

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 17 November 2010

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

THE HONOURABLE 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 CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

MEMBERS ABSENT:

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

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

PUBLIC OFFICERS ATTENDING:

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

THE FINANCIAL SECRETARY

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

SECRETARY FOR SECURITY

DR THE HONOURABLE YORK CHOW YAT-NGOK, G.B.S., J.P.

SECRETARY FOR FOOD AND HEALTH

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

SECRETARY FOR HOME AFFAIRS

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

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

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

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY
GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

(After the summoning bell had been rung, a number of Members entered the Chamber)

PRESIDENT (in Cantonese): The meeting starts.

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>
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Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2010	145/2010
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Minimum Wage Ordinance (Commencement) Notice 2010	146/2010
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Minimum Wage Ordinance (Commencement) (No. 2) Notice 2010	147/2010
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Employment Ordinance (Amendment of Ninth Schedule) Notice 2010	148/2010
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Antiquities and Monuments (Declaration of Historical Buildings) Notice 2010	149/2010
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Other Papers

No. 29	—	Hong Kong Housing Authority Annual Report 2009/10
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No. 30	—	Hong Kong Housing Authority Financial Statements for the year ended 31 March 2010
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- No. 31 — Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2010
- No. 32 — Report No. 55 of the Director of Audit on the results of value for money audits — October 2010
- No. 33 — Accounts of the Government for the year ended 31 March 2010

Report No. 4/10-11 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Regulation of Slimming Products

1. **MS STARRY LEE** (in Cantonese): *President, it has been reported that new slimming products are replacing old ones on the market, and various types of slimming products boasting natural ingredients and effectiveness are promoted on quite a number of auction websites, discussion forums and personal blogs on the Internet, and the number of complaints received by the Consumer Council this year concerning sales of pharmaceutical products on the Internet has obviously increased compared with last year's, and all the complaints are related to slimming products sold on auction websites. It has also been reported that in the past six years, at least 73 persons had become ill and were hospitalized after consuming slimming products which claimed to be "all-natural" but were in fact adulterated with western drug ingredients. In tracing and analysing 66 cases of people hospitalized after taking slimming products during the period from 2004 to last year, the Hospital Authority (HA) Toxicology Reference Laboratory had revealed incidents in which one person died, one had to undergo liver transplant because of liver failure, and 16 had suffered from mental disorders due to consumption of slimming products that contained a western drug, sibutramine. In this connection, will the Government inform this Council:*

- (a) *of the number of complaints received by the Department of Health (DH) in each of the past three years concerning slimming products and the nature of these complaints, including the numbers of cases which involved products containing undeclared western drug ingredients or chemical substances and Internet sale of unregistered slimming products; how the DH had followed up on these complaints, of the numbers of persons arrested, the number of convicted cases and the penalties imposed; how many products claiming to be effective for slimming had been tested by the DH in each year during the same period, of the results of such tests and the number of products involving Internet sale;*
- (b) *whether there is at present legislation regulating exaggerated claims about the effectiveness of slimming products; if so, whether the Government had instituted prosecution pursuant to such legislation in the past three years; if not, whether the Government will review the current situation; and*
- (c) *given that the Report of the Review Committee on Regulation of Pharmaceutical Products in Hong Kong, submitted by the Government to the Panel on Health Services of this Council in January 2010, has proposed that the DH's Pharmaceutical Service should be expanded into a dedicated office on drugs to strengthen the DH's regulatory role in enhancing drug safety and in the long run, consideration will be given to expanding the office to become a "Centre for Drug Safety", of the latest progress of this initiative; whether the Government has plans to put regulation of slimming products within the ambit of the future Centre for Drug Safety; if so, of the details?*

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

- (a) During the period between 2008 and October 2010, the DH received a total of 18 complaints in connection with slimming products. Of these 18 complaints, six involve illegal sale of prescription slimming drugs and the remaining 12 involve products with undeclared western drug ingredients.

After investigation, the DH did not find violation of any legislation in five of the six complaints involving illegal sale of prescription slimming drugs while the person involved in the other complaint was convicted of having violated the Pharmacy and Poisons Ordinance and fined \$3,000.

Among the 12 cases involving slimming products with undeclared western drug ingredients, follow-up action is being taken with the police in one of these cases. For the other 11 cases that have been handled, investigation revealed that the products in nine of these cases were found to contain sibutramine or its analogs whereas western drugs were not found in the products in the other two cases. During the DH's follow-up investigation, it was found that the products involved in two of the nine cases above were not sold in Hong Kong and thus no further action could be taken. As for the remaining seven cases, the person involved in one of the cases was convicted of having violated the Pharmacy and Poisons Ordinance and fined \$10,000. In another five cases, trading of such products on the Internet was involved. Although the sellers have not yet been located, the websites involved have been deleted by order and the DH has also made public announcements about the problematic products. The DH is currently seeking advice from the Department of Justice on the remaining one case. No product recall was necessary in these seven cases.

