by the public?

We definitely have high regard for this report published by the EOC Chairperson. This report is not a personal achievement of Mr LAM Woon-kwong as it was prepared over three long years. We must duly recognize the efforts made by all staff members of the EOC and the proactive stance adopted by the Commissioner for Rehabilitation in taking follow-up actions. The rest will depend on the attitude of government officials. By the end of June next year, the authorities must submit a progress report to the Legislative Council so that we can follow up on the implementation of these 3 000-odd items of works. In the meantime, I agree that the Chief Secretary for Administration is best suited to take up the co-ordinating role because only he can ensure the proper co-ordination of work under various policy portfolios (such as housing and transport) and amongst the MTR Corporation Limited, franchised bus companies, the Airport Authority, Architectural Services Department, Buildings Department, Hospital Authority and other organizations. If Secretary Matthew CHEUNG is working alone, I am afraid that, with due respect to the Secretary, his work will be less than effective. I thank the Secretary for attending this motion debate to listen to our views, and I am sure that being such a capable person, the Secretary can certainly do well in relaying our views. However, if the work involves

co-ordination among Secretaries of Departments, Directors of Bureaux, department heads and various non-governmental agencies with subventions from public funds, I think it should more properly be undertaken by the Chief Secretary for Administration.

President, in order to achieve the goal of barrier-free access for persons with disabilities, we must first remove the attitudinal barriers of government officials. More importantly, we must build up a barrier-free society. Hence, I must state clearly my unwavering support for Mr LEUNG Yiu-chung's demand in terms of software, that is, the provision of half-fare concession on public transport for persons with disabilities. This matter has been discussed for a long time. Notwithstanding many facilities provided, such as braille signs, tactile guide paths and "monster machines", their full functions will not be achieved without half-fare concessions. Secretary, this is a matter under your purview and I hope you can follow up with earnest efforts. Thank you, President.

**MR ALBERT HO** (in Cantonese): President, it is important to provide barrier-free access and facilities because they can create a social environment where everyone in the community, regardless of whether they are persons with or without disabilities, can make use of the communal facilities and move around freely, equally and with dignity.

As we can see from the investigation report published by the Equal Opportunities Commission (EOC), the reality is that in this prosperous, busy and overcrowding city of Hong Kong, persons who are disabled, old and feeble are often left out and excluded. For instance, a wheelchair user who wants to go to a ground-floor grocery store in his housing estate to buy some snacks or drinks may have difficulty to actually go inside the premises and choose the goods himself if there are a few steps in the entrance of the store. Very often, he just waits outside to be served by the shop assistants. If the shop assistants are busy, he has to wait to be served. If we try travelling around with a wheelchair user in the urban areas, we will realize that when compared to an ordinary person, a wheelchair user must take an indirect route that is much longer and time-consuming before he can reach the same destination. Moreover, he must go pass some unusual or unfamiliar places.

Say, for example, a wheelchair user is invited to attend a meeting in the Legislative Council Building and he travels by MTR. After arriving at the Central Station, he must leave the station via the World-wide Plaza exit because that is the only exit provided with a lift. For other exits located near the Legislative Council Building, no lift is installed because of space constraint due to high land premium. Regarding the Queensway Government Offices, although the premises were given relatively positive comments in the EOC's investigation, it is likewise very difficult for a wheelchair user travelling on MTR to go there because he must first notify the MTR staff to operate the "monster machine". It will take some 30 minutes before he can reach the ground level. Thereafter, he must locate an exit near a refuse collection point and find a goods lift. Then he must go pass some stairs and push open several heavy smoke doors before arriving at the clean and well-maintained flyover we normally use to access the Queensway Government Building. As we can see, the route is extremely indirect. Although the station has generally complied with the standards of barrier-free access, it is highly regrettable that persons with disabilities have to gain access via such a difficult route.

In our society, persons with disabilities are excluded not because the designers of shopping centres and community facilities have any ill intentions. On the contrary, as pointed out in the EOC's investigation, the managers of many public facilities (such as the managers of shopping centres under the Housing Authority) have a strong intention to cater for the need of persons with disabilities; but in reality, persons with disabilities have been excluded because in most cases, the managers do not really understand their needs. In other words, the managers lack an awareness of being user-centred. Hence, they have not taken into consideration the special obstacles or needs of the users when managing the public premises and this has prevented the smooth access of persons with disabilities.

Let me give some more examples. Sometimes, persons with disabilities cannot make use of the tactile guide paths because they are covered by carpets or obstructed by chairs. In other cases, accessible toilets are locked and persons with disabilities in need of the facility must go through the trouble of finding the staff of management companies to unlock the doors. In terms of policy-making, the values and attitudes of decision makers are frequently disappointing. For instance, the lack of social responsibilities on the part of profit-oriented commercial organizations is particularly serious. An example is The Link Management Limited (The Link). Under the EOC's investigation, six shopping

centres and two car parks under The Link's management are less co-operative than many government departments when responding to the EOC's findings. Even for minor improvements such as removing a bucket placed under the wash basin in an accessible toilet in a shopping centre, The Link has refused to give a commitment because of the trouble involved. Another request relates to the provision of braille and tactile layout plan at directory of the shopping centres. Being such a large corporation, The Link said it has difficulties in doing so and would only consider such provision when other renovation works are to be undertaken. It has even refused to provide a timetable. When asked to replace the existing handrails, The Link again indicated that because of the trouble involved, it would only consider the proposal in future renovations and refused to give a timetable. The Link's reaction is indeed highly irresponsible.

The EOC's Investigation Report was published in June last year. Subsequently, the Panel on Welfare Services of the Legislative Council held a meeting to discuss the Investigation Report on 10 January this year. Thereafter, a public hearing was held on 22 January. It was only until 19 January that The Link announced its decision to pledge \$200 million to improve the relevant barrier-free access and facilities. Given the private enterprises' lack of social commitment, more proactive investigations from the EOC are indeed necessary. The Legislative Council will of course give its unequivocal support for the EOC's work to ensure the undertaking of more improvements by the enterprises.

With its main focus on government properties, the present investigation undertaken by the ECO does not cover private sector organizations such as the MTR Corporation Limited (MTRCL). A number of deputations attending the public hearing of the Panel on Welfare Services have expressed their wish for another investigation undertaken by the EOC on subvented organizations and private enterprises. During our discussions with rehabilitation agencies and persons with disabilities on barrier-free access, the MTRCL has always come under the most criticisms. Many organizations have repeatedly demanded the Transport Department and the MTRCL to improve station facilities — I have also given some examples earlier — but to no avail. There is only one barrier-free access in many MTR stations including the Central Station. In other stations, the exit providing barrier-free access is invariably located in the most remote region. The MTRCL has paid no attention to the great inconvenience such provision has created for persons with disabilities.

Let me also give some examples of local facilities. For instance, many elders and persons with disabilities live in Tai Hing Estate, Tuen Mun. After getting off at the Light Rail Tai Hing (North) Stop, wheelchair users and elders must access the car park entrance/exit of Tai Hing Estate via the walkway on Tai Fong Street. As there are many obstacles en route, wheelchair users usually leave the walkway and travel along the Light Rail track on Tai Fong Street to the car park entrance/exit of the estate. I hope the Secretary will pay special attention to the safety threat posed to elders and persons with disabilities. Local residents have requested that the staircase at another exit of Tai Hing (North) Stop be retrofitted as a ramp so that a safe and convenient barrier-free access can be provided for elders and wheelchair users in the district to facilitate their access to several buildings in Tai Hing Estate such as Hing Cheung House, Hing Shing House and Hing Tai House, as well as the only shopping centre in Tai Hing Estate. But the MTRCL has flatly refused our demand on the ground that a ramp has already been provided in Tai Hing (North) Stop.

Secretary, there are many other complaints against the MTRCL in the district. Let me give you another example. For many years, several large electricity boxes for the operation of Light Rail have been placed on the pedestrian walkway beside Melody Garden Stop. The walkway which is originally three or four metres wide has now become a 1.5 metres wide. The Secretary can see from the picture which I am holding that the walkway is no more than 1.5 metres wide. The walkway leads to some important facilities, that is, three bus stations. Residents of the nearby housing estates (including Melody Garden and Butterfly Estate) who commute by bus must walk pass this 1.5 metres wide walkway every day. Sometimes, if too many people wait at the bus stops, the queue will occupy the road space of the walkway. Hence, even ordinary people find it difficult to pass through, let alone wheelchair users. Much inconvenience is created and minor scuffles do occur. There are even some unfortunate cases of indecent assault where female victims were suddenly groped by men coming from the opposite direction. Wheelchair users can hardly pass through the walkway, not to mention waiting for buses at the bus stations. How can we tolerate such a situation? I have raised the matter at both the local District Council and Area Committee many times, but to no avail. The 1.5 metres wide walkway has contravened the design requirement set by the Highways Department. How come the width of a walkway is only 1.5 metres? Please bear in mind that there are several bus stops at that location. I hope these examples are more than enough to illustrate the problem. The area is inhabited

by some 30 000 residents, and access to the important facility of bus station is obstructed and the authorities including the Transport Department and the MTRCL have turned a blind eye to this ongoing problem. We are extremely dissatisfied and hope that the Government will take follow-up actions expeditiously.

Another reason for the slow progress made by government departments in handling issues of barrier-free access is that it is difficult to reconcile the different needs of local residents and persons with disabilities. An example can be found in Tin Chak Estate, Tin Shui Wai. As Tin Shui Wai is a new development district, architectural designs of buildings and facilities in the district have generally complied with the requirements of the design manuals, such as the provision of ramps with safe gradient. However, there are still barriers for elderly residents in terms of overall planning of the community. Many elders live in singleton units of Tin Chak Estate. If they want to go to Light Rail Tin Yat Stop, they must walk across Tin Shui Road via a flyover. As the whole journey takes more than 20 minutes, it has created many grievances. Since 2003, persons in the community have been demanding the provision of a zebra crossing in Tin Shui Road. But drivers in the area complain about the additional travel time created by this signalized crossing. All in all, discussions about the provision of a zebra crossing have gone on for some six to seven years until the demand was finally met in 2009. At present, elderly residents in Tin Shui Estate can travel to the Light Rail stop in three minutes. Although the demand was finally met, the difficult process throughout the years has created many grievances in society.

President, barrier-free access and facilities are provided not only for persons born with disabilities or the old and feeble. Each and every one of us may have to make use of these facilities some day. Many disabled persons are not born with disabilities. Each one of us will grow old and weak, say with mobility, visual and hearing impairments. This is the law of nature. If today we agree to create a better living environment for elders and persons with disabilities by providing more ramps and zebra crossings in the community and giving them more time to cross the road, I am sure that in future, we ourselves as well as the elders in our families will benefit. Moreover, we can all live a more relaxed and happy life under an embracing and understanding community because there is less grievances and tensions.

To solicit the support of persons without disabilities to create a barrier-free environment in the community, we must step up civic education. As pointed out in the EOC's report, public education is an important part of social change. Conflicts can only be minimized through enhanced civic education to promote the public's awareness on the needs of persons with disabilities and concepts such as equality. This is a very important message for us all.

I so submit. Thank you, President.

**MS MIRIAM LAU** (in Cantonese): President, although the Government has always publicized the message of "Let's Build a Barrier Free City Together", it is merely empty talk because so little has been done by the Government to remove barriers in our society.

President, my mother lives abroad. In recent years, her mobility has been impaired due to health reasons and she is confined to a wheelchair. I always hope she can come back to Hong Kong to visit me as well as friends and relatives. For this reason, my two sisters made a special trip to Hong Kong to assess the situation. Upon their return, a family meeting was convened to discuss the matter. My two sisters strongly opposed my mother's coming to Hong Kong primarily because the barrier-free facilities here were far from satisfactory. They considered that even if my mother came back to Hong Kong, the inconvenience and difficulties of moving around in a wheelchair would make her very unhappy. Hence, they opposed my mother's coming to Hong Kong. That matter was thus decided.

When the Equal Opportunities Commission (EOC) released its Investigation Report on accessibility in June last year, it has directly criticized the authorities as "having policies but no monitoring". The EOC has also pointed out the four vices of the authorities, that is, non-compliance with designs standards, no improvement works timetable, no communication among departments and no central co-ordination. In this regard, the EOC has made 23 recommendations, which include setting up a co-ordination mechanism headed by the Chief Secretary for Administration and urging the relevant departments to take the lead in resolving the existing problems.

In response to these recommendations, the Government has pledged in December last year to undertake retrofitting works for 3 692 items of government facilities. Of these items, 3 306 will be completed by mid-2012 and the remaining 386 by mid-2014. The Liberal Party welcomes the authorities' decision to finally make these improvements according to a timetable. Upon receiving the news, my heart was filled with the hope that my mother could make a trip back to Hong Kong to visit me as well as her friends and relatives by 2012 or 2014 the earliest, when these works were completed. However, on second thoughts, I should not be too optimistic.

Upon close inspection of the list of works, I note that many of the facilities which require retrofitting urgently are managed by the Leisure and Cultural Services Department (LCSD) (1 200 items), the Transport Department (TD) (999 items) and the Food and Environmental Hygiene Department (720 items). The facilities in question are used by the public on a daily basis.

Take for example the LCSD which tops the list. As one third of the retrofitting works are related to government facilities managed by the department, the seriousness of its non-compliance is blatantly clear. The LCSD manages various sports and cultural facilities including libraries, sports grounds and museums which are used by many members of the public. But when the EOC conducted investigation on seven randomly-selected facilities managed by the LCSD, it turned out that none of these facilities met the requirements stipulated under the Design Manual: Barrier Free Access 1997. The situation is totally unacceptable because the Design Manual has actually been updated by the Government in 2008 and yet, those facilities cannot even meet the old standards stipulated in 1997.

Regarding the TD which ranks second in terms of non-compliance, the retrofitting works under its purview also amount to some 25% of the total number of works required. Facilities managed by the TD include public transport interchanges which are pivotal to the use of public transport by persons with disabilities. According to the EOC's findings, boarding areas for wheelchair users are not provided at all bus stops. Moreover, even when boarding space is available, this is sometimes blocked or not properly designed so that the boarding ramp of buses cannot be lowered to the right position to allow wheelchair users getting on or off the bus.

Owing to these design deficiencies, many barrier-free facilities cannot be put to proper use, much to the disappointment of persons with disabilities. We hope that the Government can really rectify the situation as pledged so as to facilitate the use of such public facilities by persons with disabilities.

Unfortunately, the Government has always been good at paying lip service only. It always fails to deliver its promises to the people. For example, when bidding to host the Asian Games in 2000, the Government had pledged publicly that the construction of sports facilities, such as the cycling tracks in the Kwai Chung Sports Ground, would go ahead even if the bid failed. But to date, these facilities have yet to materialize. In that case, how can we have confidence? Hence, I should perhaps not have too high hopes of my mother coming back to Hong Kong in 2012 or 2014, although I really hope I am wrong. I honestly hope that my mother can come back to Hong Kong because this is her wish, but the reality is that the facilities in Hong Kong do not allow her to do so. If she comes back, she will certainly feel miserable because it is so difficult to move around.

As this is an issue of grave public concern, I would really feel extremely disappointed if the Government fails to deliver its promise again. The Liberal Party considers that in order to demonstrate to the public its determination to make improvements, the Government should submit periodic progress reports to the Legislative Council so that the public can monitor the implementation of the retrofitting works more closely.

Separately, we notice that the authorities have not taken on board the EOC's recommendation that the Chief Secretary for Administration should lead a co-ordinating body on work initiatives relating to barrier-free access. Instead, the responsibility is entrusted to the Secretary for Labour and Welfare. This arrangement alone is enough to undermine our confidence in the Government's determination and commitment in resolving the problems. The rationale behind the EOC's recommendation is that if headed by a more senior ranking official, the co-ordinating body will have greater say in ensuring co-ordination amongst various major departments. Can the same be achieved under the present arrangement? I dare not say the Secretary cannot do so, but I wish him luck. I hope he is "persuasive" enough to make other departments hand over a list of all non-compliant facilities under their purview. Otherwise, upon completion of the 3 000-odd items of works in future, the Government may suddenly find that many black spots have been overlooked previously.

Moreover, the Secretary should also closely monitor the progress and quality of the retrofitting works so that they will not become some window-dressing or decorative improvements. The least we want to see is that public resources are being misused and wasted.

We further note that in addition to government departments, the EOC has also criticized The Link Management Limited (The Link) for inadequate barrier-free access and facilities in shopping centres under its management. Initially, The Link has responded to these criticisms half-heartedly by hiding behind a myriad of excuses, such as by saying that consideration will be given to resolving the problems when future renovation works are undertaken as and when scheduled. In other words, the problems will remain indefinitely. No wonder that the EOC Chairperson has lashed out against The Link's bad attitude and even threatened to issue enforcement notices to order improvements from The Link.

Fortunately, The Link finally came around. Last Wednesday, it pledged to allocate \$200 million on the improvement of improve barrier-free access and facilities in the coming five years. We hope The Link can make good its promise and ensure early completion of the projects. In undertaking the projects, The Link should make reference to the EOC's recommendation that prior consultation be held with stakeholders so that the improvements sought are in tandem with their needs.

It is our hope that both the Government and The Link can set good examples in terms of meeting the requirements for providing barrier-free access and facilities. Otherwise, how can we expect other private sector organizations to follow suit? The Government, in particular, should never contravene the laws knowingly. It should not "permit officials to burn down houses while forbid the common masses to light lamps". Otherwise, how can we have harmony in society? And how can we uphold the rule of law?

President, I so submit.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, I was filled with emotions when I heard Ms Miriam LAU talking about her mother. Nonetheless, Ms LAU's mother does not need to stay in Hong Kong and she can choose to live abroad where the government or the community takes good care of persons with

disabilities. Unfortunately, many elders in Hong Kong do not have such a chance.

What about our Government? This Government has absolutely no sense of responsibility, and Donald TSANG is particularly so. He seems to know everything and good at everything. This Government is really weird. There is an English idiom which says, "Jack of all trades, master of none." We also have a comparable, though somewhat vulgar, saying in Chinese to describe such a person who seemingly knows everything: "A glaive in a latrine" — you can neither smell it (the word "smell" sounds the same as "literature" in Cantonese) nor brandish it (the word "brandish" sounds the same as "martial arts" in Cantonese). He is precisely that kind of person — master of none. President, I will now give an account of his irresponsible acts one by one.

Today, the Government has announced its decision to refuse WANG Dan's entry into Hong Kong. At a previous Council meeting presided by the President, I left the Chamber after I threw something at the Chief Executive. I did not know if I had scared the brains out of him. He responded by saying that he did not have the power over the matter, but he would make sure that the Secretary for Security or the Director of Immigration would handle each case in an impartial manner. Having so much leisure time, I read through section 51 of Chapter 115 of the Laws of Hong Kong (that is, the Immigration Ordinance) over a cup of tea. I am giving an example of how irresponsible the Government is. Under section 51(1) of the Immigration Ordinance, it is stipulated that, "The Governor may give such directions as he thinks fit (either generally or in any particular case) with respect to the exercise or performance by any public officer, not being a judge, a district judge or a magistrate, of any powers, functions or duties under this Ordinance." In other words, no matter it is something general or specific, he has the final say. That is it.

Section 51(2) is related to his subordinates (that is, Ambrose LEE and others). It is stipulated under this provision that, "Any public officer shall, in the exercise or performance of any powers, functions or duties under this Ordinance, comply with any directions given by the Governor under subsection (1)." In other words, under subsection (1), Donald TSANG has the full powers to make a decision and nobody can dismiss his decision.

**PRESIDENT** (in Cantonese): Mr LEUNG, what is the relationship between what you are saying now and the report of the Equal Opportunities Commission?

**MR LEUNG KWOK-HUNG** (in Cantonese): During the Question and Answer Session, the Chief Executive talked about doing things under the principle of equal opportunities. Actually, he might have no knowledge about this or it might just be an inadvertent mistake. He might have no knowledge about this particular provision under the Laws of Hong Kong and hence, he made the false declaration that he had no power to make a decision. In fact, he has such powers and he lied to us. During the Question and Answer Session, he told us that under the laws, he did not have any executive powers and hence, he would direct his subordinates to handle the matter under an equitable principle. Was that not a false declaration? That false declaration and the Equal Opportunities Commission (EOC) which we are discussing today ..... He also made another false declaration ..... He said that Hong Kong was an international metropolis and he would never allow our community to lag behind international standards. In other words, it is feasible to install barrier-free access and facilities for persons with disabilities in Hong Kong. I am only giving an example or drawing an analogy here. Although the analogy may not be entirely apt, I should be allowed to do so.

We all witnessed that two weeks ago, the Chief Executive made a false declaration in this Chamber. Do you think this is something terrible? The Chief Executive has actually made a false declaration in this Legislative Council which is tasked to monitor his performance. In that case, how am I supposed to know whether the Chief Executive will make false declarations elsewhere?

**PRESIDENT** (in Cantonese): Please speak in relation to the report.

**MR LEUNG KWOK-HUNG** (in Cantonese): Yes. WANG Dan cannot come to Hong Kong and Donald TSANG must take the blame. WANG Guangya was talking nonsense when he said he was not concerned about the matter. Of course, he was concerned. Hence, two lies have decided the fate of WANG Dan. Anyway, President, if you said I should speak on the subject matter, I will do so because I have great respect for you.

As the Chief Executive had made a false declaration, albeit out of his ignorance or incompetence, he should be monitored by the EOC. According to international practice, a government vested with public powers should be checked and monitored by another entity with public powers. The EOC is chaired by LAM Woon-kwong, an official of the former Government. During TUNG Chee-hwa's term as Chief Executive, LAM has worked as the Director of the Chief Executive's Office. After leaving the Government, he has also worked for the Equestrian Company. LAM Woon-kwong is not doing so badly. After leaving the Government, he has become eminent by directing fair criticisms against the Government time and again. In response, the Government has admitted its mistakes. I am not sure if the Government has made another false declaration by saying that more than 3 000 items of works will be undertaken.

Regarding this question, the Government has acted in a confused manner in the past. First, the Government has, on behalf of the people of Hong Kong, divested both the management and ownership rights of certain premises to private sector companies or organizations that are not monitored by the Legislative Council or the public (such as The Link REIT). President, you should know all about it. Unprecedentedly, the Government had embarked on the world's largest divestment project which involved properties, shop spaces and car parks under the Housing Authority ..... and celebrated this in this Chamber ..... LEUNG Chin-man once said he had done something good by undertaking the world's largest privatization project to divest ownership of the Housing Authority's retail and carparking facilities to The Link REIT. It is the same story with MTR Corporation Limited (MTRCL) which has come under the most criticisms from Members just now. In the 1970s, the MTRCL had obtained loans from the Asian Development Bank with guarantee provided by the Hong Kong Government for the construction of railway projects in Hong Kong under the slogan of "MTR — A Railway For You".

The Government has not only funded the MTRCL for its railway projects, it has also "fed" the consortia with land sites in the vicinity of railway stations. The Government has likewise privatized the MTRCL and relinquished the management rights of these premises. It even felt complacent about it. Buddy, now the Government is saying that it has no control over the MTRCL. Is the Government schizophrenic or what? After the Government has castrated itself, it now claims that it is impotent. How can a government act like this? What kind of person will castrate himself, emasculate himself and claims that he is

impotent? He is apathetic. A eunuch who chose to castrate himself was invariably forced by circumstances. Like WEI Zhongxian, the infamous eunuch of the Ming Dynasty, he did so to run away from gambling debts. After Donald TSANG castrated himself, he said that he was impotent, he was apathetic. This is something I cannot understand at all.

Let us take a look at what Donald TSANG has done. I must give him a good scolding for what he has done to WANG Dan. The Chief Executive is a Catholic and Brother Yuk-man sitting beside me is a Christian. Both Catholicism and Christianity preach about mercy and hence, there were feats like feeding thousands of people with five loaves of bread and two fish, making the lame walk and healing the lepers. But these were, with due respect to Catholics and Christians, all make-believe. The writers of the *Bible* or even Jesus himself wished for these things to happen. In other words, if you have neither fish nor bread to eat and I have only two fish, I will cast some spell and see what happens. If no miracle happens, there is nothing I can do. If you are lame, I will make you walk through telekinesis. Armed with such hefty reserves, the Government has plans to bid for hosting the Asian Games and develop the West Kowloon Cultural District, yet they all fail miserably. Notwithstanding the massive capital under the Government's control, it fails to follow the teachings in the *Bible* and show compassion for people most in need of mercy or for those who cannot walk. What kind of government is that? As Jesus said in the *Bible*, he came "not to be served, but to serve". Is the Government responsible for governing the people? No, it should be serving the people. As the saying goes, "Not to do to others as you would not wish done to yourself". If you do not wish to see your own parents being denied access to a flyover, you should first take care of the parents of other people facing the same predicament. This is the meaning of "caring for my own aged parents and extend the same care to the aged parents of others". This is about a person's moral conscience. In the old days, the literati would be the first to show concern and the last to enjoy oneself. What kind of person Donald TSANG is? This is how things work in this Council. Whenever the Government presents us with funding requests, the Legislative Council gives approval as a matter of routine. But when we ask the Government to allocate resources to help the poor and needy, we cannot get what we want. So what can we do? How can there be changes without struggles?

What is the crux of the problem in my opinion? Matthew CHEUNG has already taken up too many duties. He is responsible for handling the aftermath

of fatal accidents or tragedies, inadequate supply of places in residential care homes for the elderly, minimum wage, and so on and so forth. He is taking responsibility for everything. As for Henry TANG, he is just idling. All he does is making flippant remarks about others "ending up in a fatal car crash" or minding the Community Care Fund. Secretary Matthew CHEUNG, your back almost breaks with all the work and you have to shoulder yet another responsibility. How come he acts like this? This is a typical case of "the front-line troops being tense while the backup troops only dance". Henry TANG is just like a playboy mingling among the rich and powerful while drinking and talking about wine. He makes you do everything. I scolded you with the unparliamentary term of "XY street" because you failed in providing residential care homes for the elderly. Now, you must take on another mission impossible. What kind of government is this?

The question is really quite simple. If you honestly want to do something, you can certainly do it, right? As the English proverb goes, "Where there's a will, there's a way." Do you want to follow TUNG Chee-hwa's footsteps by spending \$100 million on some window-dressing projects after the SARS pandemic, like inviting some lack-lustre rock 'n roll band to perform in Hong Kong, no matter how much they asked for? The Government had done it with the \$100 million price tag. You want to celebrate prosperity with singing and dancing, "burning money" or playing fireworks; you have done it. I do not want to ask for the reasons. The reasons are that you are apathetic to persons with disabilities, persons whom we should show mercy.

Secretary, please look at me. You are the one who has signed the military order and you will be the one to be banished, not Chief Secretary Henry TANG. Knowing that the punishment was banishment, Chief Secretary Henry TANG said to you, "Matthew, we are equals. Please take my place." Although the military order is intended for him, he wants to stay intact for the upcoming election of the Chief Executive. That is the harsh reality of black box operations under a political system without universal suffrage. He will avoid smudges at all cost and send others to do the dirty work. After you walk through the mud pit, he will beckon you with a friendly gesture and say, "Matthew, come over here. You got smudges on you." That is the harsh reality. Moreover, all the retrofitting works will be completed more or less by 2012. Do you know why? This is because by then, nobody will be around to pay the bill. By then, Donald TSANG will become a harmless statue when he assumes the office of Vice

Chairman of the Chinese People's Political Consultative Conference (CPPCC). By then, he will be hailed high and nobody dares criticize him. Honestly, once he becomes the Vice Chairman, nobody dares criticize him. Even the President of the Legislative Council dares not criticize the Vice Chairman of CPPCC because he is a CPPCC member himself. That is the harsh reality of bureaucracy and corruption.

President, out of respect for you, I will not use up my speaking time today. But, President, I must tell you that no matter how much you want to protect this rotten government, it will be in vain. The Chief Executive was lucky that my throw had missed. Next time, I will still throw things at him. Let me make myself clear again, "I, being the paddler, have no fear of getting wet." I dare play, I dare do it and I dare defy this Government. Unless this Government makes improvements and mends its way, I will follow Jesus in crashing the temple or XUE Gang<sup>1</sup> in crashing the imperial ancestral temple.

**MR WONG YUK-MAN** (in Cantonese): President, my speech today is entitled "The brain-damaged Government: the greatest barrier to a barrier free environment". You also have the script of my speech at hand. However, I may not read it out word by word. I will make good use of these 15 minutes.

Some two thousand years ago, Confucius told us that one of the criteria of a desirable society was that "widowers, widows, orphans, the disabled and the sick were all sufficiently maintained." A widower is a man whose wife has died; a widow is a woman whose husband has died; an orphan is a child who has lost his or her parents; the disabled and the sick are persons with disabilities we are referring to today. This is the kind of society, the so-called a World of Great Harmony that Confucius aspired for more than two thousand years ago. This is only one of the criteria. Other features have not yet been mentioned, such as ensuring a peaceful life for the elders in their twilight years, the employment of the adults and the growth in body and mind of children. After 2 000 years or so, there is the United Nations Convention on the Rights of People with Disabilities. It is stated unequivocally in Article 1 of the Convention that, "The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment

---

<sup>1</sup> XUE Gang was the grandson of XUE Rengui, a famous general in the early Tang Dynasty. When being arrested for drunkenness and assault, XUE Gang got angry and destroyed the imperial ancestral temple.

of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity." Our mother country has also signed this Convention, am I right? Should we comply with it then?

President, though the investigation report of the Equal Opportunities Commission (EOC) may not be exhaustive in stating all the plights faced by persons with disabilities, the survey conducted on the barrier-free facilities of publicly accessible premises is detailed and comprehensive, and various practical recommendations have been proposed. It has brought to light that the SAR Government has been unkind, unjust and mean to persons with disabilities. We should not be contended with the point-to-point responses made by the Government to the report, this is because the Government is duty-bound to take the recommended actions and it cannot shirk its responsibilities.

Despite continuous social progress and economic prosperity in Hong Kong, persons with disabilities have not been benefitted. Not only have they not been benefitted, they are being discriminated and marginalized. Hong Kong is dubbed an open and civilized society. However, when you read this investigation report on the so-called barrier-free access and facilities, you will realize how ridiculous our society is. For many years, many persons with disabilities or concerned groups have made strenuous and all-out effort to fight for their rights. However, all they can get are some petty favours or some minor and insignificant improvements, and they are still living in a dire predicament. Mr LEUNG Yiu-chung has been stating the same views for many years at various motion debates, but the Government just turns a deaf ear to his requests.

It is obvious that the Government has failed to adopt a holistic approach in formulating the so-called barrier-free access policies, for it has only implemented stopgap and piecemeal measures. The Government has not adopted a proactive and holistic approach to protect the dignity of persons with disabilities, nor has it promoted society to accord them due respect. Sometimes, the slogans put forth by the Government make us angry. It promotes the integration of the able-bodied and persons with disabilities, the creation of barrier-free environment with joint effort, and then it enacts legislation to regulate the trade. However, the Government is strict with others and lenient with itself. This is the practice of Government. All publicly accessible premises and facilities under the Government are granted exemption under the Buildings Ordinance, and the Ordinance does not have retrospective effect. Sometimes, the Government just

gives a casual remark that "though it is willing, it can do nothing, for the mistake done can hardly be rectified" and then the problem is put aside. For this reason, the Government is called the brain-damaged Government, which means it is handicapped. The problem-fraught social policies and the fossilized bureaucratic system of this brain-damaged Government are the biggest barriers to the barrier-free environment at present. Persons with disabilities cannot lead a barrier-free life because this brain-damaged Government is putting up the barriers. It is the main culprit.

The EOC has put forth 23 recommendations in its investigation report. Among the recommendations, paragraph 1(d) of the first recommendation is most worthy of attention by the Government. Since provisions under the existing Buildings Ordinance are not applicable to buildings belonging to the Government or buildings upon any land that is vested in the Housing Authority, and that the Ordinance and its regulations have no retrospective effect, it is difficult for the Government to enforce standards under the Design Manual to old private buildings or government buildings. Hence, the EOC proposes that the Ordinance be amended to repeal provisions granting exemptions to the Government, and to include the express provision on the exact measurements, size and dimensions of a "dignified access" in legislation, regulations, design manuals and guidelines relating to accessibility.

However, the Government has not responded directly to the removal of the exemption under the Ordinance. It turns down the proposal on the excuse that the Disability Discrimination Ordinance (DDO) stipulates that a public authority shall not approve building plans without the provision of reasonable access for persons with disabilities, unless the organizations of the project concerned raise the concern of "unjustifiable hardship". The Architectural Services Department and the Housing Department have put in place internal administrative control and assessment mechanism to ensure that all newly completed buildings under the departments comply with the statutory requirements. However, since the DDO does not state unequivocally the specific requirements, such as the size of the access, it is less effective in comparison with the Design Manual. Besides, there may be numerous kinds of unjustifiable hardship, such as the amount of capital fund involved and the use of government land. The Link REIT is a typical example. It has used the so-called "unjustifiable hardship" as an excuse to shirk its responsibility. However, the Government had approved The Link REIT to go listing, and certain Honourable colleagues had also endorsed the act. Things

have now ended up in a mess. All small traders have been ousted, and we have to bear higher commodity prices and rental. Furthermore, the DDO is favourable to The Link REIT. Despite the requirements laid down in the existing Design Manual, the DDO states that the authorities only need to "make reference to" but not "comply with" those requirements. May I ask whether the phrase "make reference to" carries any binding effect?

Since the Buildings Ordinance has no retrospective effect, the Government can only regulate newly completed buildings or buildings that have undergone large scale renovation. Old buildings or buildings in use are not subject to the regulation of providing barrier-free facilities. Hence, persons with disabilities will encounter inconvenience when they visit those places. However, the Government simply does not care.

It is evident that private organizations may not necessarily be subject to the more stringent requirements in the Design Manual, yet the Government insists to comply with the lower requirements laid down in the DDO, and pays no heed to the issue on "retrospective effect". Secretary, I really do not know the reason for this.

The Chairperson of the EOC, LAM Woon-Kwong, and certain people attending the special meeting of the Panel on Welfare Services held last Saturday raised criticisms repeatedly. As many complaints and retrofitting works involve a number of government departments and even private organizations, the departments concerned try to shift the responsibilities to others, and fail to act proactively. There is also a lack of co-ordination among various departments. Moreover, the Government has not set up any mechanism to enable persons with disabilities to participate in the design of barrier-free facilities and facilitate them to lodge complaints. As a result, many works projects are subject to undue delay, and cannot be completed even after 10-odd years. According to some organizations, they have been striving for certain arrangements for 30 years, and the belated response only comes today. In reviewing the performance of the Government in the past, we are absolutely not optimistic that the responses made by the Government on this investigation report will rectify the wrongdoings in the past.

Secretary, no matter what you say later, I tell you, I will only regard your words as nonsense. Certainly, you are not the only official talking nonsense.

The question I asked today about places in residential care homes for the elderly is a case in point. I asked you how many elderly people died while waiting for places, and you just kept on talking, after telling us the number of elders died, you kept on providing irrelevant information. My question is short, just taking up half a page, but buddy, you used three and a half pages in giving a reply. I notice that government officials incline to adopt this approach now. Hence, President, you have to be smarter and do not allow them to do so. We spend two to three minutes asking the question, but government officials spend 10 minutes giving their answers. Since the time allowed for each question is only 21 minutes, government officials can be off duty after giving such a reply. President, I hope you will control the time for .....

**PRESIDENT** (in Cantonese): Mr WONG, please speak on the subject.

**MR WONG YUK-MAN** (in Cantonese): ..... President, this feeling just come to me and I would like to express it. We can hardly get a 15-minute time slot like this time, and still we are restricted to speak on this subject. As for other subject, we can only speak for seven minutes. Every word we speak is enlightening, unlike the nonsense he speaks, am I right .....

**PRESIDENT** (in Cantonese): Please treasure the 15-minute speaking time.

**MR WONG YUK-MAN** (in Cantonese): President, I just explain this to you, OK? Since you like to criticize me so much, let me refute you. I seldom refute you, do I? I hope you can be smarter, not to allow these government officials to speak loads of nonsense. This is what I mean. I do not know from where I should continue now.

Moreover, the Government has been unsympathetic in approving subsidies for persons with disabilities, and this practice is often subject to criticism. Under the existing Disability Allowance Scheme, the allowance is not granted to compensate for the lost of the recipient; it is not granted to provide subsidy to the recipient in accordance with his financial status. Instead, the allowance is

granted on the basis of the medical assessment, and getting this allowance is next to impossible. Take the case of a man losing one leg as an example. Since it is stipulated in the relevant Ordinance that only a person losing two of the four limbs will be defined as severely disabled, the man in the case is not eligible for Disability Allowance and he cannot apply for fare concessions for persons with disabilities provided by the MTR Corporation Limited. As for the cases of certain elders suffering from various illnesses and have difficulties in getting out from their beds, the Social Welfare Department denies their eligibility for allowance on the basis of the assessment that they still have 50% capability. I wonder what will happen to me when I grow old. There are elders suffering from deafness being disqualified for the allowance because they use hearing aid. President, in the past five years, among the appeal cases on the medical assessments on Disability Allowance handled by the Board, 30% of the cases were overruled. This figure speaks volume that the Government has been imprudent and unkind. It is evident that the policies of the Government are fossilized, and it despises, but not merely discriminates against, persons with disabilities.

Persons with disabilities have encountered various difficulties in accessing to buildings and using the facilities therein, but before that, they have to rack their brains figuring how they can get to the destination from their home. In deciding whether they will go out, they have to consider the accessibility of the entire route. Buddy, under the present circumstance, if they have to seek consultation at a clinic, can they choose not to go not. What is the significance of "arriving at the destination" to persons with disabilities? It is ludicrous. The supporting facilities provided by government departments and transport operators are simply not thoughtful; this is tantamount to torturing persons with disabilities.

It is pointed out in the investigation report that many facilities of the Government are not properly maintained and repaired because of the lack of awareness of staff. Their attitude of service is poor. Some persons with disabilities are not only treated with disdain but also be denied of service. It is also a very common problem that wheelchairs cannot be pushed uphill. The barrier-free facilities and services provided by other means of transport and by private organizations are undesirable. For instance, platform screen doors are not installed along the East Rail extension of the MTR and lifts are not provided at many stations. What can persons with disabilities do? Even the access to the special school for persons with disabilities is not barrier free. Some buses

are still not equipped with low-floor facilities and each bus can only carry one wheelchair-bound passenger at a time. Members should look at the case in Guangzhou. The authorities have recently introduced 100 barrier-free taxis. Secretary, what is the situation in Hong Kong? In Hong Kong, the Hospital Authority and The Link REIT — The Link REIT is the most "bu gai"<sup>2</sup> (in Putonghua) — given the services they provided, they are more likely to come into contact with persons with disabilities, but both the barrier-free facilities and the number of non-emergency ambulance are inadequate. How far will this hinder persons with disabilities from arriving at their destination? Buddy, you surely do not have any problem getting to your destination, for you have your own driver and your own car, which are paid by us. Am I right? However, should you not be considerate to the situation of others? Does it mean that persons with disabilities are no human beings and only senior officials are? Some people suggested that senior officials should act as if they have lost one leg or that they cannot see. I have almost lost the sight of one eye. You should try to walk as if you were blind. Surely, you will stumble and get hurt.

Persons with disabilities are mostly the grassroots. In what way can the allowance help them? They can hardly make ends meet in their daily lives. They need the support of medical products at home, such as the new model breathing machine with higher mobility and electric wheelchairs. These products are expensive and they cannot afford. The Government is holding a reserve of more than a thousand billion dollars, yet it only looks for grandiose work, say the construction of the West Rail and the Express Rail Link, and the bid for hosting the Asian Games, and so on, which often cost billions to tens of billions. But when it comes to persons with disabilities, it acts like a skinflint. The majority of the policies for alleviating poverty are only one-off measure of "handing out candies" similar to the Community Care Fund. The Government simply fails to make long-term commitment. At events organized for the promotion of an inclusive society, government officials simply attend the ribbon-cutting ceremonies and have some casual exchanges. It is just a laughing stock. Regarding the assessment mechanism for minimum wage, I have long since convened a number of meetings for government officials to meet with concern groups of persons with disabilities. But the issue is still left in a mess?

---

<sup>2</sup> "bu gai" in Putonghua means should not. The two words also sound similar to the Cantonese smear word which means "stumbling to death in the street".

At this point, when I think of the performance of this Government, I aware that my 15-minute speech of rebuke is nothing but a waste of effort and a waste of words. Yet, it gives me great pleasure. Thank you, President.

**MR ALAN LEONG** (in Cantonese): President, the Civic Party welcomes the Formal Investigation Report on Accessibility in Publicly Accessible Premises (EOC Report) released by the Equal Opportunities Commission (EOC) and the 23 recommendations proposed. In the report, the EOC has pointed out many areas pending improvement in buildings under the Government and The Link REIT. We notice that many estates and markets built after the issue of the Design Manual 1997, and even a health centre completed in 2002, are not in full compliance with the Design Manual. The Government has responded very promptly to the EOC Report. Basically, it has undertaken to improve more than 3 000 facilities before the term of office of the current Government ends next year, and even if some of the works cannot be finished by 30 June, the target completion date of these works is set at 2016.

Certainly, the Civic Party welcomes the proactive responses of the Government. However, if we look at the issue closely, we will notice that these responses can at most be regarded as remedial measures that simply lack foresight. It is noted that the Government is only offering stopgap and piecemeal measures. This mindset is quite different with the one considering long-term needs. Hong Kong rightly needs the mindset with a long-term vision.

Many colleagues have pointed out the problems identified at district level earlier. All these problems are originated from one consideration. At present, owners or operators of certain facilities seem to have some preconditions in mind when they are asked to provide universal access. What are these preconditions? They will first calculate the expenditures involved, and if the cost is not too high and the work involved is not too troublesome, they may be willing to make an effort to do so. However, if we want to change their mindset completely, we must get started with education. In this way, persons with or without disabilities, wheelchair users or non wheelchair users can enjoy the same degree of accessibility in using certain facilities or in accessing to certain premises, buildings and offices.

Regarding the two preconditions mentioned by me earlier, examples can be found in my constituency. One of the cases is at Exit A of the MTR Station in Lam Tin district, residents are very familiar with this and they have been striving for improvement for years. Exit A of the Lam Tin MTR Station is an essential exit for residents of Kai Tin Estate, Tak Tin Estate and Ping Tin Estate, for it is very close to their residence. However, for the wheelchair-bound or persons with disabilities, they will sigh at the sight of three escalators when they arrive at Exit A. Passengers must take the three long escalators to reach the ground level of Exit A from the platform level. We have followed up the issue with the MTR Corporation Limited (MTRCL) in the past. The MTRCL said that at Exit D of Lam Tin Station, which is located at the opposite direction of Exit A, a lift and some wheelchair lifts are provided. However, there is a major problem. If passengers use Exit D to go to Tak Tin Estate, Kai Tin Estate or Ping Tin Estate, they have to pass through a private housing estate, and after passing through the private estate, they have to go up a rather steep ramp. Nonetheless, the MTRCL says that among the four exits, namely Exit A, B, C and D, access for the wheelchair-bound and lift services are at least provided at Exit D for persons with disabilities. If an additional lift has to be installed at Exit A, the cost will be very expensive. It has to submit plan and demolish some existing escalators, and then construct the lift tower. We surely know that it is difficult. However, it is not a matter of impracticability but a matter of reluctance.

Earlier, I said that the responses of the Government to the EOC Report could at most be regarded as remedial in nature without any foresight. This is what I mean. The Government simply does not recognize the need to tackle the problem at root by changing the mindset of certain operators and buildings owners. In their views, the provision of facilities should not cause them too much trouble and the cost involved should not be out of proportion — the cost in proportion is naturally decided by the operator. They think that they should not be required to spend a lot of money to create an environment providing universal access to persons with disabilities.

Another example is in Lok Fu. After the \$300 million or so renovation works, the shopping centre in Lok Fu is now very beautiful. However, in this shopping centre managed by The Link REIT, many doors are manual doors but not automatic glass doors with sensor. Just imagine, how can a wheelchair-bound person with disabilities pull open the door to enter into the shopping centre? We have had a meeting with The Link REIT to discuss the

issue. The Link REIT says that automatic glass doors driven by electronic sensors cannot stand against strong wind, and since those doors are installed at locations with strong wind, they fear that automatic doors driven by electronic sensors may not stand the wind and thus pose a danger.