Apart from handling complaints, the DH also carries out proactive surveillance action on drugs available in the market on a regular basis. DH staff conduct test purchases from local retailers to detect illegal sale of prescription slimming drugs to people without a prescription. Between 2008 and October 2010, a total of 157 operations were conducted by the DH and in two of these cases, the persons involved were convicted of having violated the Pharmacy and Poisons Ordinance and fined \$1,500 and \$9,500 respectively.

Besides, the DH conducts testing on the drugs purchased from the market, especially slimming products, to ensure the safety of the products and to find out whether the products contain undeclared western drug ingredients. Between 2008 and October 2010, the DH collected a total of 2 424 slimming products from the market for testing and 11 of them were found to contain undeclared sibutramine

or its analogue. The DH immediately ordered the suppliers to recall the products and made public the relevant information.

In response to complaints, the DH will also carry out inspection at beauty service providers and buy from them slimming products which are suspected to contain undeclared western drug ingredients for laboratory tests. If test results show that the slimming products purchased are adulterated with western drug ingredients, the DH will prosecute the relevant service providers. Since 2008, a total of nine beauty service providers have been inspected, one of which was prosecuted with a fine of \$10,000.

Given that many people buy and sell slimming products on the Internet in recent years, the DH has since October 2009 started to make purchases of slimming products on the Internet for laboratory tests. If test results show that the slimming products purchased contain western drug ingredients, the DH will carry out a joint operation with the police. For cases involving sale and purchase of such products on the Internet, the webmasters involved will be ordered to delete their websites and the DH will make a public announcement about such problematic products.

In general, upon detection of a slimming product containing undeclared western drug ingredients, the DH will make a public announcement about the incident and call on members of the public not to use the slimming product in question. Health messages on overweight problem and slimming products are available on the webpage of the DH's Pharmaceutical Service for those who are conscious of their body weight. The webpage also provides information on all slimming products found to contain undeclared drug ingredients since 1998, so as to heighten the public's alertness regarding these problematic products in addition to dissemination of health messages on weight control among the public.

- (b) Slimming products containing western drug ingredients must be registered as pharmaceutical products through an application process before they can be put up for sale in Hong Kong. Information about the products' safety, efficacy and quality is also required to be submitted for consideration.

Trade descriptions about the performance of non-pharmaceutical products are subject to regulation under the Trade Descriptions Ordinance (Cap. 362). Under the Ordinance, any person who applies a trade description which is false to a material degree commits an offence and is liable to a maximum fine of \$500,000 and imprisonment for five years. The Customs and Excise Department (C&ED) is responsible for enforcing the Ordinance.

Since 2008, the C&ED has received only one complaint about the slimming effect of a non-pharmaceutical product. Upon investigation, there was no sufficient evidence showing that the claim involved was a false trade description. The Commerce and Economic Development Bureau has earlier conducted a review on the scope and operation of the Ordinance in conjunction with the C&ED. Apart from proposals to extend the application of the Ordinance to cover trade descriptions in respect of services, recommendations have also been made on law enforcement with a view to stepping up efforts in combating commonly seen unfair trade practices.

- (c) At present, slimming products containing western drug ingredients are handled by the DH's Pharmaceutical Service. These slimming products can only be put up for sale in Hong Kong after they have been registered as pharmaceutical products. Failure to do so is an offence and the DH will carry out follow-up investigation.

The Administration is now planning for the resources required for the DH to implement the 75 recommendations put forward by the Review Committee on the Regulation of Pharmaceutical Products, including setting up a dedicated office for drugs to strengthen the regulatory role of the DH's Pharmaceutical Service. As proposed in the Report of the Review Committee on Regulation of Pharmaceutical Products in Hong Kong, consideration will be given to expanding the office to be a "Centre for Drug Safety" in the long run to handle all kinds of drugs, including slimming products that contain drugs.

MS STARRY LEE (in Cantonese): *President, the Secretary has mentioned in reply to part (b) of my question that, since 2008, the C&ED has received only one complaint about the slimming effect of a non-pharmaceutical product. In fact, we see many slimming advertisements when we browse the Internet and magazines and the wordings of the advertisements are really outrageous.*

President, I have brought a slimming advertisement with me today, and I would like to ask the Secretary and the President to take a look. It is stated here that 90% of people can lose more than 10 pounds after taking the drug for seven days, and there is a picture of a typical case in which a person has lost weight. I am not sure if this overweight person is a man or a woman, he/she originally weighed 121 kg, after taking the drug, he/she only got 54 kg. In other words, this person lost almost 150 pounds. As a lady, I am also moved. When the Secretary previously answered our questions, he also said that many Legislative Council Members were overweight, will Members try taking this drug?