I am no expert in glass door. However, I notice that many shopping centres have installed such electronic-sensor automatic doors at locations with strong wind. Take the case in my constituency as an example, this type of sliding doors are installed at Sau Mou Ping Shopping Centre. I am puzzled why The Link REIT will have the precondition in their mindset that they should not be bothered frequently, and that they should not be required to put in unproportional resources to provide universal accessibility for persons with disabilities. Hence, if the Government wants to do more than just offering remedies and introduces measures with foresight, it should make an effort to address this issue.

The EOC Report states the concern about the buildings under the Government and The Link REIT, and the need for the Government to step up its effort in monitoring and making improvement in private buildings. It is considered that a more effective option is to change the attitude and culture of the public. This remark from the EOC matches perfectly with the problem I brought up earlier basing on my observation. We must change the attitude and culture of the general public in order to address this problem with an approach with foresight. Otherwise, five years later, when the EOC conducts another study, its report will again identify 2 000 accesses not in compliance with the universal accessibility policy, and the Government will have to take remedial measures again. In that case, it will keep making post-remedial measures every time, but always failing to act with foresight to prevent the occurrence of such incidents.

Last Saturday, the Panel on Welfare Services of this Council held a special hearing session. At the meeting, I was immensely struck by the remarks of a wheelchair-bound lady. She told us that she went to certain shopping centre one day — I forgot which shopping centre it was — and wanted to use the wheelchair lift. She then called the management office of the shopping centre to indicate her wish to use the wheelchair lift and stated her location. However, she got the following reply, "Are you using a manual wheelchair or an electrical one?" She told them she was using an electrical wheelchair. However, the management answered, "You cannot take the lift. Electrical wheelchair is too heavy, it

exceeds the loading capacity of our wheelchair lift." Eventually, she could not get any help and could not use the wheelchair lift.

This lady attending the hearing session told us that she was not convinced about that. She then went to check the wheelchair lift. She found that her body weight together with the weight of her electrical wheelchair did not measure up to half the load specified on the wheelchair lift. In other words, the management was just making up excuses. Certainly, we understand why the operator or the management company of this shopping centre would make up the many excuses to discourage this lady, for it is troublesome to start this wheelchair lift. They have to take the keys, and we do not know how far the management office is away from the location of the wheelchair lift. They have to start the lift and ask passers-by to give way in order to use the wheelchair lift. We are now facing these problems. The Government should not only focus on the 3 000-odd facilities identified by Chairperson LAM Woon-kwong, stating it will by all means completed all the works before the end of its term of office on 30 June 2012. It is inadequate.

Finally, I would like to state on behalf of the Civic Party that we have studied this report and the responses of the Government carefully. Actually, the EOC earnestly hopes that the Government will formulate an overall strategy addressing the needs of persons with disabilities. It hopes that a high-level central co-ordinating body, headed by the Chief Secretary for Administration, will be set up to develop policies and practices, so as to provide universal access to public spaces, buildings as well as services owned and operated by the Government and public bodies. Indeed, this statement requests the Government to form a set of policies.

This Council often learns about the issue on gender mainstreaming, what is it about? It means that the planning of statutory holidays, workplace facilities or the provision of paternity leave are considered from the perspective of women, and this is a policy direction. If this policy is set, many other issues will fall into place naturally.

However, in respect of the EOC Report, the Government has not responded to this point, which the Civic Party considers important and forward-looking. It has only introduced some stopgap measures in a piecemeal manner, and it is indeed glossing over the important issues and playing down the problems. Hong

Kong is regarded as a city full of barriers, which is a fact, and if a long-term commitment is to be made to provide a complete solution to this problem, we may have to consider formulating a direction on the "mainstreaming policy on perspective on persons with disabilities". Once this policy is put in place, in planning the development of new districts, be it the West Kowloon District or the Kai Tai Development Area, and in implementing, monitoring and assessing various laws, policies and plans, the Government will seek the views of person with disabilities at the initial stage.

President, you and I had participated in an event on barrier-free city orientation for 2011 last Sunday. I think many senior government officials should take part in that event, for it will help develop their sense of compassion. Finally, I would like to advise that the facilities we strive for today is not only for the benefit of persons with disabilities, but also for ourselves, for we will be in that circumstance 20 or 30 years later.

**MR ALBERT CHAN** (in Cantonese): President, Mr Alan LEONG just talked about our physical state 20 to 30 years later. However, I think he may be too optimistic. I believe we would have reached that state in eight to 10 years, President.

President, at the special meeting of the Panel on Welfare Services held last Saturday, many organizations had expressed their views on striving for barrier-free access. The Chairperson of the Equal Opportunities Commission (EOC), Mr LAM Woon-kwong, had given a rather touching commentary with foresight. He requested the authorities to adopt a post-episode perspective, reviewing the present situation in Hong Kong from the perspective of 20 years later. Twenty years later, more than a million people, including myself, will be more than 70 years of age, and this group of people will need to use barrier-free access — actually, I almost need such access now, for I have to limp when I climb stairs. Hence, Mr Alan LEONG is right to say that our fight for this benefit is not for others, for a majority of Members in this Chamber will also benefit.

President, the Government is now aware that some 3 000 projects at an estimated cost of \$1.4 billion have to be carried out. We believe that in the Budget soon to be announced, the Financial Secretary will state expressively the provision of \$1.4 billion, for the some 3 000 projects have to be completed by

2016 progressively. By then, the Government will trumpet what it has done for persons with disabilities and the efforts it has made for implementing these measures in this cosmopolitan city, Hong Kong. I believe the Secretary will definitely brag about these for the Government.

Actually, I think the some 3 000 projects are only the tip of an iceberg. Many people have mentioned that the physical handicapped or those who cannot use normal access will encounter difficulties in various areas in their daily lives. However, more often than not, the Government only adopts a stopgap approach in addressing these problems. When problems are identified in certain district, it will spend a lot of time on consultation and processing, and improvement is only made gradually. Over the years, I have spent a lot of time writing to the MTR Corporation Limited (MTRCL), the Housing Department, management companies and various departments to point out this problem. The most impressive case is related to the MTR Station at Lai King Estate. Part of the station is not provided with barrier-free access. The section linking the area of Yeung King House, On King House and Lok King House through the MTR Station to the Lai King community, where Lai King Restaurant and the market located, is not provided with barrier-free access. I have twice seen a wheelchair user — he is not completely impaired in mobility, but it takes him strenuous effort to move around and he is thus basically wheelchair bound. When he comes to the stairs, he has to get up from the wheelchair painstakingly and carry his wheelchair slowly down the two steps, and then get back onto his wheelchair. Anyone who notices his situation will give him a hand, and I have once helped him carry his wheelchair so that he could get onto the wheelchair quickly. I have taken some photos and have given them to the Transport and Housing Bureau and staff of the MTRCL at various levels. In the following two years, whenever there were opportunities for discussing issues related to the MTRCL in the Legislative Council, I would quote this case repeatedly to condemn the MTRCL for being unscrupulous and shameless. Back then, the MTRCL had \$6 billion or \$7 billion and even \$8 billion revenue, but it still refused to spend some money to make minor improvement to certain access locations to help persons with disabilities. The area in question is definitely spacious enough for improvement works. The pedestrian walkway is also wide enough and improvement is definitely practicable. I have been criticizing this for two years, President, I have reprimanded the Chief Executive Officer of the MTRCL, the Chairman and other people. I have been reprimanding them for two whole

years, and have written several letters, the MTRCL eventually ..... I had initiated a signature campaign and 1 000-odd residents signed for the campaign. Eventually, after all the efforts I have made, LEUNG CHAN Che-ming of the MTRCL invited me to inspect the site and told me after the inspection that it was technically impracticable and gave many other excuses. I then kept on raising criticism for more than half a year, and the MTRCL finally agreed to provide funds to make that section accessible. The whole incident has dragged on for more than two years, President. In the capacity of a Member of the Legislative Council, I have to raise criticism for two whole years before the MTRCL reluctantly provided barrier-free access in that small section of area. Certainly, since the work has been completed, I have to express my gratitude.

We can learn from this minor incident the plight faced by the many persons with disabilities in Hong Kong in accessibility. I receive complaints of this kind nearly every month, and the areas under complaint include shopping centres. In the case mentioned by a colleague earlier, the glass doors can hardly be pushed open when the wind is slightly stronger. Am I right? Access ramps are not found in many boarding and alighting locations. Without the assistance offered by others in pushing and carrying the wheelchairs, wheelchair users can hardly move up the kerb. The Government often says that access ramps are provided along roads, yet the ramps may be 50 yards from the alighting location. According to the planning of the Government, each access should be provided with a ramp for wheelchair access. However, it fails to take into account the alighting locations and the urban design and planning. It is just a simple issue. Last Saturday, I asked the Transport Department if they know that access ramps were not provided at many bus stops, and if so, how could persons with disabilities get on and off buses? Even if buses were installed with low-floor facilities, how could they move up the pedestrian walkway after getting off the bus? Could the Transport Department issue guidelines to require the provision of access ramps for wheelchair users at all bus stops and taxi stands? At last, I wrote a note to the official from the Transport Department and the official agreed to examine the feasibility of improving the guidelines after the meeting.

These are all trivial issues, are they not? However, had the Government been aware of such issues in advance and made advance arrangement, all these problems would have been solved by now. The arrangement will not incur heavy cost, and the Government only needs to define the standards in the

guidelines and planning, so that ramps can be built during the construction of roads. The problems will be solved in the course and the Government does not have to spend a large amount of public money to carry out these works.

As such, the consciousness, attitude, policies and relevant guidelines of the Government will have a great bearing on the interest of persons with disabilities. Had the Government, decision-making departments in particular, been conscious about these, the problems would have been addressed in advance. Certainly, slow in response is better than completely indifferent. I hope the Government will formulate new measures and policies expeditiously to alleviate the problems faced by persons with disabilities on all aspects and provide barrier-free access.

President, we learn that there are many problems. Earlier, many Members mentioned the cases of flyovers, tunnels, and entrances and exits of shopping centres, and even beaches. Many beaches are inaccessible to persons with disabilities, for many beaches are located down the hill. Without the support of others, persons with disabilities hardly have the opportunities to visit those beaches. However, beaches should be a place for free activities for persons with disabilities.

There are many other problems. For instance, persons with disabilities will face a lot of difficulties if they move in public housing flats. Nine out of 10 toilets in public housing flats cannot meet the needs of persons with disabilities, mainly because the toilets are small. I think the original design of 99% of the toilets in public housing flats fails to offer accessibility to persons with disabilities. As for public toilets in public housing estates, the authorities have not reserved a certain percentage of space for providing facilities for persons with disabilities. Secretary, I hope you will reflect on the many issues. Being the head of the policy bureau in this area, you have to "show your power", and show us that the Government cares for persons with disabilities. If the problem involves other policy bureaux, you should do your best to strive for it.

President, I mentioned low-floor buses earlier. In the past few years, I have been bringing up this issue repeatedly in this Chamber, and I keep asking questions on this issue at the Legislative Council meeting. At one time, I did try to ask about this issue every year, trying to find out whether the numbers of low-floor buses had increased. When I first raised this question, 70% to 80% of buses were not provided with low-floor facilities. By now, the situation has

improved. For certain bus companies, only some 30% buses are not provided with low-floor facilities, and for some other bus companies, 40% of their buses are not provided with the facility. Overall speaking, nearly 50% of buses are provided with low-floor facilities. However, President, this percentage is far from satisfactory. As we all know, we may have to wait some 20 minutes for buses, even the shortest waiting time may be eight to 10 minutes. If low-floor facility is not installed in every bus, persons with disabilities will have to wait for longer time before they can get on a low-floor bus. Hence, to persons with disabilities, Hong Kong is a place filled with barriers.

President, this barrier-fraught situation is indeed related to the democratic system. Among the entire decision-making level of the Government and the 800-strong small coterie, who have the special need for barrier-free access? Though some of them may be wheelchair-bound, they are accompanied by two body guards and three nurses. The difficulties encountered in achieving universal accessibility should rightly be attributed to the fact that the powerful and influential persons in Hong Kong, as well as people responsible for nominating and electing the Chief Executive, do not need to use barrier-free access. Hence, if the system and small coterie are inclined towards influential and powerful persons, the interest of persons with disabilities will most often be neglected. Some people have raised that, under the system in Hong Kong, citizens are classified into two classes, and NI Kuang says there are three classes, for some are waiting to die. Under the two-class classification, one class is entitled to elect the Chief Executive and the other is not. But at a closer look, there are actually three classes. In view of the structure of and power distribution in society as a whole, as well as concerns shown by the Government, persons with disabilities are at a lower class. Definitely, I disagree that their entitled basic rights should be of a lower class, but the political reality is cruel. Under the existing political system, persons with disabilities are being neglected, and they are in *de facto* third-class citizens. Hence, if no change is made to the existing system, there will never be democracy in Hong Kong, nor election with universality and equality that enables the rich and the poor, as well as persons with one leg or both, to be in equality. Without the equality in the right to vote, the demand of persons with disabilities for universal accessibility can hardly be met. Only if the political system is made barrier free can barrier-free access in daily life be established.

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

(No Member indicated a wish to speak)

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I sincerely thank 21 Members for their valuable and constructive views on the Formal Investigation Report: Accessibility in Publicly Accessible Premises of the Equal Opportunities Commission (EOC Report) and the Government's response to and follow-up actions on the 23 recommendations in the EOC Report.

To implement the Government's policy on building an accessible environment, the Government has comprehensively examined the issues mentioned in the EOC Report, and has positively responded to its recommendations, which include devising a clear timetable and action plan for improvement works for upgrading the barrier-free facilities in existing Government and Hong Kong Housing Authority (HA) venues and properties; appointing Access Co-ordinators and Access Officers to strengthen daily management, and following up the needs of persons with disabilities for barrier-free facilities in a rapid and targeted manner, as well as improving the co-ordination between government departments, strengthening communication with persons with disabilities and stakeholders, in order to take precise follow-up actions in hardware and software, and enhance barrier-free facilities in government and HA venues and properties rapidly and continuously.

In drawing up the response to and follow-up actions on the EOC Report, the Task Group convened by the Labour and Welfare Bureau, comprising representatives of stakeholders within the Government, has examined the 50-odd government and HA premises identified by the EOC and also 3 900 premises and facilities under the management of government departments and the HA which have a frequent public interface. In addition to the eight government departments identified in the EOC Report, the Task Group has examined premises managed by six more government departments, with a view to accelerating the pace of enhancing barrier-free facilities in government and HA venues. Concerning some areas outside the scope of coverage of the EOC Report, the Transport Department, Highways Department and Civil Engineering and Development Department (CEDD) have also explored practical ways to improve accessibility of existing facilities, including public transport

interchanges, Public Light Bus termini, footbridges, subways, public piers, landing steps and roads.

In the course of devising an action plan for improvement works, the departments, responsible for managing different government properties and facilities, and for co-ordinating the works, made concerted efforts in the past few months under the co-ordination of the Task Group. It has evaluated approximately 3 900 premises and facilities which have a frequent public interface, and it has drawn up improvement works for enhancing barrier-free facilities in compliance with the design standards in the Design Manual: Barrier Free Access 2008 recently introduced by the Buildings Department. Moreover, the Transport Department, Highways Department and CEDD have devised specific timetables for enhancing barrier-free facilities in the existing facilities they administered. Examples include retrofitting tactile guide path, dropped kerb and tactile warning strips at public transport interchanges, Public Light Bus termini, public piers, landing steps, footbridges, subways, and roads to facilitate the use of the means of access and facilities by persons with disabilities.

Having regard to operational requirements, technical feasibility and time required for the retrofitting works, the Government has worked out a consolidated retrofitting programme for these premises and facilities as follows:

- (i) 3 306 government premises/facilities (85.1%) will be retrofitted before 30 June 2012;
- (ii) 386 government premises/facilities (9.9%) will have retrofitting works completed by 30 June 2014 having regard to such factors as patronage, extent of improvement works involved, plan for major renovations, operational requirements, technical constraints, and so on; and
- (iii) 193 government premises/facilities (5%) will not be retrofitted because of imminent plan of decommissioning or disposal, such as Murray Building and Kwun Tong Government Offices, insurmountable technical constraints, for example, the Mount Davis Service Reservoir Sitting-out Area located on a slope with a steep and restricted access road, and buildings with structural constraints

for the provision of manoeuvring space in corridors for wheelchairs, and so on.

In tandem, the Housing Department has also devised a retrofitting programme to improve the accessibility of the properties under its management. Most of the improvement works at 155 public rental housing estates (including 43 public transport interchanges managed by the Housing Department), 23 commercial centres and 119 carparks will be implemented by 30 June 2012. To avoid causing excessive nuisances to occupants or tenants and affecting daily operation, the Housing Department will schedule some of the improvement works for completion by 30 June 2014. To tie in with the Housing Department's lift modernization programme, a small proportion of improvement works will be completed by 2016 to 2017.

Meanwhile, the Highway Department will also accelerate its retrofitting programme for the provision of lift or ramp at public footbridges and subways without such access or alternative at-grade crossings, where technically feasible.

To ensure the completion of the improvement works on schedule, the Task Group will continue to co-ordinate and monitor the progress of the works, and it will report on a regular basis the progress of the works to the Chief Secretary for Administration, the Panel on Welfare Services of the Legislative Council and the EOC starting from April this year.

Apart from enhancing barrier-free facilities in government and HA venues and in respect of hardware, it is equally important to strengthen daily management and to improve the understanding of venue management staff about accessibility issues and allow them to attach greater importance to these issues in respect of software.

In this connection, the Government has asked various Policy Bureaux and departments to appoint an Access Co-ordinator to co-ordinate accessibility issues in individual bureau or department. An Access Officer will also be appointed for each venue to:

- (a) conduct regular audit checks and take timely follow-up action as required to ensure the provision of suitable barrier-free facilities without undue alterations or obstructions to the barrier-free access;

- (b) offer assistance to persons with disabilities in access to the venue and using the services and facilities therein;
- (c) serve as the first point of contact on accessibility issues at the venue;
- (d) make recommendations to Departmental Access Co-ordinator on improvements of barrier-free access and assistance rendered to persons with disabilities at the venue;
- (e) make available information to persons with disabilities about the accessibility of the venue, for example on website and displaying suitable notices in the venue;
- (f) review operational practice and procedure periodically for emergency evacuation of persons with disabilities from the venue under his/her management;
- (g) handle public enquiries and complaints regarding accessibility issues for the venue; and
- (h) provide suitable guidance to venue staff and raise their awareness on accessibility issues.

The implementation of the works is expected in April this year and the Government will provide the public with the contact information on the Access Officers in various venues and also information on related matters. To assist various departments in implementing the works, the Task Group has been co-operating with the EOC and the Civil Service Training and Development Institute (CSTDI). A workshop was held on 18 and 25 January respectively to provide training for Access Co-ordinators, and to improve the awareness and understanding of staff about accessibility issues. Some persons with disabilities were invited to attend the workshop to share with the audience the difficulties they generally encountered with regard to access to government premises and facilities, as well as their needs, and they also made recommendations for improvements. At the departmental level, the Access Co-ordinator will arrange for suitable training of the Access Officer with the department concerned, with the assistance of the EOC and the CSTDI.

It is stated in the EOC Report concerns about whether there will be effective co-ordination between departments when dealing with barrier-free facilities under the purview of different departments. As regards inter-departmental issues, there is currently co-ordination among the departments concerned when necessary in order to assist persons with disabilities in the use of the facilities. For example, the Housing Department will communicate with the Transport Department with a view to providing barrier-free facilities in the public transport interchanges within public housing estates. Another example is that the Leisure and Cultural Services Department will communicate with the Transport Department and the Highways Department in connection with the provision of barrier-free access in the public transport and road systems near various recreational and cultural facilities.

In order to further optimize the co-ordinating mechanism, the Task Group has particularly studied how the existing co-ordinating mechanism can be further improved, and it will set guidelines requiring the departments responsible for the management of the relevant barrier-free facilities to fully consider if the venues are accessible both inside and outside, and it will take the initiative to co-ordinate with the relevant departments and organizations in such areas as works design, daily management, complaint handling and accessibility checking.

To enable all government bureaux and departments to have clearer understanding of the Government's overall accessibility policy, the Government will issue circulars to remind various government bureaux and departments to practically comply with the relevant legislation and policies, and the circulars will include the guidelines about co-ordinating mechanisms. Meanwhile, various government bureaux and departments will issue internal circulars and guidelines in light of their operation for reference and implementation by staff members.

To ensure that barrier-free facilities can meet the needs of users, various government bureaux and departments will maintain close communication with disability groups, and consult persons with disabilities about the improvement of barrier-free facilities, which include consulting them at the beginning of the design stage. The relevant arrangements will also be set out in the aforesaid circulars.

Members who have just spoken have expressed concern whether the 3 700 retrofitting works can be completed by the Government on schedule. I would

like to explain to Honourable colleagues the formulation and implementation of these retrofitting works, so as to dispel worries about the Government's promise.

First, I would like to say that the improvement works have been formulated after careful evaluation by the management and public works departments within the Task Group in the past few months. In the course of the formulation, the management and front-line staff of the departments responsible for the management of the venues and facilities concerned have carefully evaluated each and every venue or facility they managed that needed improvements. The feasibility of the works has been verified by the public works departments. In other words, all basic work has been completed. Moreover, the action plan of the improvement works has been devised after careful review by all members of the Task Group.

Actually, the Government has all along enhanced barrier-free facilities in government and HA venues on a regular basis under the existing mechanism. So, we do not need to start from scratch in respect of the improvement works. We only need to enhance the existing barrier-free facilities in various venues to the latest standards and speed up the progress of the works.

To complement the improvement works, the Government has reserved resources and has plans to employ additional staff and contractors so as to speed up the progress of the works. The total estimated expenditure on the improvement works (including government and HA buildings and facilities) is \$1.3 billion, and provision has already been made.

In order to ensure that the works can be completed according to the plan, the Task Group will closely monitor the overall progress of the improvement works. Regarding the progress of implementation of the improvement works, beginning from April this year — as I have just said — regular reports will be made on the progress of the works to the Chief Secretary for Administration, the Panel on Welfare Services of the Legislative Council and the EOC. In April, we will upload the relevant information to the Internet to allow the public to monitor the whole process and progress.