President, since the HA has already confirmed that many slimming drugs have various serious aftereffects, so in order to safeguard consumers' health — I know the DH may not have the manpower to conduct laboratory tests on each and every drug — and only drugs with western drug ingredients are currently required to be registered, will the Secretary impose restrictions on slimming drugs, or stipulate a requirement to state in the package that the drug has not been registered or its effectiveness has not been tested in the laboratory? If he will, when will he do so; if not, what are the reasons?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, our current legislation on pharmaceutical products has already specified that all drugs (especially western drugs) with pharmacological effects can only be sold after they have been registered. The pharmacological effects of all unregistered drugs have not been proven. Hence, we can basically doubt the effectiveness of unregistered drugs. Regardless what is said in the advertisements, so long as the drug has not been registered, the public cannot believe in its effectiveness. Regarding the advertisement just mentioned by a Member, I think we all understand that a person cannot lose so much weight within a short period of time by taking drugs. Also, factors such as weight, age, sex and lifestyle differ from person to person. The DH has provided detailed information to the public so that they can understand the factors to be considered when they are concerned*

about their weight or when they think of losing weight. Most of these methods do not involve the use of drugs. When the use of drugs is really needed, we advise members of the public to consult professionals such as doctors.

As I have observed, most people patronizing slimming organizations basically have a normal build, and I think they may have some psychological or confidence problems. For those who are really obese or have other problems, I trust that the professionals would try their best to help them manage their weight in a healthy way. In this connection, I hope Members would understand that the Government will continue to put in efforts in respect of health education apart from regulating the situation by legislation.

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

MS STARRY LEE (in Cantonese): *President, the Secretary has not answered my supplementary question. I ask if the Secretary will consider requiring drugs to be attached with a statement stating that the drug need not be registered or have not been registered, and whether the effectiveness mentioned has been verified. The Secretary has not directly answered my question.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I have stated clearly in part (b) of my main reply that trade descriptions about the performance of non-pharmaceutical products are subject to regulation under the Trade Descriptions Ordinance. The Commerce and Economic Development Bureau and the C&ED are now studying if the scope of regulation of the legislation should be extended beyond products; in other words, the regulation of services should also be taken into account. It is because many similar slimming companies or organizations are not just using drugs but also other methods to achieve the effectiveness publicized.

DR PAN PEY-CHYOU (in Cantonese): *President, those fake natural ingredients which actually contain western drug ingredients should be strictly regulated; their harmful effects are evident from the main question raised by Ms*

Starry LEE today. Among 66 cases of people hospitalized during the period from 2004 to last year, one person died, one had to undergo liver transplant because of liver failure, and 16 had suffered from mental disorders. But, on the other hand, we can see that the DH

PRESIDENT (in Cantonese): Dr PAN, six Members are still waiting for their turn to ask questions, please be as concise as possible.

DR PAN PEY-CHYOU (in Cantonese): *Alright. According to the DH, a total of 157 operations were conducted between 2008 and 2010. Among the cases involved, a fine of \$1,500 was imposed in one case, and a fine of \$9,500 was imposed in another case. For cases involving human life or serious illnesses such as liver failure, is the relevant punishment too light? Will the Government consider proposing legislative amendments to prevent similar situations from happening?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, according to our analysis, when these cases are tried by the Court, heavy penalties are not frequently imposed although the relevant ordinance has provided for such penalties, just that the maximum punishment has not been imposed. In my view, we need to collect more evidence as far as possible to prove to the judges that the harm inflicted on the community is getting increasingly serious. Anybody who takes the wrong drugs may have his life threatened, or have persistent health problems. We will continue to delve further into this area.

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

DR PAN PEY-CHYOU (in Cantonese): *My supplementary question is: will the Government consider providing for heavier punishment in the relevant ordinance by legislative means?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, the penalties provided for under the existing ordinance are already rather heavy, but the Court frequently imposes the lighter penalties in sentencing.