The following is my key response to two points. The first point is about barrier-free voting facilities as a Member has mentioned. In each election, the Registration and Electoral Office tries to identify polling stations at venues

suitable for use by persons with disabilities. During the Legislative Council election in 2008, among the 532 polling stations, 434 of them were suitable for use by persons with disabilities, which accounted for 82% of the total polling stations. Moreover, during the Legislative Council by-election in May 2010, despite the pressing preparation time, 443 (more than 85%) of 516 polling stations were suitable for use by persons with disabilities, more than that in the past elections, and this was a step forward.

In individual districts, some venues suitable for use as polling stations may not be user friendly for wheelchair users or persons with mobility disabilities, probably because of the geographical environment or design. Nevertheless, to facilitate voting by most electors at places near where they live and as there is no other option that is more suitable, these venues have been used as polling stations. In future elections, the Registration and Electoral Office will continue to try to identify more accessible venues for use as polling stations to facilitate persons with disabilities exercising their voting rights at the polling stations.

In our debate today, many Members have discussed whether the Government should establish a high-level central co-ordinating mechanism. As a matter of fact, I wish to put it very simply that, the Government's positive response this time is actually based on a decision made by the Chief Executive and the Chief Secretary for Administration at the highest level. They have examined all the works and the Chief Secretary for Administration also inspected the facilities in person last week. Our team is very much concerned about this issue, and I will definitely reflect all problems at the policy committee meetings. All Secretaries of Departments and Directors of Bureaux will attend the policy committee meetings, so Members need not worry about any slips in co-ordination. I will surely try my best to reflect the problems and regard handling this issue as the responsibility of the team as a whole.

I would like to thank the EOC again for its valuable recommendations on improving barrier-free facilities in government and HA venues. As we have just said, the Government has positively and comprehensively responded and taken follow-up actions. I am delighted to find that the Government's actions are affirmed by the Chairperson of the EOC, Mr LAM Woon-kwong, and its members. They commented that the Government has given comprehensive responses and they welcome the extensive improvement works to be implemented, as well as the appointment of Access Co-ordinators and Access

Officers by all Policy Bureaux and government departments. I believe that this is a major breakthrough insofar as accessibility issues in Hong Kong are concerned.

President, building a barrier-free, equal and harmonious environment is the consistent policy objective of the Government. Certainly, we will spare no effort in pushing ahead with the improvement works and the provision of other facilities, and we will continue to co-operate closely with the EOC, the Rehabilitation Advisory Committee, the rehabilitation sector, various sectors of the community and the Legislative Council, with a view to building together our harmonious and barrier-free society.

President, I so submit. Thank you.

**PRESIDENT** (in Cantonese): Mr CHEUNG Kwok-che, you may now reply.

**MR CHEUNG KWOK-CHE** (in Cantonese): President, more than 20 colleagues spoke in the past five hours or so to put forth their suggestions and views on establishing a barrier-free society according to their own knowledge, experience and expertise.

The Secretary has responded to a number of issues earlier. I hope he will check carefully after the meeting the retrofitting works of the 3 900-odd items he mentioned earlier, of which 5% are impracticable, some are practicable, and some will only be carried out in 2014. However, I wonder if certain cases mentioned earlier, like the 100-step stair at Kwai Chung Estate mentioned by Mr WONG Kwok-hing, are included. I do not know whether or not the Ping Chau clinic case mentioned by Mr LEUNG Yiu-chung is included. I guess these cases are not included under the list, for the facilities are not located indoor but outdoor. But still, the Secretary should answer these questions from my colleagues later.

Many colleagues have cited a number of examples earlier. Regarding the facilities for persons with disabilities, these facilities only exist in name without serving their purposes, and the use of certain toilets as store rooms is a case in point. As mentioned earlier, there are toilets where persons with disabilities can hardly get out after using. Some Members mentioned the case of posting notice

on tactile maps informing users of the out-of-order facility. Since tactile maps are provided for the blind who have to rely on their sense of touch, it is pointless to post a written notice. How can they see it? This rightly demonstrates that the management staff does not have a mindset of a barrier-free concept. They have taken some actions, but are they doing the right thing? Has the correct remedy been prescribed? It is obvious that there are barriers in their mind.

The Secretary has not explained this aspect in detail earlier. In my view, it is a matter of education. Yet this is not only about formal education. I think the Secretary, as the official in charge of the Labour and Welfare Bureau, may also have his part to play in informal education. Social education includes formal and informal education. As far as social education is concerned, I believe the education to civil servants of the Government and management staff in the public sector is particularly important. If management staff understand the barrier-free concept, they will readily supervise their subordinates in discharging their day-to-day duties from a barrier-free perspective. The cases mentioned above can be avoided, and money spent will not go to waste.

Regarding examples like the 100-step stair at Kwai Chung Estate mentioned by Mr WONG Kwok-hing and the Ping Chau clinic mentioned by Mr LEUNG Yiu-chung, I believe these problems do not arise overnight. These cases have been discussed for many years, only that Members are given the opportunity to vent their grievances again today. I think the problem does not confine to these two cases. Mr WONG Kwok-hing said earlier that the 100-step stair was the 11th case to be addressed. I think there should be the 12th, the 13th and the 14th cases. People who are affected in these cases are even more unfortunate, are they not? For there is at least someone reflecting the plights of the people affected of the 11th case, but not so for the 12th, 13th and 14th cases. I think the Secretary should check after the meeting whether it is necessary to ask the Housing Department and the Department of Health to follow up these cases. If it is due to insufficient funds, I think the Secretary should quickly ask the Financial Secretary to allocate several hundred millions to 10 billion dollars for the follow-up of all the requests following the 11th case, for I believe the Government will have tens of billions of surplus this year. I believe these cases do not fall within the scope of the present investigation of the Equal Opportunities Commission (EOC).

The Secretary has not mentioned in particular the point that buildings of the Government and the Hong Kong Housing Authority are exempted from the provisions under the existing Buildings Ordinance. I believe when colleagues mentioned the Buildings Ordinance in their speeches earlier, they pointed out that the Government and the Housing Department should not be granted the exemption. In my view, the Secretary has just glossed over the issue to circumvent the question. However, he should bear this question in mind, he may have to report to us in April, and by that time, he should state whether or not the Government has come up with an answer. All we want is an answer. If he says yes, we will be more than happy. If he says no, we will continue to strive for this.

Mr Frederick FUNG appeared to be delighted when he mentioned the barrier-free facilities at Kai Tak earlier, and he said that Secretary Eva CHENG had given her words to complete the works properly. Some people may praise the Secretary for her commitment. However, I do not consider this a good sign, for it has become a matter of individual commitment to fulfil such duties. In other words, if the issue is handled by another person, he or she may not do so, as in the West Kowloon case mentioned by some colleagues earlier. If a policy on barrier-free society is formulated, should every bureau ensure compliance? This is a very important point. The formulation of a policy on barrier-free society means more than the recommendation of the EOC. The Secretary has also mentioned the term "barrier-free policy" earlier, but I think he is merely referring to the views of the EOC. How about society as a whole and the practices of the Government, are they subject to the regulation of this policy? Hence, despite commending for such commitment, we consider such practice undesirable in handling the barrier-free facilities at Kai Tak.

Actually, we cannot rely solely on the EOC on the establishment of a barrier-free society, for it requires the follow-up of all members in society. More importantly, the Government should take the lead so that the public can follow. Who will be responsible for promoting social education? Has the performance of the public been satisfactory? Who should monitor the progress? This subject should be included in formal and informal education. In the event that we fail to provide proper education, will it be necessary to formulate more policies or even enact legislation? The Government should keep a close watch on these issues.

Back to the point that the Secretary asked Members not to worry, for the Chief Executive and the Chief Secretary for Administration already knew the whole issue and they had made plans to provide funding. The Secretary may consider that his role is to execute the policies, but according to the agenda, he is given the authority in the course of execution. What if any problem should arise in the course? Should he be held accountable? Or should he make the decision at the meeting? If the Chief Secretary, after delegating the responsibility to the Secretary, attends other meetings and has not made any decision, should the Secretary take all the attacks launched by Members? Hence, when colleagues mentioned the so-called task force on co-ordination, they are actually trying to help the Secretary to spare him from being the target of attack, because the task force should be lead and co-ordinated by the Chief Secretary, he has to make decision and upgrade the task force to a higher level.

Finally, I would like to talk about people in the public gallery attending the meeting today. I have been paying attention to them all along though I may not know all of them. I recalled that last Saturday, we reminded the Secretariat to inform the representatives of the MTRCL, The Link REIT and various public transport operators to come here to listen to us today. However, apart from Chairperson LAM Woon-kwong, I think there are no other attendees in the abovementioned capacities. Perhaps they are watching television broadcast. No matter how, I earnestly hope that the public organizations or transport operators I mentioned earlier will listen to us, for they serve persons with disabilities and the elderly each day, and the daily lives of these people are closely related to these organizations when they have to go out. I hope we are not simply talking to ourselves whereas these organizations continue to work in their own way.

President, after listening to the remarks of many colleagues and the Secretary, an interesting thought suddenly crosses my mind. Can we simply require that a barrier-free environment assessment be carried out prior to the commencement of works on all government projects and even those in the public sector? In that case, even in the absence of a policy, the barrier-free concept will be included in many works projects, sparing the need to spend additional money on retrofitting works upon the completion of project to address complaints from persons with disabilities.

President, finally, I would like to state that we have actually made a decision last Saturday that the debate today is only a starting point, we would monitor whether the Government has implemented the recommendations of the EOC. Surely, the Government will report the progress every three months. When we obtain the resources required later, we will set up a working committee to monitor this issue. No matter how, we have decided to propose another debate at the Legislative Council 18 months later to examine the achievements made by the Government during the said period and the responses it has made to the various proposals put forth by Members today.

President, I so submit.

**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.

(No hands raised)

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

**PRESIDENT** (in Cantonese): Second motion: The centenary of the Xinhai Revolution.

I have accepted the recommendations of the House Committee: that is, the mover of this motion may speak, including reply, for up to 15 minutes, and have another five minutes to speak on the amendments; the movers of amendments each may speak for up to 10 minutes; and other Members each may speak for up

to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

**PRESIDENT** (in Cantonese): Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

Mr Albert CHAN, you may now speak and move the motion.

### **THE CENTENARY OF THE XINHAI REVOLUTION**

**MR ALBERT CHAN** (in Cantonese): President, this year marks the centenary of the Xinhai Revolution, I thus propose this motion to commemorate the Xinhai Revolution, pursue a democratic China, uphold the Xinhai spirit and build a democratic Hong Kong.

The final decades of the 19th century saw the decline of the Qing Dynasty. People were destitute under the corrupt government and the frequent invasion by foreign powers. Our country was miserably craved up and was on the verge of being conquered. And yet, attempts to save the nation by launching the Westernization Movement (commonly known as the Self-strengthening Movement) and the Hundred Days' Reform had ended in failure, dashing the last hope of the moderate-reformists who supported the monarchy. People of insight believed that revolution was the only way to save China. As people's feelings against the Qing Dynasty intensified, various revolutionary organizations were formed in response to the calls of revolutionary vanguards. The subsequent uprisings had brought about drastic changes to China.

In 1895, Xing Zhong Hui (Revive China Society) led by Dr SUN Yat-sen started the first Guangzhou Uprising, but it ended in failure. It was followed by a number of uprisings in the following decade or so, such as the Huizhou Uprising, Huanggang Uprising, Anhui-Zhejiang Uprising, Qinzhou Uprising, Zhennanguan Uprising, Hekou Uprising, the second Gunagzhou Uprising, and so on. Many martyrs demonstrated their steadfast spirit by staging waves after waves of struggles, some of them even sacrificed their lives for the sake of promoting democracy in China. QIU Jin, who died for justice calmly, had written the line "Autumn wind and rain have brought overwhelming grief to

many" when she was forced to confess after being arrested. Her last word remains a well-known and famous quote even till today. In *A Letter of Farewell to My Wife* written by LIN Juemin, one of the 72 martyrs of the Huanghuagang Uprising, before he left for the uprising, he said (translation in a vernacular rendition): "I extend my love for you to help others love whom they love, that is why I dare to die before you without regard to you. If you understand what I believe in, then besides crying for me, think on behalf of everyone as well, you should also be happy to sacrifice the happiness of you and I in order to strive for the eternal happiness of all the people. Don't you be sad!"<sup>3</sup> In the letter, LIN Juemin had not only expressed his deep love for his wife, but also his concern about the country and the people. This is commendable and touching. He should be respected and admired through the ages for sacrificing his own well-being for the good of tens of thousands of people. President, when we were studying in secondary schools, *A Letter of Farewell to My Wife* was a lesson included in the school curriculum. I learned it some 40 years ago, and I still think of it from time to time. Today, this letter is no longer found in Chinese textbooks.

President, at that time, people of insight saw that Chinese people were indulged in pleasure seeking, seeking comfort in opium and apathetic about the imminent danger of the country. Worse still, they even isolated, expelled and betrayed revolutionary organizations and individuals. At that time, Xing Zhong Hui (Revive China Society) and Tong Meng Hui (Chinese Revolutionary Alliance) had published various publications, such as *Minbao* (People's Journal) to propagate revolutionary ideas to fellow citizens. Revolutionaries like CHEN Tianhua even chose to die to awaken the people. CHEN Tianhua wrote in his *Jue Ming Shu* (literally means the *Suicide Note*) that: "Since I am a man of weak will and mediocre ability, I would not be able to accomplish great deeds for the country. My future life could have two possible directions: either to continue writing as a doomsday prophet to warn the people, or to die if the right circumstance is to arise. Most people hate to hear empty talks about saving the country, but there are plenty who speak like me. Perhaps I would accomplish more by dying and remaining silent than by living a long life and keep talking! ..... to eliminate and eradicate the undesirable behaviour, share our patriotic feeling, endure hardship to accomplish some ambition, and study hard, so as to

---

<sup>3</sup> <<http://freudianslumber.wordpress.com/2009/11/14/lin-jue-mins-letter-of-farewell-to-my-wife-my-translation/>>

gradually build up our competency for the grand revival of the country. In this way, China might thus be saved from destruction." CHEN Tianhua later committed suicide in Japan for his beliefs. Although he died young, his life, his rousing writings such as *A Sudden Look Back* and *An Alarm to Awaken the Age*, as well as his duty-bound death to awaken the Chinese people had touched many hearts. Furthermore, he had even admonished many intellectuals. This had laid a solid foundation for the future Xinhai Revolution.

When we look back at the past, we saw revolutionaries dying a martyr's death for justice, making great contributions to the history of revolution. Today, 100 years after the Xinhai Revolution, besides Taiwan, Chinese people living in Mainland China, Hong Kong and Macao had completely freed themselves from the evil influence of opium. And yet, democracy is still a remote dream.

President, if we look around the world, we can see that many countries had gained their independence from foreign rule during the decolonization process. Many independent and autonomous nations have been established, with the government being elected through universal and egalitarian elections. Sadly, China is still under despotic rule and the dream of democracy is still a pie in the sky.

Many academics have pointed out that the traditional Chinese cultural thinking and values have suffocated the free souls, making it difficult for the democratic movement to move forward. Chinese people have been accustomed to the feudal dynasty's philosophy of governance, that is, one-man dictatorship. Even after the successful revolution, people were unable to free from the servile ideology. LU Xun hoped to make Chinese people aware of their servitude with his barbed writings. He described Chinese people as "sheep-like fierce animals" and "fierce animal-like sheep", saying that, "They are sheep and fierce animals at the same time. They appear like sheep when facing more fierce animals, but appear as fierce animals when facing the weaker sheep." BO Yang even likened the servile tradition to a "soy paste vat". He said, "The soy paste vat that I am talking about is a highly corrosive and chaotic feudal society. It is a society that entails the politics of servitude, with a deformed sense of morality, an individualistic outlook on life, and a snobbish mentality. With its prolonged destructive effect, it has ossified the creative spirit of the Chinese people and caused the whole nation to degenerate." In the preface of another recently published book entitled *I Don't Want to be Chinese in the Next Life*, Joe CHUNG

also wrote, "Most Chinese, though not living under the servitude of the Communist Party, are rather selfish, ugly and silly, they 'speak the human language to human beings, the ghost language to ghosts'. And, the most notable of all, is their servitude mentality. The Chinese servitude mentality has one special feature that makes it stand out from other slavery systems around the world both past and present, and that is, Chinese slaves usually do not consider themselves as slaves. What is most bizarre is that, very often, it is the Chinese slaves but not their masters who are more sincere to safeguard the slavery system." This is a phenomenon commonly seen in Hong Kong.

YIN Haiguang also pointed out in *The Future of Chinese Culture* that "China is a society that centered on family ethic, ..... the Chinese mentality of confusing public and private interests is actually derived from this tradition. Such confusion has in turn become a ready path for the practice of nepotism, the creation of parties for private interests, the exercise of public power to achieve private ends, as well as corruption." This precisely depicts the small circle election of 800 people.

Summarizing the observations of the abovementioned renowned literati, people with a servitude mentality are short-sighted, selfish and egoistic, they bully the kind-hearted and the weak and fear the villain. These people also bow to people in power; and once they rise to power, they will instantly turn hostile and emerge as a dictator above the people. They will suppress the masses and crack down on dissidents. That is why dictators had emerged in the history of China. People with slightly more money, power and knowledge usually help the tyrant to do evil, trying by all means to curry favour with those in power. Their willingness to be the lackeys of lackeys has heightened the haughtiness of the dictators. Although the seeds of democracy have been sowed, it is extremely difficult for them to sprout in such poor soil.

In western societies, though similar cases of confusing public and private interests are also found in families and even enterprises, the chain of political thoughts have been broken after various ideological reforms, enabling western democratic idea to nurture and grow healthily under the present mature democratic system. Ideological reforms in western societies had its origin during the Renaissance and the subsequent religious reforms had successfully broken the church's monopoly of thought and religion, thereby modifying the relationship between politics and religion. During the Age of Enlightenment in

the 1700s and 1800s, numerous political theories and philosophies had cropped up, giving free rein to expressing and discussing different ideologies. The situation can even be compared to China's Hundred Schools Period of the Spring-Autumn Warlord Period. The philosophy of ROUSSEAU, among all others, had resulted in an independence movement in the colonial North America and gave birth to the first democratic republic country in the world. The founding of the United States had inspired Europe to strive for freedom and democracy, and later the French Revolution broke out. In the 19th century, the Industrial Revolution had speeded up the development of science and technology and shaken off many more myths. What is more, Marxism had laid down the foundation of mass movement, and reforms were carried out one after another throughout Europe. After undergoing a number of cultural reforms, Europe finally gave up its feudal ideology and established systems and values based on democracy, human rights, freedom, reason and equality. Democracy has become the core of western culture and an essential part of social life.

Much to our regret, Taiwan is the only place in China that enjoys genuine democracy. Taiwan people are able to enjoy democracy because most of them are educated in the United States, for instance, the Democratic Progressive Party's CHEN Shui-bian, LU Hsiu-lien, TSAI Yin-wen, YAO Chia-wen, CHEN Shih-meng, CHIOU I-jen, HSU Hsin-liang, LI Yuan-zhe, and the Kuomintang Party's MA Ying-jeou, LI Deng-hui, LIAN Zhan, and so on. They have not only brought along democratic political thinking, but have also drawn experiences from western societies to promote democracy in Taiwan, as advocated during the Xinhai Revolution. In the end, democracy was successfully realized in Taiwan.

President, the numerous problems we now encountered are apparently attributed to the traditional thinking that restrains the Chinese nationals. Education, an enduring task, is therefore required to enable democracy to actually blossom on the soil of China. However, it is indeed an extremely difficult, protracted and challenging task to instill people with the correct concept and value of democracy, and it requires great sacrifices in terms of time, money and even human lives. When HU Yuandan turned down HUANG Xing's invitation to take part in the revolution, he said, "While bloodshed revolution ends with ease in a blink of the eye, education is a protracted and tough bleeding process." As a matter of fact, both the 1989 pro-democracy movement and Charter 08 are important examples of individuals sacrificing their lives to awaken the people.

Even the referendum in five geographical constituencies, for instance, is significant in enabling people to understand the importance of democracy and participation in mass movement. Education of democracy is particularly important in pushing forward the democratization process. There must be people who are ready to make sacrifices, to withstand the rebuke and isolation of the mainstream society, and even to be imprisoned for an extended period of time. Only in this way can there be hope for the democratic movement.

Presently, after the passage of 100 years after the Xinhai Revolution, genuine democracy has yet to be realized on the soil of China, we should uphold the spirit of the martyrs and adhere to the teachings of the Founding Father, promote democratic movement with unswerving determination, and without fear of autocracy and sacrifices. We must awaken Chinese people who are submissive to suppression and help them shake off their servitude. We must also awake their free will, and with joint efforts, we can break the chain of dictatorship. Hopefully, democracy, human rights and the rule of law will be realized on the soil of China one day.

**Mr Albert CHAN moved the following motion: (Translation)**

"That the Chinese people successfully toppled the monarchy in the Xinhai Revolution 100 years ago and established the first democratic republic in Asia; unfortunately, after the passage of 100 years, with the exception that the people in Taiwan can, through a democratic electoral system which is fair, open, impartial and based on the principles of universality and equality, choose their own government and return their elected representative assemblies, the people in Mainland China, Macao and Hong Kong are still unable to enjoy direct and full electoral rights; in view of this, on this day which is almost 100 years after the Xinhai Revolution, this Council urges the Chinese people all over the world to adhere to the teachings of the Founding Father and strive to promote nationalism, livelihood and democracy, so that democratization, human rights and the rule of law can be expeditiously realized on the soil of China."

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

**PRESIDENT** (in Cantonese): Two Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the two amendments.

I will call upon Mr IP Kwok-him to speak first, to be followed by Mr WONG Yuk-man; but no amendments are to be moved at this stage.

**MR IP KWOK-HIM** (in Cantonese): President, this year is the centenary of the Xinhai Revolution, which is a memorable year. The Xinhai Revolution led by Dr SUN Yat-sen plays a significant role in recent Chinese history. It is an important milestone of Chinese people rising courageously in a revolution to write their own destiny; it is a great revolution indeed.

Dr SUN Yat-sen lived in a special era in history when China was going through a drastic transformation from "tradition" to "modernization". Such a transformation was triggered off by a national crisis in which foreign imperialists barbarically invaded and trampled on China. Chinese people, on the other hand, were ruled and suppressed by the corrupt and feudal Qing Dynasty. Not only the independence of the Chinese nation was seriously undermined, its sovereignty was also being eroded. Chinese people were plunged into dire suffering.

Dr SUN Yat-sen and other revolutionary vanguards rose in opposition in an attempt to seek reformation and revival in China. They promoted the Three Principles of the People, namely nationalism, democracy and livelihood, and organized many uprisings in the pursuit of national independence, freedom and democracy. In 1911, the Xinhai Revolution broke out and overthrew the Qing Dynasty, and a democratic republic was thus established.

The Xinhai Revolution had vigorously promoted an ideological liberation of the Chinese nation. It marked the beginning of a national and democratic revolution against imperialism and feudalism in a more comprehensive sense, and opened the door of progress for China. Furthermore, it encouraged Chinese people to fight courageously for national independence and emancipation of people, in the pursuit of a rich and strong country.

Although the Xinhai Revolution had successfully overthrown the Qing Dynasty, it failed to change the quasi-colonial and quasi-feudal social condition

of China. While imperial powers were definitely against China's development into a strong democratic country, the deep-rooted feudal power was also a major obstructing force strangling the democratic thinking and constitutional movement. Just as QIAN Mu, a master of Chinese culture, said, "Political system must originate from within the country." China's democratic system should not be developed by simply following the footsteps of foreign countries, it should instead be compatible with the actual situation. Therefore, unless imperialism and feudalism can be completely eliminated, China will not be able to march on the road of independence, freedom and prosperity. Only with incessant promotion of economic and social development can we have the proper soil for the development of a modern democratic system in China. Only in this way can we gradually develop our own democratic politics in China, enabling the country to be rich and powerful, democratic and civilized. After the Xinhai Revolution, numerous Chinese people have adhered to the unfulfilled aspirations of Dr SUN Yat-sen and struggled hard towards this end.

The birth of New China in 1949 marked the end of the quasi-colonial and quasi-feudal state, and the history of China has turned a new page. However, due to objective reasons like historical factors, the four places on both sides of the Straits have taken different roads in their subsequent development. In the Mainland where the socialist system was implemented, world renowned success has been attained over the 60 years since the founding of the State, and in particular, during the 30 years of reform and opening up. Hong Kong, Macao and Taiwan, on the other hand, have developed separately under the capitalist system and have made adorable achievements. Today, both Hong Kong and Macao have returned to the Motherland, but the two sides of the Strait have yet to be reunified.

President, Dr SUN Yat-sen "values the country more than his life" and he had all along advocated the reunification of China. According to Dr SUN Yat-sen (I quote): "China is a unitary country. This has already been deeply etched in its historical identity, and has kept us together as one nation, though it has been surrounded by destructive forces." Dr SUN also said: "Unification is the wish of the whole body of Chinese citizens." Only if the country achieves unity and racial unity can "China turn into a strong and prosperous civilized country".

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

Countries enjoying ethnic solidarity will prosper, while those facing ethnic separatism will doom to fail. This is the truth that history and reality have taught us. Nowadays, all Chinese living in different parts of the world must strive to promote the reunification of the Motherland.

Rejuvenation of the Chinese nation is the ideal that Dr SUN Yat-sen and other revolutionary vanguards had unswervingly pursued, it is also a historical mission of Chinese people living in the present age. All Mainland and overseas Chinese, regardless of their religion and places of residence, should join hands to achieve China's rejuvenation, thereby writing a new chapter of happy life for the 1.3 billion Chinese people. The implementation of "one country, two systems" is a unique contribution made by Hong Kong people to the Chinese nation and to the political civilization of mankind.

Deputy President, Hong Kong is an important place where Dr SUN Yat-sen studied and took part in revolutionary activities in his early years. It therefore has very intimate relations with the Xinhai Revolution. When Dr SUN was studying in Hong Kong in his youthful years, he had to travel between his home-town Xiang Shan and Hong Kong. Seeing the great difference between the two places, he became aware of how corrupt and incompetent the Qing government was under the invasion of foreign powers. The idea of revolution then came up to his mind. The Xinhai Revolution did have its particular historical background and mission. The development and progress in Hong Kong had highlighted the backwardness of the feudal system. This had significantly inspired people with integrity and ambition in modern Chinese history to learn from the West, oppose imperialism and feudalism, and fight for a richer and stronger China.

The concerns and worries of Dr SUN Yat-sen in those days had been dispelled in today's China. With rapid economic development, the whole country is full of vitality and people are leading a more prosperous life. Not only has China's international status risen, it has also assumed a more important role in promoting global economic development and upholding world peace. The rapid uprising of China in these 60 years has attracted worldwide attention, and "China Model" has become a hot topic and a model to be followed.

The best way to commemorate the Xinhai Revolution, Dr SUN Yat-sen and other revolutionary vanguards is to gain a thorough understanding of Dr SUN and the revolution, and adhere to the unfulfilled aspirations of Dr SUN to promote the unification of the country and revitalize the Chinese nation.

At this time of the centenary of the Xinhai Revolution, the SAR Government should attach greater importance to the revolution, and through commemorating Xinhai Revolution and Dr SUN, it can promote Dr Sun's patriotism as well as his ideal to promote the reunification of the Motherland and bring forth the rejuvenation of the Chinese nation. Young people and the general public should be given more opportunities to receive national education, so that people from all walks of life will be able to learn from history and have deeper understanding of the spirit of democracy. It is hoped that they will join hands to promote economic development, improve people's livelihood and promote social harmony, with a view to steadily developing a democratic system that is compatible with the actual situation of Hong Kong.

Deputy President, I so submit.

**MR WONG YUK-MAN** (in Cantonese): Deputy President, the title of my speech today is "The Road to Democratization in China: Lessons from the Xinhai Revolution and Hong Kong". My speech is divided into two parts. I will talk about history first, to be followed by an analysis on the democratic development in China as inspired by the Xinhai Revolution.

As I cannot possibly deliver the whole speech within 10 minutes, I have made available some spare copies and the document can also be downloaded from the Internet.

A century ago, China was fraught with internal troubles and external threats. Although the rule of monarchy, which had been practiced for more than 2 000 years, was overthrown, 400 million Chinese people were still stuck at the crossroads of history. Dr SUN Yat-sen, the vanguard of revolution and the founder of the Republic of China, had spent most of his life shouldering the heavy burden of leading China into a new era. Even during his final moments, he was preoccupied by the thought of "Peace, struggle and rescue China". The Xinhai Revolution led by Dr SUN Yat-sen had integrated political reform, social

reform and national reform into one movement, which was unprecedented in the history of revolutionary moments all around the world. Hong Kong is closely related to the Xinhai Revolution, it can be said that without Hong Kong, there would be no Xinhai Revolution.

First, the thoughts of the Xinhai Revolution originated in Hong Kong. Dr SUN Yat-sen studied in Hong Kong for nine years from 1883 to 1892. He had respectively attended the Diocesan Home and Orphanage, Central School and the Hong Kong College of Medicine for Chinese, which was the predecessor of the Faculty of Medicine of the University of Hong Kong — pardon me, I should say the predecessor of Li Ka Shing Faculty of Medicine — the faculty should in fact be named after Dr SUN Yat-sen. Anyway, it does not matter. All LI Ka-shing has is money.

After the success of the Xinhai Revolution, Dr SUN Yat-sen visited the University of Hong Kong, his *alma mater*, in 1923 and delivered a very famous speech at the Loke Yew Hall. The address, entitled *Why I Became a Revolutionist?*, expounded on the question of where he got his revolutionary ideas. Specifically, he mentioned that he got his revolutionary ideas in Hong Kong because he had witnessed Hong Kong's advancement and civilization during the several years he studied and lived in Hong Kong.

Second, Hong Kong was the cradle of revolutionary organizations. Before the formation of Xing Zhong Hui (Revive China Society), the Chinese Patriotic Mutual Improvement Association was already established in Hong Kong. At that time, CHEN Shaobai, YOU Lie, YANG Heling and Dr SUN Yat-sen would meet in a shop called Yang Yao Ji in Gough Street to discuss freely their bold ideas about national affairs. Dr SUN was also closely related to the Chinese Patriotic Mutual Improvement Association which was originally a political commentary group. After the formation of Xing Zhong Hui in Honolulu, its Hong Kong branch was established. This revolutionary organization then became the focal point in planning revolutionary activities because of Hong Kong's favourable geographical location.

Third, Hong Kong was an important centre for revolutionary propaganda. The first propaganda newspaper, the *China Daily*, was set up in Hong Kong to publicize the revolution. The former site of the *China Daily* Office is now Luk Yu Tea House.

Fourth, Hong Kong was the base of revolutionary uprisings. Hong Kong had an important bearing on the Xinhai Revolution. Anti-Qing rebellions or political propaganda initiated by Xing Zhong Hui and Tong Meng Hui (Chinese Revolutionary Alliance) in places like Guangzhou were all planned in Hong Kong. Ammunition was also transported to China from Hong Kong. I recall that in 1989, the *People's Daily* published a commentator article in July after the 4 June Incident calling Hong Kong a revolutionary base. I then wrote an article in response to that article. My article was entitled *Hong Kong has always been a revolutionary base* and I had cited the Xinhai Revolution as an example.

In the second part of my speech, I would like to talk about how the Xinhai Revolution inspired the future development of democracy in Hong Kong. After the founding of the Republic of China, Dr SUN Yat-sen still had to face adverse political legacy left by the aftermath of autocratic rule. With the heaviest of heart, Dr SUN Yat-sen said, "Although the tormenting Manzhou rule was ousted, tyrannical autocracy stepped in, bringing even more suffering. People are thus living in the direst of circumstances. Our party's pursuit of a revolution was originally intended to save the nation and the race, delivering people from hardship and enabling them to enjoy a comfortable live. Yet the people must now live with even more suffering and hardships. How widely divergent it is from the original intent of our revolution ....." . In other words, he was lamenting that even though the revolution was successful and the Republic of China was established, what good could these bring if the country had become even more divided and autocratic?

The founding of a "republic" in China signified the end of monarchical rule which had lasted for 2 000 years, and 100 years have passed (the Republic of China had been established in the Mainland for 38 years, it has established in Taiwan, Penghu, Kinmen and Matsu for 62 years ; the People's Republic of China has been established in the Mainland for 62 years). "The overthrowing of Manzhou rule had resulted in tyrannical autocracy, bringing even more suffering." Dr SUN Yat-sen was really a person with foresight.

In 1911, Dr SUN Yat-sen and his fellow revolutionaries had overthrown the Qing Dynasty and established the Republic of China. However, in the past century, the Republic of China could not truly become a nation as it was besieged by civil war for many years running. In Taiwan, the ruling party and the opposition party have completely different stand on national identity. The

Republic of China had established in Mainland China for 38 years, during these years, people experienced the Northern Expedition, the Anti-Communist Purge and the War of resistance against Japan. The country was either under the military rule or political tutelage. After Mainland China was taken over by the Communist Party, the Kuomintang moved the capital to Taiwan to build up its population and military force for a comeback. The Kuomintang continued to play the role as a "revolutionary democratic party", it had neither the guts to rule by dictatorship nor the forbearance to rule by democracy. Being the only party, the Kuomintang enacted the law on "Mobilization for the Suppression of Communist Rebellion", and martial law was imposed in Taiwan, Penghu, Kinmen and Matsu. Democracy was but a far-fetched dream.

On 28 September 1986, the support group for Taiwan's Dangwai (meaning "outside-the-party") movement held a convention at the Grand Hotel, Taipei, to discuss the nomination of candidates for the Legislative Yuan election. Surprisingly, it turned out to be the convention for the formation of the Democratic Progressive Party. At that time, the ban on political parties was still in force. On learning the news, CHIANG Ching-kuo said, "The times are changing, the environment is changing, and the trends are changing." Therefore, in 1987, the government of the Republic of China announced the decision to lift martial law. The Democratic Progressive Party hence became the first legal opposition party in Taiwan over a period of 40 years.

Democracy could only take a small step in Taiwan more than 70 years after the founding of the "republic".

In March 2000, the first change in the ruling party of a Chinese "republic" took place in Taiwan, Penghu, Kinmen and Matsu. The Kuomintang was legally overturned by the people and the Democratic Progressive Party became the ruling party. Eight years later, there was a change in the ruling party with the Kuomintang at the helm again. Democratic constitutional government has finally gained a foothold in Taiwan, Penghu, Kinmen and Matsu.

On 1 October 1949, MAO Zedong announced the formation of the People's Republic of China in Tiananmen. The Chinese people have stood up. The new name of the country has added in the word "people" (that is, the Republic of China *vis-à-vis* the People's Republic of China; surely, a republic is a country of the people and not a monarchy, right?). However, it does not mean that the

People's Republic of China is a country of the people. Quite the reverse, it is a Communist country. Only the Communist Party and a handful of totalitarians have stood up. During the past several decades of the "republic", the people were drained by blood and tears most of the time. The 30 years of economic reform and opening up have improved people's livelihood but political rule has become even more autocratic.

For the 1.3 billion people in China, democracy is but a far-fetched dream.

Let us reflect on the revolutionary ideas advocated by Dr SUN Yat-sen. He wanted to overthrow the dictatorship to return the ruling power to the people. This is not the same as what Mr IP Kwok-him has just said. The principle of people's rights means direct democracy for the people, but not indirect democracy under our present system. In Hong Kong, we only have the system of representative government which is flawed and crippled. If one really wants to learn from Dr SUN Yat-sen, he should not say something like this. Is that clear?

I can still recite the Proclamation of the Xing Zhong Hui as follows: "Today, China's weakness is in its extreme! The officials are perfunctory and pompous, and the people are ignorant and short-sighted. China, being a grand and civilized nation, was invaded and humiliated by foreign powers. How can persons with lofty aspirations not cry in pain!" How appropriate these adjectives are: perfunctory, pompous, ignorant and short-sighted. Therefore, in commemorating the Xinhai Revolution today, we must know how the Xinhai Revolution is related to Hong Kong, and how we are inspired by the Revolution.

When delivering his speech in the University of Hong Kong, Dr SUN Yat-sen remarked that while Hong Kong was just across the border from the Mainland, he had the feeling that Hong Kong was a civilized place under the rule of a clean government and the people were living in a good environment. He thus got inspired and asked himself, why could I not reform the evil politics in China? I fully concur with these words. In my article entitled *Hong Kong has always been a revolutionary base*, I want to convey the idea that Hong Kong, being a colony, is in such close proximity with the Mainland; and when we, being Chinese people living in Hong Kong, notice the perverse measures in the Mainland, we must then ask ourselves, "why can we not reform the evil politics in China". *(The buzzer sounded)*

**DEPUTY PRESIDENT** (in Cantonese): Speaking time is up.

**MR WONG YUK-MAN** (in Cantonese): Thank you, Deputy President.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, the motion on "The centenary of the Xinhai Revolution" today is proposed by Mr Albert CHAN. Separately, amendments will be moved by Mr IP Kwok-him and Mr WONG Yuk-man. First of all, I would like to express some views on a number of developments in the Mainland and Hong Kong over the past several decades after the Xinhai Revolution.

A century ago, Dr SUN Yat-sen led the Xinhai Revolution and overthrew the Qing Dynasty. The Xinhai Revolution in 1911 and the founding of the People's Republic of China in 1949, both being critical moments in the recent history of China, had laid down an important foundation for the country's subsequent development. The Hong Kong Special Administrative Region (SAR) was established in 1997. Under the principle of "one country, two systems" principle, Hong Kong has moved from the colonial era to be reunited with the country. The successful reunification was attributed to the fact that China has grown into a powerful nation and has gained higher status in the international stage. Before the reunification, there was a transition period of 10 years or so, during which we made preparations for the establishment of the SAR. After the reunification, we have been building the SAR in the past 10-odd years. Hence, on behalf of the SAR Government, I will respond today by mainly concentrating on the developments in the past several decades.

In 1978, China had implemented the four modernizations which underpinned the state policy of reform and opening up. In the ensuing 30 years, China has achieved rapid economic growth as well as the steady implementation of industrialization and urbanization .....

(Mr Albert CHAN stood up)

**MR ALBERT CHAN** (in Cantonese): Deputy President, are we discussing today the Xinhai Revolution or the revolution of the People's Republic of China?

**DEPUTY PRESIDENT** (in Cantonese): Secretary, do you want to answer this question?

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, I would like to continue with my speech.

**DEPUTY PRESIDENT** (in Cantonese): Ok.

(Mr Albert CHAN stood up again)

**MR ALBERT CHAN** (in Cantonese): Deputy President, I strongly object. He is insulting the Xinhai Revolution. We are talking about the Xinhai Revolution of Dr SUN Yat-sen .....

**DEPUTY PRESIDENT** (in Cantonese): Mr CHAN, please sit down.

**MR ALBERT CHAN** (in Cantonese): ..... but he is talking about the people's revolution of the People's Republic of China.

**DEPUTY PRESIDENT** (in Cantonese): Mr CHAN, please sit down. Secretary, please continue.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): The people's living standards have improved considerably. All these have created favourable .....

**MR ALBERT CHAN** (in Cantonese): Shameless lackey!

**DEPUTY PRESIDENT** (in Cantonese): Secretary, please continue.

(Mr Albert CHAN stood up again)

**MR ALBERT CHAN** (in Cantonese): Exactly these shameless lackeys!

(Mr Albert CHAN continued shouting while turning to leave his seat)

**DEPUTY PRESIDENT** (in Cantonese): Mr Albert CHAN.

(Mr Albert CHAN paid no attention to the Deputy President and turned to leave the Chamber)

**MR TAM YIU-CHUNG** (in Cantonese): Deputy President, have you considered whether the words just said have contravened the Rules of Procedure? As the Chairman of the Committee on Rules of Procedure, I am obliged to raise this point.

**DEPUTY PRESIDENT** (in Cantonese): I now suspend the meeting for the purpose of reviewing the relevant video recording to see whether the Rules of Procedure have been contravened. The President will then make a ruling.

7.15 pm

Meeting suspended.

7.32 pm

Council then resumed.

(THE PRESIDENT resumed the Chair)

**PRESIDENT** (in Cantonese): Just now when the Secretary was speaking, Mr Albert CHAN stood up and shouted loudly when he was not supposed to speak and he used the expression "lackey". Mr CHAN then left the Chamber. Mr TAM Yiu-chung raised the point that Mr CHAN's actions have contravened the Rules of Procedure. Just now, I did ask Mr TAM to clarify which specific provision of the Rules of Procedure had, in his opinion, been contravened. According to Mr TAM, he considered that offensive language had been used by Mr CHAN and hence, Rule 41(4) of the Rules of Procedure had been violated. I notice that during previous debates in this Council, some Members had also used the same expression, but no Member had voiced the view that the expression was offensive. However, it does not mean that the expression *per se* is not offensive. Having reviewed the video recording just now, I definitely feel that the expression *per se* is offensive to the person who is the target of Mr CHAN's remarks. I rule that from now on, Members should no longer use this expression against other Members or public officers at meetings of this Council.

Secretary, please continue.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): In 1978, China implemented the four modernizations which underpinned the state policy of reform and opening up. In the ensuing 30 years, China has achieved rapid economic growth as well as the steady implementation of industrialization and urbanization. The people's living standards have improved considerably. All these have created favourable conditions for improving people's livelihood. Throughout China's development over the past 30 years, Hong Kong has played the important role of bringing in investments to the Mainland.

In recent years, China has been actively engaged in the international arena. Within the past two years or so, China had successfully played host to the Beijing Olympics, the Shanghai Expo and the Guangzhou Asian Games in succession. These events had demonstrated the colossal consolidated power of our State, the worldwide recognition gained as well as the support of Chinese people all over the world, thereby enhancing our identification with the State and our sense of pride being Chinese.

The issue of democratization has been mentioned in the original motion. In terms of constitutional development, the Central Authorities have given support for the HKSAR to attain the ultimate aim of universal suffrage in accordance with the Basic Law. Soon after the formation of the third-term SAR Government in July 2007, the Chief Executive had fulfilled his election pledge and published the Green Paper on Constitutional Development, so as to launch public consultation on the latest round of constitutional reform. In December the same year, the Chief Executive submitted his report to the Central Authorities, which fully and accurately reflected public views on the matter.

Subsequently, the Standing Committee of the National People's Congress (NPCSC) made a landmark decision which gave a clear timetable for universal suffrage in Hong Kong as follows: Hong Kong may implement universal suffrage for the election of the Chief Executive in 2017; and following that, all Members of the Legislative Council may be returned by universal suffrage in 2020. Amendments conforming to the principle of gradual and orderly progress may be made to the two electoral methods in 2012.

Last summer, with concerted efforts of the SAR Government and various parties and groupings in the Legislative Council as well as the support of various sectors in the community, the SAR Government's proposed package for amendments to the two electoral methods in 2012 was passed by the Legislative Council, given consent by the Chief Executive and endorsed by the NPCSC for the record. With the implementation of the "one-person-two-votes" proposal, Hong Kong's constitutional development can take a step forward towards universal suffrage.

President, all in all, with the implementation of "one country, two systems" in Hong Kong under the Basic Law, the systems on which Hong Kong builds its success as well as the freedoms and rule of law cherished by the people can be preserved. This has allowed Hong Kong to take forward the development of democracy and open up room for economic development. These achievements are made possible through concerted efforts of the State and Hong Kong after China resumed sovereignty over Hong Kong and implemented the "one country, two systems". Given the good overall situation, we should cherish the progress and hard-earned results achieved by the Mainland since the early 20th century. We should also strive to attain further development for the State and Hong Kong.

President, I will listen to the views expressed by Members first and give further response to the original motion and two amendments later.

**MR RONNY TONG** (in Cantonese): President, the Xinhai Revolution is without doubt the most important turning point in the history of China. Although numerous military uprisings, policy changes and constitutional reforms had been initiated during the past 5 000 years or so, none measured up to the Xinhai Revolution because it successfully overturned a political system which had been practiced for several thousand years. The Xinhai Revolution is indeed the most important event in the history of China.

President, many scholars have debated whether the Xinhai Revolution was the only revolution in China. The basis of the debate is that only through such a radical change could China advance from feudalism to civilization. However, the views on core values including democracy and freedom as held by vanguards of the Xinhai Revolution were quite different from our views in modern times.

President, while we certainly have no intention of undermining the political ideals held by the revolutionary vanguards, we must admit that such ideals were formed against a very special historical background, which is different from the present situation. Our differences in views on core values (such as democracy and freedom) exactly reflect the challenges that the Chinese people must face today.

President, I first talk about the views on democracy held by revolutionary vanguards during the late Qing and early Republic years. President, owing to the political or historical background at that time, people wanted to overthrow a totalitarian monarchy. Hence, the idea of democracy focused on the so-called national rights and civil rights. Of course, at that time, national rights were equivalent to monarchial rights. Hence, strictly speaking, there was a division between monarchial rights and human rights. That is why Dr SUN Yat-sen, the Founding Father, was later criticized by many scholars for being influenced by the political thoughts of the Soviet Union and ignoring the importance of human rights in the pursuit of the so-called overall civil rights or collective system of democracy in China. Some scholars even criticized Dr SUN Yat-sen for suppressing human rights with civil rights or ignoring human rights in the pursuit of civil rights. Even the constitutional government as advocated by Mr LIANG

Qichao was merely premised on a constitutional monarchy rather than a constitutional republic. At that time, revolutionary vanguards were not concerned about safeguarding human rights through a constitutional government in strict adherence to constitutional principles.

Back to the present situation, President, although the Xinhai Revolution had successfully overthrown the Qing Dynasty, if we consider the development of democratic thinking and the change of China's situation over the last century, we would think that the last words of Dr SUN Yat-sen can still apply today — "The revolutionary has yet to succeed".

The question we must face today is probably how to balance national rights and human rights. Notionally, democratic systems are practiced in Mainland China, because the constitutional system or the Constitution has clearly stipulated that human rights should be respected. However, in actual practice, human rights have been overridden by national rights, or even become non-existent in the eyes of some people.

President, this is the greatest conflict or predicament currently faced by the Chinese people. We may have overlooked an essential element, that is, the rule of law. In the system of politics, the rule of law is the origin of a constitutional government. If the true spirit of a constitutional government can be given full play in the Mainland, the conflict between national rights and human rights might be resolved. But today, particularly when we learn that Mr WANG Dan has been refused entry into Hong Kong to mourn the death of his respected mentor due to some unspeakable, unreasonable or unjustifiable grounds, we truly feel the intolerable consequence of the suppression of human rights by national rights.

President, I thank Mr Albert CHAN — he is not in the Chamber now — for proposing this meaning motion today, so that we can contemplate the future while reflecting on the past. We are thus reminded of the difficulties which lie ahead in the development of democracy in China and the great responsibilities upon the shoulders of each and every one of us.

President, I so submit.

**MR JEFFREY LAM** (in Cantonese): President, time flies. According to the Chinese Lunar calendar, this is the last meeting of the Legislative Council in Gengyin year and next week will mark the beginning of Xinmao year.

A century ago in Xinhai year, China was invaded by Western powers while the Qing government was corrupt and incompetent. Facing external threats and internal strains, the people were living in dire straits. Dr SUN Yat-sen and other revolutionary vanguards carried out a series of revolutionary movements, and eventually succeeded in leading the Chinese people to overthrow the Manchurian rule through the Wuchang Uprising. This implied the system of absolute monarchy that had been in place for over 2 000 years was approaching its end. At the same time, this had enabled China to stand up to the challenge of Imperialism invading China, enabling the Chinese nation to gradually set foot on the path to building a republic. It can be said that the Xinhai Revolution is a momentous landmark in the history of the Chinese nation.

President, today, which is a century later, the State has undergone tremendous changes. This was a tortuous process beset with challenges and difficulties. After a period of arduous struggles and recuperation, the State managed to ride out the hard times in the early days of the founding of the country. Subsequently, under the policy of reform and opening up, as well as harmonious development, the State has addressed the food and housing needs of the people, and is moving progressively to the development of a fairly well-off society. The living standard of the people has been greatly improved and enhanced.

Certainly, in the course of development in any country, it is impossible for everything to proceed smoothly without making any mistakes. During the development of our country, there were also inadequacies in one way or another. In pursuing the rejuvenation of the Chinese nation, these inadequacies are precious experiences to draw on. Our country has a history and culture spanning over 5 000 years, its territory covers a vast expanse of land with the largest population in the world. These are our unique national conditions. Therefore, our country has taken its own course of development to cope with the needs arising from our national conditions. There is no perfect system in the world that is applicable to all countries. In the process of development, the actual needs of the country should be taken into consideration, while efforts should be made to gradually improve the social institutions, so as to build a fair and just

social environment. Only in this way would the basic interests of the Chinese people be catered for. Similarly, the "one country, two systems" and "a high degree of autonomy" implemented in Hong Kong and Macao after the reunification are also unique in the world. We can learn from the merits of the systems adopted in other countries or regions, so that we can draw on their strengths to make up for our shortcomings. We need not copy mechanically.

President, China has developed, in a century's time, from a poverty stricken country subject to frequent oppression to a prosperous country where people live in peace; it should feel proud and elated. The goal of strengthening China advocated by Dr SUN Yat-sen can be realized gradually. Without the unrelenting efforts and devotion of Dr SUN Yat-sen to sow the seeds of the spirit of democracy on the soil of China, the Chinese nation can hardly be able to come to this new age. After the passage of 100 years, the spirit and ideology of Dr SUN Yat-sen have continued to command the respect and honour by Chinese people in the four places on both sides of the Strait and all over the world. The Three Principles of the People, namely, nationalism, livelihood and democracy, which he had endeavoured to promote throughout his life still enlightens the Chinese nation profoundly to date. Over the past century, we have achieved national independence, and the basic standard of living of the people has been improved. Gradual improvements have also been made in respect of democracy and human rights. The ultimate objective of promoting the Three Principles of the People is to strengthen China and achieve peaceful reunification of the Motherland.

Dr SUN Yat-sen had made this remark: "The unity of the nation is the wish of all the Chinese nationals. Once reunification is achieved, the people of China will enjoy happiness; if reunification cannot be accomplished, they will suffer." Over the past century, a big step forward has been taken towards the reunification of the nation following the successive reunification of Hong Kong and Macao. As a citizen of Hong Kong and a witness to this history, I feel that the State is advancing gradually, and there is a growing sense of national identity of Chinese over the world.

As the cross-strait relationship gradually relaxes, their economic and trade exchanges will become closer. Only with unity and peaceful development can the fundamental interest of the people in the four places on both sides of the Strait be met. We hope that this trend will continue and that concerted efforts will be

made to promote the co-operation, development and peaceful reunification across the Strait. I believe this is also the common wish of Dr SUN Yat-sen and the Chinese people all over the world.

President, I so submit.

**MR CHEUNG MAN-KWONG** (in Cantonese): President, this year marks the centenary of the Xinhai Revolution, it is a memorable event to the Chinese.

The greatest contribution of the Xinhai Revolution to history was the overthrow of the Qing Dynasty, the toppling of monarchy, the ending of feudalism and the establishment of a republic. Dr SUN Yat-sen, the Founding Father of China, was the leader of this great revolution. The Three Principles of the People, namely, nationalism, democracy and livelihood, advocated by him had become the dream and aspiration of the Chinese people over the past century. His last words, "the revolution has yet to succeed, comrades still have to strive", have encouraged the Chinese people from generation to generation to make arduous effort to strive for peace, independence, democracy, prosperity and power.

After the failures of the Self-Strengthening Movement, the Hundred Days' Reform and the Constitutional Movement, people with integrity and ambition were determined to overthrow the Qing Dynasty by military uprisings. The success of the Xinhai Revolution was a tribute to the bloody sacrifice of the revolutionists. Today, we must not forget them when we commemorate the Xinhai Revolution. The education sector should teach students about this commendable period of history, and adhere to the unfulfilled aspiration of Dr SUN Yat-sen and the revolutionary vanguards.

In the long process of history, the past century had undergone great changes. The Xinhai Revolution gave rise to the establishment of the Republic of China, then there were wars among warlords, the Anti-Japanese War and the civil war between the Kuomintang and the Chinese Communist Party; finally, the People's Republic of China was established, bringing independence of the Chinese nation. However, democracy, freedom, human rights and the rule of law of a democratic China are still nowhere in sight. The development of livelihood economy has given rise to corruption, and the seriousness of the problem is worse than the situation in 1989 with the suppression of the 4 June

incident. Had Dr SUN Yat-sen known that in heaven, he would have to repeat his dying wish, "the revolution has yet to succeed, comrades still have to strive". For Chinese people living 100 years after the Xinhai Revolution, in particular leaders of China, they should feel ashamed in the face of Dr SUN Yat-sen.

Hence, regarding the first amendment proposed by the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) to delete the words "teaching of the Founding Father", the Democratic Party cannot agree to this. It is a consensus in history that Dr SUN Yat-sen was respected as the Founding Father. He was honoured by the people for his greatness, and thus the phrase should not be deleted. The teaching of Dr SUN Yat-sen that "the revolution has yet to succeed, comrades still have to strive; put up peaceful struggles to rescue China" should always be remembered. His teaching should always be in our heart and should not be forgotten. Hence, those words of the motion cannot be deleted, for the nation aspired by Dr SUN Yat-sen has yet to be realized in China.

Certainly, Dr SUN Yat-sen launched the northern expedition to attain peace and unity of China. However, in this peaceful and united China, the Three Principles of People should be realized, so that people can enjoy freedom, happiness and democracy. Hence, the Democratic Party supports unity, peaceful unity and democratic unity. So long as these objectives have not been achieved in China, we cannot delete the words the "teaching of the Founding Father" in the original motion. By the same token, the second amendment from the DAB proposing to change the wordings of "democratization, human rights and the rule of law can be expeditiously realized on the soil of China" to bringing "continuous improvement" should not be accepted.

Democracy, human rights and the rule of law are the core values of mankind. In a century after the Xinhai Revolution, and 62 years after the founding of the People's Republic of China, any ruling political party in China is obliged to realize democratization, human rights and the rule of law; this is also the bottom line of all political parties in Hong Kong in monitoring the Government. They cannot use the pretexts of "unique national condition in China" or "making continuous improvement" all the time to evade their responsibilities, or even adopt these pretexts as reasons for oppressing the people and suppressing human rights. Such behaviour is tantamount to helping the tyrant in his evildoing and protecting the wrongdoer in broad daylight, which is something a people-based political party will not do.

The revolutionary groups of the Xinhai Revolution, including the Chinese Patriotic Mutual Improvement Association of YANG Quyun and Xing Zhong Hui (Revive China Society) of Dr SUN Yat-sen had used Hong Kong as the revolutionary base for leading military uprisings. The historical facts illustrated that Hong Kong, given its political uniqueness, had played an important role in promoting the revolution and progress of China. Though it is no substitute for revolution, it is a starting point for achieving progress. The same applies to the democratic movement in 1989. We, people of this generation, have the responsibilities to drive China to move towards democracy, to realize the democratic ideology of Dr SUN Yat-sen and adopt the human rights values of modern world.

The role of Hong Kong in the Xinhai Revolution was heroic and moving, and integrity stands out in times of adversity. History will prove the role of Hong Kong in the democratic movement in 1989 and the 4 June incident, and this will go down in history. Hong Kong's reunification to China realizes the ideology of nationalism of Dr SUN Yat-sen. Hong Kong's support of democratization in China manifests Dr SUN Yat-sen's pursuit of democracy. Hong Kong's support to human right protection movement and its concern about the livelihood of the Chinese people relate closely to the ideology of livelihood of Dr SUN Yat-sen.

At the centenary of the Xinhai Revolution, commemoration is a must. However, the genuine commemoration should be more than a debate at the Legislative Council. Dr SUN Yat-sen used to say that "Action is easy, knowledge is difficult", and some people say that it should indeed be "Action is difficult, knowledge is easy", but more important is the "unity of knowledge and action". We aspire that, in incorporating the ideologies and teachings of Dr SUN Yat-sen with the universal values of mankind in the modern times, China would become a people-based country, caring the needs of the people and keeping abreast of the time, and that democratization, freedom, human rights and the rule of law can be realized in China. The teaching of Dr SUN Yat-sen, "the revolution has yet to succeed, comrades still have to strive; put up peaceful struggles to rescue China", still serves as a reminder like the morning bell, which has not changed for the past century.

President, I so submit.

**MR PAUL CHAN** (in Cantonese): President, I have pointed out many times that the Chinese history of the last century was written in blood and tears, especially the part on the winding road from the overthrow of feudalism to the development of democracy. Even now, the country is still in a stage of struggling. A few years after the Xinhai Revolution, there came the May Fourth Movement, where university students and intellectuals took to the street to fight for "Mr S" and "Mr D", which stand for Science and Democracy. Nowadays, the development of "Mr S" has attained good results but the development of "Mr D" is indeed disappointing.

I remember that shortly after I first joined this Council in 2008, I had the opportunity to visit three countries in Central Europe, namely the Czech Republic, Croatia and Hungary, jointly with several colleagues in this Council. The objective of the visit was to find out more about the political and constitutional development of these emerging countries, as well as how they faced changes during the democratization process. These three communist regimes in Central European have changed to democracies in just some 20 years. During that visit, I had a deep impression on several points as follows:

First, the entire process of change was peaceful. There had been no violence or bloodshed, and the changes were completed in a very short time.

Second, members of the parliament and political parties in these three countries all chose to resolve conflicts and contradictions by peaceful means, which included seeking judgments from court, moving motions of no confidence by the parliament and holding elections, rather than resorting to violence or even a revolution. This is respectable. Having said that, President, it was regrettable that during our visit in September 2009, the parliament or prime minister of these three countries was forced to step down, either due to the passage of a motion of no confidence or due to their failure to command the support of the people.

Third, the parliamentary elections in these countries adopted the proportional representation system under which a voter would vote for a party list. This approach can ensure that the parliament will represent the interests of different groups in society. However, this voting system makes it constantly difficult for the parliament to have a ruling party with a majority of seats, thus preventing the country from having a government with sufficient mandate. As

such, no matter the country is ruled by a coalition government or a minority government, the political instability has made governance difficult, posing great hurdles to economic and social development. Take the Czech Republic as an example, the parliament had held seven elections in less than 20 years between 1990 and 2009.

Fourth, after the dynastic change in Eastern Europe in 1989, the Hungarians thought that their living conditions would be greatly improved following the political change. However, in the first few years after the political change, the economic reforms in Hungary had not been successful. Their export had dropped and state-owned companies were unable to compete with foreign companies, thus leading to high unemployment rates and high inflation rates, and a deteriorating trade balance. The Hungarian Government, therefore, introduced a series of austerity measures in 1995, making the life of the Hungarians even more difficult than before and causing their living standard to slide substantially.

In 2006, the Hungarian Government continued to implement the austerity measures in the hope that the ever rising deficit could be reversed, but it turned out that the people were plunged into even greater plights. This had finally led to demonstrations and riots in opposition to the Government, causing social instability and political turmoil.

President, these countries have a number of features in common. They are small in size with a small population, and the people's education standard and per capita gross domestic product (GDP) are comparatively higher. For example, the Czech Republic and Hungary has a population of about 10 million respectively, as for Croatia, its population is only a few million. The per capita GDP of the Czech people is over US\$20,000 and those of the Hungarians and Croatians are over US\$15,000.

Despite such favourable conditions, it was still so difficult for these countries to implement political reforms. In comparison, the Mainland China has a wide territorial coverage, the geographical differences are great, and there are as many as 56 ethnic communities. Out of the total population of 1.3 billion, over 700 million people are peasants, many of them have low education standard, and tens of millions of people are still living in poverty. Even though our country seems to be very prosperous and advanced nowadays, the per capita GDP is below US\$4,000. It is evident that the country is facing very great challenges.

If Mainland China fails to handle political reforms properly, the consequences would be serious, and worse still, the outcome may be catastrophic.

President, let us look at the case of the former Soviet Union. It implemented drastic political reforms in 1989, which subsequently led to its dissolution. Economic difficulties had persisted for a very long time; the people had suffered untold hardships and the public order was unsatisfactory. Luckily, with its rich natural resources which have high revenue-earning capacities, the country can ride out the difficulties; otherwise the consequences would have been dreadful. I believe no Chinese would want to see China repeating the same mistakes made by the former Soviet Union in carrying out reforms.

President, I do not mean that the Mainland China does not need to take democracy forward. However, I think it needs time and has to go through a process. I think economic reforms will definitely bring along political reforms. Following the economic development in the Mainland and with the passage of the Property Law some time ago, the Chinese people can legally own their properties. With more and more people getting rich, the middle class will expand; and with higher education standard, the aspiration for political reform will become stronger. I think we are now undergoing a transitional period, in that the country is moving on to a new period and a new stage. For a country with a population of 1.3 billion, and having vast differences in education standard, wealth distribution and geography, as well as many different ethnicities, the implementation of political reform is definitely no easy task. We can present our opinions to the authorities, remind it and oversee its work. However, at the same time, we have to give it time to carry out reforms and even explore ways to carry out the relevant work. I believe the Chinese people can ultimately enjoy direct and full electoral rights, so that democratization, human rights and the rule of law can be realized on the soil of China.

President, I so submit.

**MR ALBERT HO** (in Cantonese): President, the Xinhai Revolution is an epoch-making incident in the contemporary history of China. Dr SUN Yat-sen who led the revolution had successfully overthrown and ended the 3 000-year monarchical rule in China. For the first time, he had established a democratic

republican system on the soil of our country. Dr SUN was honoured as the Founding Father of the new China because he had made great sacrifices and contribution to the country and to the nation. The word "founding" as in "Founding Father" refers to the founding of the country of the entire Chinese nation, not the country controlled by the Chinese Communist Party or Kuomintang or any party or groupings. Perhaps Mr IP Kwok-him has, out of political consideration, deleted the words "Founding Father" in the motion to show his espousal of the Communist Party of China. This, I think, is a disrespect to Dr SUN Yat-sen, and a disrespect to the revolutionary martyrs. This is unacceptable to us.

Although the Xinhai Revolution was seemingly successful, it has actually failed to achieve the real objective. The real objective was to thoroughly liberate the Chinese people from autocracy and feudalism, and by building a constitutional democracy in China, it aimed to achieve long-term stability in the governance of the country and ensure long-term freedom and well-being for the people. After the Xinhai Revolution, the people suffered badly from the ravages of civil war and foreign invasion. In 1949, another revolution leading to the change of political rule took place in China, that is, the communist revolution, which had resulted in the establishment of the People's Republic of China. On the other hand, the government of the Republic of China was driven to Taiwan and it continued its rule there.

In Mainland China, one-party rule was adopted by the government. The country had gone through continuous class struggles and purges for more than 30 years. The Cultural Revolution took place when autocratic rule was at its peak and MAO Zedong then became the Qin Shi Huang (the first emperor of Qin dynasty) of new China. After the 1980s, although China embarked on measures to reform and open up the economy, it continued to uphold one-party rule, which resulted in the 1989 pro-democracy movement and the suppression on 4 June. Today, although the Mainland China has emerged as a strong economy, human rights and the rule of law have no part to play, constitutional democracy is nowhere in sight, and autocratic rule prevails. These, coupled with economic development, have resulted in collusion between business and the government, corruption, wealth disparity, intensified social conflicts, the underprivileged being exploited and bullied, and the dissidents being suppressed and imprisoned. In today's Mainland China, although there is no longer an emperor, the nobles created by the autocratic political party have manipulated and monopolized the

State's governing machinery. These should not be what the revolutionaries in the Xinhai Revolution would wish to see.

Mr IP Kwok-him proposed to delete the word "realized" as in "so that democratization, human rights and the rule of law can be expeditiously realized on the soil of China" in the original motion and substitute it with "continuous improvements". Members, we are not calling for an immediate violent revolution to be carried out once again to effect a change of political power. However, any democratic reform must have a clear objective, timetable and road map — I believe Members are very familiar with these terms — and there must be genuine commitments and the will to implement the plans, rather than stalling indefinitely. This is absolutely unacceptable to us. For this reason, we must oppose this amendment proposed by Mr IP Kwok-him.

Today, on the other side of the Strait, Taiwan has made certain achievements in democratic development. This is attributed to the introduction of democratic elections by CHIANG Ching-kuo towards the end of his governance in the 1980s, where a democratic electoral system has been put in place to allow successful change of political power. Despite that, their democracy and rule of law still need to be enhanced. As a Chinese, I certainly hope and would be glad to see reunification across the Strait. But I must point out that the Xinhai Revolution — which is under our discussion today or a great revolution that we all long for — aimed to facilitate self-strengthening and reunification of the nation, and to establish a truly republican system with the people being the master. Therefore, reunification must be pursued on the basis of constitutional democracy. Only in this way can it fulfil the aspiration of the people with integrity and lofty ideas who sacrificed their lives for the revolution back then.

We in Hong Kong are very lucky to be able to enjoy freedom. Over the past 150 years, we have served as a base for promoting the development of the Motherland towards freedom and democracy. In fact, not only in the Xinhai Revolution, but also in the Self-Strengthening Movement in the 19th century as well as the Hundred Days' Reform being implemented subsequently, intellectuals in Hong Kong had played an active role. No wonder Hong Kong is often alleged to be a base of subversion against the political rule, particularly the autocratic rule, in the Mainland. We feel honoured to be named as the subversive base. It is precisely our wish to take forward the development of

China, so that it can peacefully move towards true democracy, freedom, rule of law and constitutional government. This is our wish, and it is also the objective of the Xinhai Revolution.

**MR TAM YIU-CHUNG** (in Cantonese): President, on the centenary of the Xinhai Revolution, let us review the past history. A century ago, people with integrity and lofty ideals all over the world had, with the hope of saving the country from oppression by foreign powers, and the ardour of revitalizing the Chinese nation, responded to the appeals of revolutionary vanguards including Dr SUN Yat-sen to overthrow the corrupt and incompetent Qing Dynasty, topple the monarchy that had existed in China for more than 2 000 years, and establish a republic.

However, the founding of the Republic of China failed to change the predicament of the Chinese nation, which had been beset by internal revolt and foreign invasion since the Opium War. The road to revitalize the Chinese nation was still full of obstacles. Let us look at the history of the Republic of China. Internally, warlords had carved up the country, leading to incessant civil war; externally, the humiliation and oppression of China by foreign powers had intensified. Moreover, the Japanese militarists launched the Manchurian Incident in 1931 and invaded the three Northeast Provinces. Since then, the Chinese nation had staged a 14-year war against the invasion of the Japanese.

After gaining victory of the Anti-Japanese War, inflation run wild owing to the corruption of leaders of the ruling party and mismanagement of economic policies, causing nationwide panic; currencies were reduced to waste paper and the national economy was on the verge of bankruptcy. After undergoing a difficult and arduous process, the Chinese Communist Party gained the support of the general public and founded the new China in 1949. The Kuomintang was compelled to retreat to Taiwan, which marked the beginning of confrontation across the Strait.

The two sides of the Strait have embarked on different paths of development since 1949 and for a long time, the hostile situation forbade people in the two places to have any contacts with each other. Nonetheless, the compatriots on both sides of the Strait still wish to revitalize the Chinese nation

and they have been making efforts to promote the rejuvenation of the Chinese nation.

When the new China was founded, the country was in extreme poverty and in a state of devastation. Back then, the average life expectancy in China was only 35 years, and the death rate of babies reached 17% to 22%. Despite these difficult circumstances, China had to face the Korean War, the Sino-Indian border conflicts and the Sino-Soviet border conflicts. China had successfully safeguarded its territorial integrity, reversing the situation that it had lost in every war with foreign powers since the Opium War. Internally, China had also made progress in areas such as industrial production, universal education and health.

The Central Government's "reform and opening-up" policy in 1979 gave new impetus to the economic development of the country. In just 30 years, the national economy has taken off. During the financial tsunami in 2009, the economic development of European and American countries was in dire straits but the economic development of China was still thriving. China was the main driving force that promoted global economic recovery. It successfully overtook Japan late last year and became the world's second largest economy. Looking back, the population of China has increased from 400 million people when the People's Republic of China was founded in 1949 to over 1.3 billion people at present. The average life expectancy today reaches 73 years, the death rate of babies has fallen to 1.49%, and the living standard of most nationals have gradually risen to a fairly well-off level. After the founding of the new China, it is obvious to all that the country has made great achievements in respect of the national economy, the people's livelihood and in other areas.

Meanwhile, in light of China's historical tradition of over 5 000 years, and the invasion and oppression by western colonialism for more than 100 years in the past, it is impossible for the country to simply copy the western model in promoting democratization, human rights and the rule of law. Recently, President HU Jintao and Premier WEN Jiabao have repeatedly emphasized the determination of the Central Government in promoting democratization, human rights and the rule of law, which can aptly be described as "I will not fall in spite of the strong wind and harsh rain, and I will not yield until the last day of my life". The Central Government will, in consideration of the actual situation of the country, and adhering to the premise of being people-oriented and taking care

of the interests of various social classes, identify a path for the realization of democratization, human rights and the rule of law, so as to achieve the objectives of allowing people to lead a happy life with dignity, making people feel safe and secure, creating a society of justice, as well as enabling people to have confidence in the future.

We opine that the amendment proposed by Mr IP Kwok-him of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) shows our respect for history. We have great respect for Dr SUN yat-sen, the revolutionary vanguard, and this amendment is in line with China's national conditions and the current development of China. We are confident that China will have continuous improvement and progress. Facts have already proven this point and the other points should not be denied. Hence, we hope that Honourable colleagues would support the DAB's amendment.

Thank you, President.

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

**MR LEE CHEUK-YAN** (in Cantonese): After listening to the remarks of Mr TAM Yiu-chung, I think it is really difficult to achieve the ideal of the revolution, so I just want to say, "The revolution has yet to succeed, comrades still have to strive".

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

**MS CYD HO** (in Cantonese): President, the revolution has indeed yet to succeed, and we really need to work harder.

Unexpectedly, this debate today has been elaborated as consolidating the power of the Central Authorities and striving for unification, which is really an irony of history. During the Qing Dynasty, the country was unified and had not been divided. There were even some prosperous vassal states. Why then did

people start a revolution? I wish to say that unification cannot protect the people and there is no direct relationship between the two. Moreover, we should not mistakenly think that national unification implies the success of a revolution.

Why did people start a revolution? Would revolution not cause bloodshed, lives and sacrifices? In fact, before Dr SUN Yat-sen launched the revolution, he had written a 10 000-word letter to LI Hongzhang, asking for dialogue with the Qing Government, and hoping that the Qing Government would accept his views, so as to achieve a peaceful evolution. Of course, the officials would not read the letter, and Dr SUN Yat-sen had to resort to armed revolution.

Why was the Qing Government unwilling to accept criticisms? Under the authoritarian monarchy, the Government did not need self-perfection; the Government had no way to perfect itself and it could not protect the people. When the Government failed to listen to opposing views and criticisms, and failed to improve governance, corruption would soon emerge, causing undue hardship to people. Since reforms could not be carried out through institutional changes, people could only sacrifice their lives for armed revolution.

Regarding the subject of the motion today, that is, commemorating an armed revolution, I originally did not intend to speak. An armed revolution has its own course of development. It is often the case that people use violence as the last resort to overthrow violence. When a strong man gained control of the world by arms, he would very easily continue to meet violence with violence, and he could hardly revert to democratization and the rule of law. Therefore, in the case of China, over the past 5 000 years, when a strong man gained control of the world and established a dynasty, corruption occurred not more than three generations later, followed by natural disasters, famine, and so on, forcing peasants to revolt and topple the monarchy. There came another cycle, and people would never be protected through democratization and the rule of law. I believe that Dr SUN Yat-sen's remark "the revolution has yet to succeed" was not about unification, but about our country's failure to really safeguard the people's livelihood, freedom and rights.

Just now, quite a few Honourable colleagues mentioned how happy the people in new China are, and that 1.3 billion people are now leading a happy life. I would like to ask, has the disparity between urban and rural areas gone? Have

the problems of nail households being forced to move because of urbanization been solved? Is the movement of migrant workers to cities no longer required? Have the problems of children of migrant workers being unable to receive education been solved? How about the following incidents: consumers of toxic milk powder containing melamine had no way to vent grievances; some migrant workers were raped in public places with many people watching; petitioners were beaten and the judges who defended their rights were dismissed. Have these incidents not happened? Have we chosen to close our eyes? Are 1.3 billion Chinese people really happy? When we make comments about new China today, we cannot just sing praises and ignore the evils; the revolution has yet to succeed.

Hong Kong has all along been a base for subversion. Dr SUN Yat-sen was a 12-year-old naughty boy when his family sent him to Hawaii. He came to Hong Kong from Hawaii when he was 18 years old because he considered the education system of Hong Kong better; for this reason, education in Hong Kong has maintained a high standard later on. He stayed in Hong Kong from the time he was 18 years old to the time he was 26; he entered the College of Medicine for Chinese in Hong Kong after completing his studies at the Diocesan Boy's School, and he then became a young doctor. At that time, he and his classmates lingered around Hollywood Road Police Married Quarters, they gathered at cafés on Gage Street chatting freely; it was during their talks that the idea of a revolution was formed. At the time Dr SUN Yat-sen was like the post-80s young people of today. In the 1900s, Hong Kong allowed room for defiant newspapers such as the *China Daily* to discredit the Qing Government; and there were cafés for university students to gather together for chats, during which the idea of a revolution was formed.

Are there such freedom today? Actually, for every generation, there are people like the post-80s of today, and there are people who want to suppress these young people. The Qing Government tried to suppress the people, it asked the Hong Kong Government not to allow Dr SUN Yat-sen to enter into Hong Kong. When Dr SUN Yat-sen went to Japan, the Japanese Government was asked to drive him away. At present, Secretary Henry TANG is the one who suppresses the young generation. Instead of attending to his duties, he criticized that these young people "were unable to compromise and they chose to stubbornly charge ahead with their ideals". If Secretary Henry TANG were born at that time, he would be no different from the Qing Government. The free atmosphere in those

days nurtured Dr SUN Yat-sen. I hope that we have the same atmosphere today for nurturing the post-80s young people who should be treasured by our society. Just like Dr SUN Yat-sen, when they see injustice in society, they stand up and voice their views, so as to build a fair and just society.

President, a revolution is not the business of an individual. Dr SUN Yat-sen went abroad to raise funds, and he was working as a waiter in the United States when the Xinhai Revolution had attained success. When he returned to Shanghai a few months later, people still wanted him to be the interim president. Evidently, people were united at that time. I also hope that the democrats in Hong Kong and the pro-democracy activists at home and abroad would similarly be united.

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

**DR LAM TAI-FAI** (in Cantonese): President, this year marks the centenary of the Xinhai Revolution, and this is an important time for Chinese people all over the world. Many years ago, the Founding Father overthrew the Qing Government and changed the fate of China. The Three Principles of the People advocated by him had impacts on the future development of the Chinese nation.

The Xinhai Revolution has a very special meaning for Hong Kong people because Dr SUN Yat-sen studied and lived in Hong Kong, and the revolution he started was also based in Hong Kong.

As we all know, the Xinhai Revolution took place against an objective background of internal turmoil and foreign invasion. Back then, the Qing Government was extremely corrupt and the country was being divided up by foreign powers. However, the situation of our country has now changed completely and so is our national power. We have undergone substantial changes and progress in various areas. The country is no longer in dire poverty and backward, afflicted with all ills, and we are no longer being oppressed and trampled on by western powers and Japan. This is because our leaders are not as incompetent as the empress Dowager. Certainly, if we want to become the most powerful country in the world in terms of civilization and economic or military

power, we still need improvement and breakthrough in many aspects. There is still a very long and rough way to go, and our country must make more efforts.

Nevertheless, I am sure that we no longer need to launch any violent and bloodshed revolution. The history of the Xinhai Revolution has become a mirror for us. As the saying goes, "past experience, if not forgotten, is a guide for the future", thus we should learn from ancient wisdom. The Xinhai Revolution alerts our country to strive continuously for progress and pursue civilization. Therefore, President, we really must have correct understanding of history and national conditions.

The youth are the pillars of our country and the future leaders of society. The Government is obliged to ensure that they have correct understanding of our country and national conditions, thereby generating a sense of identity and nationhood. Hence, it is very important to implement national education for young people; it is also a task of great urgency.

I believe Honourable colleagues would agree that, after 30 years of reform and opening up, our country has gained worldwide recognition in respect of economic and military strength. However, in areas such as democratization, human rights and the rule of law, quite a few foreigners and some Hong Kong people still have negative views of our country. In particular, when some young people learn about the negative news on the Mainland, they assume that the country is ruled by man, and that it is bureaucratic, corrupt, uncivilized, unfair and without freedom. Owing to these negative feelings of some people, quite a number of Hong Kong people refuse to accept the Chinese culture, they refuse to go back to China to study, work or live, and they even refuse to make friends with people in the Mainland. In my opinion, the present situation should not continue, and we should not let this situation aggravate. What are the reasons? If a person has set his mind to oppose, resist and resent, he will easily be biased of what he sees and faces. A little knowledge can be dangerous, it may easily give rise to conflicts.

Yet, the SAR Government has failed to formulate a comprehensive policy and measures on national education in the past 13 years after the reunification. At present, secondary students can only learn about the development of the Motherland through one of the five units of Liberal Studies under the New Senior Secondary Curriculum. Yet, the curriculum does not cover the development and

background of the Communist Party. The curricula of primary and junior secondary do not cover any contents related to national education. In that case, even if textbooks in Japan frequently attempt to distort history and tarnish the image of China, many students cannot rationally judge the validity of the information. For this reason, many people have the impression that there are many cases of injustice on the Mainland; whereas there are few and even no such case in Europe and the United States as they are perfect countries. Whose responsibility is it? It must be the Government's responsibility, as it has not done enough in the implementation of national education.

There is an undesirable phenomenon in our society, that is, many people have biased views on national education, considering it as a kind of "brain-washing education" and "shoe-shining education". Because of these bad impressions, many students and parents refuse to accept national education, and they therefore do not accept the pace of development of the Motherland in respect of democratization, human rights and the rule of law. After all, this is because the Government has not done enough in the implementation of national education.

President, I agree very much with Mr IP Kwok-him that, as stated in his amendment, the Chinese people all over the world should continue to strive to promote nationalism, democratization, human rights, to foster the grand unity of all Chinese people of the Mainland and overseas, and join hands to promote the peaceful reunification of the Motherland. Nonetheless, I hope for the ultimate peaceful reunification of four places on both sides of the Strait. Most importantly, I hope that the people would have a unified state of mind. They should establish the spirit of mutual trust, mutual help, mutual love and mutual understanding; only in this way can they contribute positively to the enhanced prosperity of the Chinese nation.

President, given the improved living conditions of the people, the Central Government should make efforts to improve the administrative system, the rule of law and human rights situation, and practically grasp the common aspiration of the people and social values. This would improve the quality of nationals with a view to obtaining the recognition of the international community insofar as civil rights are concerned.

Hong Kong people are actually the fortunate group among all Chinese people in the world. While criticizing the Mainland Government or Mainland politics and political system, I hope that Hong Kong people would do something more. For instance, they can enhance contacts with compatriots living overseas and students studying abroad; in particular, they should enhance contacts with Taiwan compatriots and do something for the peaceful reunification of our country.

We certainly do not hope that the co-operation or exchange would be restricted to the economic area, as we must pursue diversification in respect of the academic and cultural areas, arts, sports, science and technology. We must also make greater efforts in connection with exchange and promotion in order to produce national feelings. Having established an emotional tie, we can then gradually achieve improvement and integration in respect of human rights and the rule of law.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): I think we all need to take classes to learn what the Xinhai Revolution is about. I reckon that not too many people in the Chamber will have an in-depth knowledge of this matter. I guess Yuk-man will know it better, since he has been reading books about this subject.

Actually the Xinhai Revolution was a kind of violent revolution. Let me cite an example. After the revolution, the revolutionaries needed to drag out a military governor from under his bed to make him the President. That person was LI Yuanhong. Such a revolution was, of course, very limited. We cannot put too much blame on Dr SUN Yat-sen or his comrades in Xing Zhong Hui (Revive China Society) or Tong Meng Hui (Chinese Revolutionary Alliance) because it was rather difficult to hold any extensive mass movement back then in China. At that time our country was still a country of peasantry. It was still a monarchy.

When we commemorate the Xinhai Revolution, of course we cannot simply accept everything about it. The revolutionaries bought ammunition, organized 10 uprisings and then overturned the monarchy. Uprisings should

only be initiated unless driven by necessity. If one wishes to establish a democratic system, a system which fully gives people the decision making power to distribute resources and wealth, one cannot do it by a military coup.

Hence, to commemorate the Xinhai Revolution, certainly we should talk about the aftermath of the revolution, that is, how to establish the Republic of China. Regarding this Republic of China, the bourgeoisie has a dream. The dream is that there is a constitution, according to which contracts are drawn up, the Government is formed, and all the people will choose the government they want. Should the Government fail to do its job properly, it will have to step down. Besides, there will be a parliament and separation of powers. To commemorate such things, there should be a yardstick. However, is that the case in China? Of course not. That is not the case in Hong Kong either.

I do not know if the Communist Party will commemorate the Xinhai Revolution. In the past, one would be decapitated for commemorating the revolution, only the Communist Party could conduct the commemoration. Members of the public who conducted the commemoration would be decapitated. The commemoration could only be held in the Great Hall of the People. Those who did it outside the Great Hall of the People would be arrested.

After the Xinhai Revolution, Dr SUN Yat-sen realized that military coups would not work because military coups would give rise to warlords, or he had to socialize with the warlords and be humiliated. As a result, he set up the Kuomintang. The Kuomintang was a party which would convene national assemblies, just like the Indian National Congress. From this perspective, in China, we should now have the kind of Republic of China which Dr SUN Yat-sen had fought for in those years. However, do we have that kind of "republic"? No.

Another experience was that the Kuomintang implemented the "Premier's Testament" and the Three Principles of the People. It also created a new three-stage approach known as "military government, political tutelage and constitutional government". That means first there was the army; the army was directed by the party, or *vice versa*. Actually both are more or less the same. However, is the approach of "military government, political tutelage and constitutional government" feasible? I think it is difficult to achieve. In fact, it is the same for the Communist Party. There is also a military government. So far it has not yet reached the stage of political tutelage. After the stage of

political tutelage, there will be a constitutional government, but there is still a long way to go.

Hence, today we speak on this issue in the Chamber, but actually we do not know what we are talking about. If we say that our country really needs to put Dr SUN Yat-sen's teachings into practice, the situation is like what he said, "the revolution has yet to succeed, comrades still have to strive".

What is the problem? The problem lies with the unification of the Chinese nation. If unification is carried out with the People's Republic of China (PRC) as the principal body, that means with the PRC controlled by the Chinese Communist Party (CCP) as the principal body, constitutionally we will have to implement China's constitution or admit the reality of one-party dictatorship in China. That is totally unacceptable.

What is the CCP's problem? That is, it has established a People's Republic of China, claiming that it has replaced the corrupt Nationalist government. The Chinese people have stood up. However, it has adopted one-party dictatorship itself. This is the sad legacy of history. According to the CCP, this was the third revolution. The second revolution failed, in which the Kuomintang betrayed the revolution and killed the Communists. The first revolution was the one advocated by Dr SUN Yat-sen. Now, when will the CCP ever return power to the Chinese people? This question must be answered.

Some people say, "Buddy, our country has prospered and risen to power." Did France not have money when the French Revolution took place? Do you know that France was the most powerful nation at that time? It was so rich that it supported the American Revolution. The French still raised the revolution, did they not? When the Glorious Revolution broke out in England, England was also the wealthiest country in the world. Thus, the comment that if there is money, there will be no revolution is simply nonsense. In my opinion, there are many types of revolutions. In fact, most revolutions which led to the creation of new systems took place in the wealthiest places. If you do not believe me, you can look it up in books and literature.

Revolution took place in Germany, too. It was the revolution in 1848. The later revolutions also occurred in powerful nations. Thus, if someone says

today that the PRC is already so strong that it does not need to have any revolution or it does not need to implement democracy, this is totally bullshit.

**MS MIRIAM LAU** (in Cantonese): President, the success of the Xinhai Revolution not only toppled the reign of the Qing Dynasty but also overturned the feudal monarchy of some two thousand years and established a republic. It was the starting point where China headed for rejuvenation, unification, prosperity and democracy.

Today marks the centenary of the Xinhai Revolution. Having experienced the twists and turns for more than half a century, including some chaos and turmoil, the Chinese nation has eventually entered into an era of unprecedented economic and social prosperity. In terms of the people's livelihood, unification of the race and status of the country, it has attained an unprecedented level.

Looking back at 2010, China's economy continued to develop at high speed. Its international status has become highly influential. According to the preliminary estimates recently published by the National Bureau of Statistics of China, the annual gross domestic product (GDP) of China totalled RMB3.98 billion yuan, which was 10.3% higher than that of the previous year. It is generally forecast that China's nominal GDP for the year will exceed that of Japan and it will become the second largest economy in the world.

Besides, the data of the National Bureau of Statistics shows that the per capita income of urban and rural residents respectively increased 7.8% and 10.9% when compared with last year. This does not only indicate that the overall living standard of the people has risen, it also shows that the growth of the rural resident income was faster than that of the urban areas for the first time since 1998, reflecting that the difference in income between the urban and rural areas has started to narrow, and both of the areas are moving towards modest affluence at the same pace.

I think the above phenomena can tell us that the Motherland has achieved significant development in terms of the nation's power and the people's livelihood. Of course, we hope that the Motherland can also strive for continuous progress and improvement with regard to democracy and the rule of

law. It is true that there are still a number of aspects which the Motherland needs to improve, but as the saying goes, "Rome was not built in a day." Even in the western democratic countries, democratization was not accomplished overnight. Similarly, being a developing country with a population of 1.3 billion and disparity in the pace of development among different regions, China needs time for gradual development, improvement and perfection of its system.

In fact, during President HU Jintao's visit to the United States last week, he reiterated that China recognized and respected the universal principle of human rights. He also admitted that there was still much work to do in the development of the human rights business. In other words, President HU Jintao has indirectly admitted that in promoting the development of human rights, China indeed has its deficiency and still needs to pay much effort in many areas. We hope that with the improvement in human rights on the Mainland, incidents like ZHAO Lianhai's case will become history.

Looking at the other side of the Straits, we are certainly happy to observe the democratic development in Taiwan in recent years, but Taiwan's democratic development has also experienced the stages of "military government, political tutelage and constitutional government". However, democracy is not a panacea for all social problems. Even elections have much room for improvement, which includes the need to deal with problems of violence and prevent bribery and malpractice in elections. I believe you do not wish to see any scenes of "Let the Bullet Fly" in Taiwan's elections again.

After the constitutional reform package stayed put in 2005, last year Hong Kong finally succeeded in taking an important step forward towards universal suffrage. Now that the direction, target and timetable of democratization have been confirmed, I hope all sectors in society can set aside their differences, come to a consensus, complete the legislative work relating to the two elections in 2012 and set off for the ultimate objective of universal suffrage.

President, we believe that the attainment of unification, prosperity and democracy is the unfulfilled aspirations of all the revolutionary vanguards, including Dr SUN Yat-sen. It is also the common aspiration of the people of Greater China as a whole. Despite the difference in the pace and mode of

development among the four places on both sides of the Straits at present, I think the goal which we strive for is still consistent.

The original motion urges us to adhere to the teachings of the Founding Father and strive to promote nationalism, livelihood and democracy so as to facilitate the development of democratization, human rights and the rule of law. We concur with it. We also consider that in evaluating the development of the four places on both sides of the Straits, we should discuss from all angles without laying particular emphasis on a certain aspect. Even though the societies in the four places on the two sides of the Straits have different paces of development in certain areas, what matters most is that we will make progress together. There is really no need to argue which area should take priority.

President, since the guiding principles of the Xinhai Revolution cover the great aspirations of rejuvenation of the nation and unification of the country, we consider that Mr IP Kwok-him's amendment can make up the insufficiency of the original motion and enable its contents to reflect the spirit of the Xinhai Revolution more comprehensively. As for Mr WONG Yuk-man's amendment, which mentions the incorporation of relevant information on the historical development of the Xinhai Revolution into the curriculum of the subject of Liberal Studies, we opine that as Chinese people, we should certainly learn more about the Motherland's development, including the rapid advancement the Motherland has made in recent years.

President, I so submit.

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

(Mr IP Kwok-him raised his hand in indication)

**MR IP KWOK-HIM** (in Cantonese): President, point of order. I would like to look into the previous ruling. Mr Albert CHAN has made a few offensive remarks earlier. Now that Mr Albert CHAN has returned to the Chamber, will he be requested to retract those remarks?

**PRESIDENT** (in Cantonese): As I have indicated earlier, the ruling which I have made is to request Members not to use that word again in the future because that word is offensive. The Rules of Procedure does not stipulate how to deal with Members who have used offensive language. Regarding this matter, I think the ruling made by me just now is already quite clear.

**MR ALAN LEONG** (in Cantonese): President, when Dr SUN Yat-sen delivered his speech at the University Hall of the University of Hong Kong (HKU) on 19 February 1923, he pointed out that, "My inspirations originated in Hong Kong. How was I inspired? Thirty years ago when I was studying in Hong Kong, I would take a stroll in the street in my spare time. Its orderliness, magnificent architecture and continuous progress have all left a deep impression on my mind." At the end of his speech he said, "My revolutionary ideas were all conceived in Hong Kong."

President, during the Xinhai Revolution, Hong Kong further became the forefront and support base for the revolution. Hung Lau at Castle Peak and the watchtower at Pak Nai in Lau Fau Shan are historical relics of the revolution. President, I believe that this year, the four places on the two sides of the Straits will certainly commemorate this revolution, which has changed the destiny of China, in its own way. However, there is special meaning for Hong Kong to commemorate the Xinhai Revolution. President, Hong Kong has been opened up for more than 150 years. Hong Kong people should be proud of Hong Kong's glorious role in its patriotic tradition of acting as the long-term promoter of modernization in China.

In 1851, 10 years after the inception of Hong Kong, the Taiping Rebellion broke out, during which Mr HONG Rengan, the Prime Minister of the cabinet, had resided in Hong Kong. That is to say, right from the very beginning, Hong Kong had played a very important part in the blueprint of China's modernization. Later, there was the process of "Western learning spreading to the East". LI Hongzhang sent the first batch of students to study overseas as recommended to him by Mr YUNG Hong, who had learnt about the western values in Hong Kong. President, the implementation of policies on the Westernization Movement was also inspired by Hong Kong, the only window which China had opened to the outside world. A century has passed, and Hong Kong has always served as a political reference for Mainland China. In striving to save and revive the

country, many people cherishing such ideals were enlightened through drawing reference from Hong Kong's system and Hong Kong itself. As mentioned by Dr SUN in his speech at the HKU, they were affected by what they had experienced in Hong Kong.

President, in the late Qing Dynasty, both KANG Youwei and LIANG Qichao, who were reformists, and SUN Yat-sen, a revolutionary, used Hong Kong as their base and commenced heated debates in the community, not to mention the functions which Hong Kong served during the Xinhai Revolution. When Dr SUN Yat-sen acted as the provisional President, he formed a cabinet. Of the 10 cabinet members, two had received education in Hong Kong. They were respectively WU Tingfang, Minister of Justice, and WANG Chonghui, Minister of Foreign Affairs. Both of them graduated from St Paul's College.

President, why did Hong Kong play such a role? The reason is that Hong Kong is the freest and most open place on the soil of China. It is the only place where people may openly comment on current and political affairs. Dr SUN wished to establish a republic. Can we see a republican form of government on the Mainland today? Some Honourable colleagues said we have to wait. No one said that it has to be done overnight. Yet now not even a road map for 2017 or 2020 is available. What is going on? President, I think if the people of Hong Kong wish to commemorate the centenary of the Xinhai Revolution, they must recall the past to understand the present and remind themselves of the role which Hong Kong has played in China's modernization ever since 1851. We have to remain steadfast in urging China to move towards modern civilization. Besides, we need to continue to treasure and safeguard the freedom, democracy, rule of law, human rights, openness and diversity in the Hong Kong society. That is not because we are selfish and care only about ourselves. That is because we need to fulfil Dr SUN Yat-sen's unfulfilled aspiration.

President, may I make it clear on behalf of the Civic Party that we will object to Mr IP Kwok-him's amendment. Just now I had the chance to listen to Mr Albert HO's speech, and I totally agree with his views. I so submit.

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

**MS AUDREY EU** (in Cantonese): President, today marks the centenary of the Xinhai Revolution. Actually different people, no matter they are leftists, rightists, Taiwanese, people from the Central Authorities or Mainlanders, have different reasons to celebrate the Xinhai Revolution.

Just now I heard Secretary Stephen LAM's speech. He has turned the Xinhai Revolution, this semi-new subject, into another kind of revolution. Similar to some Members' speeches, the Secretary ended up praising how the Chinese Communist Government has improved the Chinese people's lives. However, I think today we should discuss the Xinhai Revolution from the perspective of Hong Kong Chinese. Why do I say so? Because speaking as Chinese people, we do not need to stand on the left or on the right. We do not need to look from Taiwan's or the Mainland's perspective. Simply judge it in the position of the Chinese people. Compared with other dynastic changes, the Xinhai Revolution was indeed vastly different because it abolished the feudal system which had existed several thousand years and established a republic. Hence, the Xinhai Revolution was truly epoch-making.

Besides, why do I say that we should talk about this issue particularly from the perspective of Hong Kong Chinese? In fact, earlier in Mr Alan LEONG's and Mr WONG Yuk-man's speeches, they mentioned Hong Kong's relationship with the Xinhai Revolution. President, I especially wish to take this opportunity to talk about it. As mentioned by a number of Members who have spoken earlier, many martyrs or vanguards in the Xinhai Revolution were actually closely related to Hong Kong.

In my hand is a letter given to me by the YANG Quyun society. They have especially requested me to bring it up today. As we know, this year is the 100th anniversary of Mr YANG Quyun's death. If you have watched the film *Bodyguards and Assassins*, you will remember that YANG Quyun, played by Jacky CHEUNG, was assassinated shortly after the opening of the film. Actually YANG Quyun was fairly connected with Hong Kong. Being the founder of Xing Zhong Hui (Revive China Society), he was the first president of the society. At that time Dr SUN Yat-sen was his assistant. It was only after YANG Quyun's assassination that Dr SUN Yat-sen became the second president of Xing Zhong Hui. YANG Quyun's tombstone in the Hong Kong Cemetery at Happy Valley is not engraved with any name. There is only a serial number,

6348. His descendants have longed for the Special Administrative Region (SAR) Government to erect a tombstone for him so that they can carve his name. They also wish to have a small plaque next to his grave to depict his life story. Their request is rather reasonable and modest. They wrote to me to specify clearly that they did not request to turn the whole Happy Valley cemetery into a heritage site. They simply wish to erect a plaque beside the grave and have the plaque or the area next to the grave declared as a monument. I hope the SAR Government will take heed of such a reasonable request.

It has been 100 years since the Xinhai Revolution took place. YANG Quyun had close connections with Hong Kong and with the whole Xinhai Revolution. Thus, regarding his life story, I hope Hong Kong people ..... either as suggested by Mr WONG Yuk-man that the Xinhai Revolution be incorporated as part of the curriculum of Chinese History or Liberal Studies ..... or naming a street or a place, or in this case, the first thing which the SAR Government can do is to erect an appropriate sign on the graveyard so that the later generations will know how YANG Quyun was deeply engaged in the history of the Xinhai Revolution.

Furthermore, in Mr Ronny TONG's speech, he mentioned another person who had considerable connections with the Xinhai Revolution, that is, WU Tingfang. I have suggested that when the Legislative Council moves to the new complex, the new road next to it should be named Tingfang Road in memory of WU Tingfang, because not only was he the first Chinese Legislative Council Member — of course it was not called the Legislative Council at that time — he was also closely related to the overall development of the rule of law in Hong Kong. Even Dr SUN Yat-sen called WU Tingfang a venerable veteran of the nation, which suggests how much he respected him. WU Tingfang was born in 1842, the year when Hong Kong was ceded to Britain. He studied at St Paul's College, and after graduation, he worked as a court interpreter and then founded *Zhongwai Xinbao*, the first Chinese newspaper in Hong Kong. Later, he went to Lincoln's Inn in Britain to study law and became the first barrister in Hong Kong. He was appointed by Hennessy, the Governor, as an unofficial member of Teng Lai Kuk (the then Legislative Council). LI Hongzhang had also recruited him to deal with foreign and diplomatic affairs. At that time he had explained to the public the importance of the rule of law and refused to sign the order to dissolve the National Assembly. He was a distinguished diplomat. I also hope that his

life story will be incorporated as part of the curriculum of Liberal Studies in Hong Kong.

Thank you, President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr Albert CHAN, you may now speak on the two amendments.

**MR ALBERT CHAN** (in Cantonese): President, the focuses, principles and ideologies of the two amendments today are different. Mr WONG Yuk-man's amendment focuses on Hong Kong's role and its importance, as well as the incorporation of the relevant history into the textbooks in the future. I absolutely concur with these points. However, Mr IP Kwok-him's amendment has, to a certain extent, deleted or even discarded two very important principles in my original motion. One concerns my description of the Xinhai Revolution. That is, he has deleted the part about establishing the first democratic republic in Asia. He has also completely deleted the following part about the present situation, that is, after the passage of 100 years, nowadays only Taiwan has democratic elections which are fair, impartial and based on the principle of universality. President, this is a very important part. It is also an important fact in history.

Of course, I very much hope that Taiwan is not the only place I could mention. If, on the soil of our great country, on the land under the rule of the People's Republic of China, there were similar democratic elections based on the principle of universality as well as fairness and impartiality, I would definitely eulogize like they did, singing praises of our great Motherland's achievements and modernization. However, 100 years after the Xinhai Revolution, what we see today is that after the martyrs sacrificed their precious lives, democracy is still a distant dream. His deleted version absolutely fails to show that at present,

which is 100 years after the Xinhai Revolution, there are still many undesirable shortcomings or deficiencies in development. Thus I find such deletions unacceptable.

President, he has deleted another crucial part, which is even more heartbreaking. When we were at primary schools, Dr SUN Yat-sen's birthday was a school holiday. Later, it was cancelled. Since our childhood, we have respectfully addressed Dr SUN Yat-sen as the Founding Father. However, such an honourable title for such an important historical figure can, to my surprise, be deleted. If I remember rightly, some time ago, in some literature on the Mainland, Dr SUN's honourable title as the Founding Father has still not been deleted. Of course, in official activities, he was not addressed as the Founding Father, but in some literature and activities, especially when the Xinhai Revolution was mentioned, the expression "teachings of the Founding Father" was not deleted. Hence, when I chose my words, I was already very careful. I chose the expression "teachings of the Founding Father", but unfortunately, even such a title in our collective memories, a title respected by most people, has been deleted by Mr IP Kwok-him of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB). Maybe he has forgotten the basic principle stated in the Basic Law, that Hong Kong's "one country two systems" will remain unchanged for 50 years. If it will really remain unchanged for 50 years in accordance with the Basic Law, Mr IP Kwok-him, the expression "teachings of the Founding Father" can be adopted in Hong Kong. I will not accuse anyone of taking the villain for his father. Yet the deletion of the expression "the Founding Father" is an unforgivable sin because this is not very much different from doctoring history.

Lastly, the "republic" mentioned by him and the "republic" mentioned by me or the one put forward by Dr SUN Yat-sen are two totally different matters. The "republic" which Dr SUN Yat-sen advocated is a democratic "republic", whereas the "republic" proposed by the DAB refers to one governed by workers, peasants and soldiers under one-party dictatorship of the People's Republic of China. So this is fundamentally different from the "republic" referred to in the Xinhai Revolution. Hence, I call on all the Honourable colleagues to object to Mr IP Kwok-him's amendment.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, having listened to Members' speeches, I would like to respond to several points.

First of all, I wish to say a few more words on the democratic development in Hong Kong. Mr Alan LEONG said that we now have a timetable for universal suffrage, but not a roadmap. I wish to point out that the model for selecting the Chief Executive by universal suffrage is clearly laid down in the Decision reached by the Standing Committee of the National People's Congress in 2007. For the Chief Executive election by universal suffrage in 2017, the Chief Executive will be returned by all eligible electors through the electoral system of "one person, one vote". For the Legislative Council election by universal suffrage in 2020, the SAR Government has repeatedly clarified that an election model in line with the principle of universal and equal suffrage will then be finalized. There is sufficient time and room for the Hong Kong community to explore and discuss this subject and forge a consensus in the coming decade.

Mr WONG Yuk-man's amendment urges the Government to incorporate the history and impact of the Xinhai Revolution and its relationship with Hong Kong into the curriculum guide of national education under the subject of Liberal Studies. In this connection, I wish to reply in four points.

First of all, we echo that learning the history of our nation is an integral part of national education. In fact, Chinese history and culture are compulsory learning units in Primary One to Secondary Three education. Chinese history is usually taught under the subject of General Studies in primary schools while different elements and units of Chinese history are taught in different combinations of curriculum models in secondary schools.

Second, the history and impact of the Xinhai Revolution and its relationship with Hong Kong are important items in the subject of General Studies in primary education as well as in the subjects of History and Chinese History in primary secondary and senior secondary education. The curricula of these subjects cover concepts relating to human rights and the rule of law, such as rights and responsibilities, freedom, respecting each individual, and so on. Historical figures and events which had an important impact on Chinese history and society today are core learning elements in these subjects. Dr SUN Yat-sen

and the Xinhai Revolution are such examples. These important elements also provide a foundation for senior secondary students to study Liberal Studies which focus on China after its reform and opening to the outside world. Through the learning and teaching of relevant issues, teachers can help students grasp the concepts of nationals, rule of law, democracy, freedom and human rights, and foster in them positive values.

Third, apart from academic subjects, the Education Bureau also encourages schools to, on the basis of the curriculum framework of moral and civic education and with daily events as learning scenarios, cultivate students' values and attitude towards national sentiments and democratic temperament by means of incorporating such cultivation into different learning fields and subjects, so that the two can complement each other, and thereby providing students with a holistic learning experience in civic and national education.

Fourth, apart from classroom education, the Education Bureau in conjunction with the Leisure and Cultural Services Department and various community groups will hold a series of commemorative activities to celebrate the centenary of the Xinhai Revolution. These activities include a variety show, a large exhibition cum photo show, a student writing competition, cross-strait cultural exchanges and visits for students and youth in four places; and there are cultural events such as opera, puppet show and drama, some of which have begun since last year. We very much encourage students to actively participate in these activities, so as to have a better understanding of and experience in the historical meaning of the Xinhai Revolution, the role which Hong Kong played in the Revolution and the impact of the Revolution on our nation's development.

Hence, Members can clearly see that under the current curriculum framework, primary and secondary teachers have sufficient opportunities to introduce the history of the Xinhai Revolution to students. Besides, the SAR Government will stage a variety of commemorative activities for students, so that they can have the opportunity to learn the history of the Xinhai Revolution outside the classroom setting. We thus do not consider it necessary to incorporate the history and impact of the Xinhai Revolution and its relationship with Hong Kong into the curriculum guide of national education under the subject of Liberal Studies because appropriate arrangements have been made in the current curriculum.

I also wish to respond to the point on promoting the peaceful reunification of the Motherland in Mr IP Kwok-him's amendment. Several Members have also expressed their views on this point just now.

Actually, the Central Authorities have repeatedly stressed that they will not waver its policy on the Taiwan issue and will tackle the issue with "peaceful reunification" and "one country, two systems". In the 13 years since its reunification, Hong Kong has proven the fact that "one country, two systems" is a practical and feasible idea. It is also an effective policy to properly address and resolve the problems left behind by history. We believe the Hong Kong experience can provide important reference for properly handling the Taiwan issue.

The Hong Kong-Taiwan relationship is a special constituent in the cross-strait relationship. With the cross-strait relationship entering a new phase, the SAR Government has made proactive planning in the past few years to fully cope with the advancement in the cross-strait relationship and create positive interaction and better conditions for Hong Kong-Taiwan interaction. Specifically, efforts have been made in several regards. For instance, in October 2008, the Hong Kong Trade Development Council set up an office in Taipei, making it the first statutory institution in Hong Kong to set up an office in Taiwan. In April last year, the Hong Kong-Taiwan Economic and Cultural Co-operation Council (ECCPC) was set up to provide a fresh starting point for the era of interaction and co-operation between the Hong Kong and Taiwan sides.

In August last year, the Financial Secretary, in the capacity of Honorary Chairperson of the ECCPC, led a visit to Taiwan. We also held the first joint meeting between the ECCPC and the Taiwan-Hong Kong Economic and Cultural Co-operation Council (THEC) set up by the Taiwan side. The meeting opened a new page in areas of co-operation such as commerce and trade, tourism and culture.

In the future, we hope that official representatives of the two sides can continue to make use of the ECCPC-THEC platform under appropriate capacity to further carry out high-level exchanges and co-operations between Hong Kong and Taiwan, with a view to fostering the relationship among the four places across the Taiwan Strait.

President, all in all, Members have discussed in this Chamber today the history of the past 100 years. Naturally, be it the Xinhai Revolution in 1911, the forming of the People's Republic of China in 1949 or the "Four Modernizations" adopted in 1978, they have become the subjects for exploration and discussion by Members. These subjects have an impact on our nation today and the actual condition of the people. Despite the difference in views expressed in this Chamber, we cannot deny the fact that our country today has made a big stride forward from the past and it will have a prospective future.

In retrospect of the development of Hong Kong, we all agree that Hong Kong is a blessed piece of land. Why? It is because we have everything. We have human rights, freedom and the rule of law. We can also open new doors to democracy. Hence, as long as we are in Hong Kong, we should treasure what we can have today. We should also work harder to play our part in developing our country and further developing Hong Kong under the Constitution of our country and the Basic Law.

President, I so submit.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him, please move your amendment.

**MR IP KWOK-HIM** (in Cantonese): President, I move that Mr Albert CHAN's motion be amended.

**Mr IP Kwok-him moved the following amendment: (Translation)**

"To delete "first democratic republic in Asia; unfortunately, after the passage of 100 years, with the exception that the people in Taiwan can, through a democratic electoral system which is fair, open, impartial and based on the principles of universality and equality, choose their own government and return their elected representative assemblies, the people in Mainland China, Macao and Hong Kong are still unable to enjoy direct and full electoral rights; in view of this," after "established the" and substitute with "republican form of government;"; to delete "teachings of the Founding Father and" after "adhere to the" and substitute with "unfulfilled aspirations of Dr SUN Yat-sen and other revolutionary

vanguards, continue to"; to delete "so that" after "livelihood and democracy," and substitute with "foster the grand unity of all Chinese people of the Mainland and overseas, and join hands to promote the peaceful reunification of the Motherland, so as to bring forth the rejuvenation of the Chinese nation and continuous improvements to"; and to delete "can be expeditiously realized" after "rule of law".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr IP Kwok-him to Mr Albert CHAN's motion, be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert CHAN has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Mr WONG Yung-kan, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, 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 for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted against the amendment.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Dr Priscilla LEUNG voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, 17 were in favour of the amendment and four against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, eight were in favour of the amendment and 16 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr WONG Yuk-man, you may move your amendment.

**MR WONG YUK-MAN** (in Cantonese): President, I move that Mr Albert CHAN's motion be amended.

**Mr WONG Yuk-man moved the following amendment: (Translation)**

"To add "the Xinhai Revolution was first nurtured in Hong Kong, and during Dr SUN Yat-sen's early revolutionary career, Hong Kong was the base of his revolutionary campaign; while studying in Hong Kong, he witnessed the perverse and evil politics of the Qing on Mainland China, thus forming the revolutionary ideas underpinned by the question 'Why can we not reform the evil politics in China?';" after "full electoral rights;"; and to add "; and this Council also urges the HKSAR Government to incorporate the history and impact of the Xinhai Revolution and its relationship with Hong Kong into the curriculum guide of national education under the subject of Liberal Studies, so as to cultivate young people's democratic qualities" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Yuk-man to Mr Albert CHAN's motion, be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for 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, Ms LI Fung-ying, Dr Joseph LEE, Mr CHEUNG Kwok-che and Mr Paul TSE voted for the amendment.

Dr Raymond HO, Mr WONG Yung-kan, Mr Timothy FOK, Mr Abraham SHEK, Mr WONG Ting-kwong, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou voted against the amendment.

Ms Miriam LAU, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr LAM Tai-fai, Mr CHAN Kin-por and Dr Samson TAM abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Dr Priscilla LEUNG voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, six were in favour of the amendment, eight against it and seven abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 16 were in favour of the amendment and eight against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr Albert CHAN, you may now reply and you have one minute 44 seconds.

**MR ALBERT CHAN** (in Cantonese): President, first of all, I would like to thank you for your ruling just now. I believe your ruling has made Secretary Stephen LAM the last Secretary in this Chamber being called that name.

President, regarding the motion on the Xinhai Revolution, if it is vetoed by this Council, I believe it fully reflects that the dictatorial regime and the evil grip of the totalitarian power have so firmly taken hold of different echelons and political groups in Hong Kong that they are invincible. This is very ironic to the Xinhai Revolution.

President, the Xinhai Revolution was a revolution of the capitalist while the revolution in 1949 was a revolution of the proletariat. The two should not be mixed. The unification of the Chinese nation as advocated by Dr SUN Yat-sen was a unification based on the equalization of land rights and equitable distribution of wealth. This unification cannot be achieved under the rule of an autocratic party or the privileged class; nor can it be achieved by partaking of

interests by the privileged class. Hence, today, 100 years after the Xinhai Revolution, democracy is still very remote, I urge fellow comrades, particularly those who support democracy, to continue to follow the footsteps of the martyrs of the Revolution. We must move forward and get rid of this servility mentality; we must not act like dogs ..... President, sorry ..... we must not act like lackeys ..... I almost added that word again. Precisely because of this servility mentality ..... As mentioned just now, from the time of LU Xun to the present, we still have this servility mentality ..... We must continue to fight. The Revolution has yet to succeed, comrade still have to strive.

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

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert CHAN has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mr WONG Yung-kan, Mr Abraham SHEK, Mr WONG Ting-kwong, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou voted against the motion.

Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr Paul TSE and Dr Samson TAM abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Dr Priscilla LEUNG 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, 20 were present, four were in favour of the motion, seven against it and nine abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 16 were in favour of the motion and eight 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.

### **NEXT MEETING**

**PRESIDENT** (in Cantonese): As Members have just said, this is the last meeting in the Lunar year of Gengyin. After the two rounds of debates today, I believe Members are rather heavy-hearted; nevertheless, I wish you a merry Spring Festival.

I now adjourn the Council until the 14th day of the first month of the Lunar year of Xinmao, that is, 11.00 am on Wednesday, 16 February 2011.

*Adjourned accordingly at twenty-eight minutes past Nine o'clock.*