MR ANDREW LEUNG (in Cantonese): *President, Ms Starry LEE has said that many advertisements boasted "express" effects, and so on, and it is also mentioned in the Secretary's main reply that all drugs are subject to regulation while non-pharmaceutical products are subject to regulation under the Trade Descriptions Ordinance. However, for products which are not drugs but claim to have slimming effects, they will not be regulated. Will the Secretary consider joining hands with the Commerce and Economic Development Bureau in implementing some new measures and taking follow-up actions against false statements, such as claiming that one would lose certain pounds within a week? It is because the consumption of many herbal food products will affect liver functions and is harmful to the body. I hope the Government can think of ways to handle similar problems caused by slimming products so that people can feel at ease when they buy desirable slimming drugs.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, first of all, I would like to restate that I do not think there are so-called desirable slimming drugs because basically, there are rarely such drugs. I believe that every kind of drugs has different effects on individual patients or persons, and we cannot say in a generalized way that certain slimming drugs are desirable. Fundamentally, if people take their weight problem seriously, they should deal with the problem through various other channels, such as controlling food intake, nutritional control, doing adequate exercises, as well as paying attention to lifestyle, and so on.

Have we done enough in providing the public with health education and the right information? I admit that we need to enhance our work in this area, especially when more and more commercial slimming organizations are now publicizing the effectiveness of their products. Western and Chinese drugs are currently subject to regulation under the existing ordinance, and drugs outside the scope of western and Chinese drugs are subject to regulation under the Trade Descriptions Ordinance. Just like the Commerce and Economic Development Bureau and the C&ED, we are particularly concerned about this area, especially

when more and more slimming products have caused health problems among Hong Kong people. We will continue to step up our work in this area.

DR SAMSON TAM (in Cantonese): *President, it is mentioned at the very beginning of Ms Starry LEE's main question that various types of slimming products are sold on the Internet, especially auctioned on quite a number of auction websites. And, the Secretary has mentioned in his main reply that for cases involving sale and purchase of such products on the Internet, the webmasters involved will be ordered to delete their websites. Will the Secretary tell me how many times have such websites been deleted? How will the webmasters not abiding by the orders be punished?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we have started monitoring various websites since 2009. When we have found some websites involved in the sale of such drugs, we will try to buy these drugs and conduct laboratory tests on them. We have done quite a lot in this respect. During a period of around one year from October 2009 to October this year, we have bought 135 types of slimming products from the Internet, and we have found, after conducting laboratory tests, that 16 types contained western drug ingredients such as sibutramine or other similar drugs, and these 12 cases were categorized by the DH as cases for continued investigation. The persons involved in three of these cases were convicted of violating the Pharmacy and Poisons Ordinance and fined \$4,000 to \$13,000. The Government instituted prosecution in nine other cases. As regards all cases involving the sale of such drugs on the Internet, we will notify the webmasters and order them to delete their websites. The DH will also make public information on the relevant products.

I would like to thank Dr TAM for raising this supplementary question, and I believe that the Internet is the channel currently used by the largest number of people for buying illegal products. We will thus continue monitoring and step up publicity so that the public will not be deceived.

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

Implementation of Building Management Ordinance

2. **MR RONNY TONG** (in Cantonese): *President, the Building Management (Amendment) Ordinance (the Amendment Ordinance) came into operation on 1 August 2007. I have learnt that since its implementation, the number of disputes among owners' corporations (OCs), owners and management companies has not been reduced, and there is even an increasing number of complaints lodged by members of the public that the District Offices (DOs) cannot effectively help them resolve their disputes relating to the Building Management Ordinance (the Ordinance) (Cap. 334). In this connection, will the Government inform this Council:*

- (a) *of the respective number of cases received by various DOs each year since the implementation of the Amendment Ordinance from owners and OCs seeking the DOs' interpretation, intervention or mediation as an intermediary on matters related to the Ordinance, with a breakdown in table form by their progress or outcome (that is, cases resolved or settled through mediation, unresolved, withdrawn, outstanding, or in which the parties concerned have taken the cases to court themselves or have lodged complaints with other government departments);*
- (b) *focusing on the problems arising from the statutory procedure for the replacement of managers, in particular the situation where an OC may not be able to dismiss an unsatisfactory manager over a protracted time because a resolution to terminate the manager's appointment was not passed by owners of not less than 50% of the shares at its meeting, whether the Government will introduce further legislative amendments to the Ordinance; if it will, when the amendments will be introduced; if not, of the reasons for that; and*
- (c) *focusing on the fact that OCs cannot be formed for house-type properties due to the interpretation of title, resulting in the rights of owners not being protected collectively, whether the Government will introduce legislative amendments to the Ordinance to include house-type properties in the Ordinance; if it will, when the amendments will be introduced; if not, of the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the main purpose of the Amendment Ordinance was to make further provisions on the appointment and composition of management committees of OCs, as well as the better operation of OCs. After detailed deliberation by the Bills Committee, the Amendment Bill was passed by the Legislative Council in April 2007 and took effect on 1 August the same year.

The Chief Executive has announced in his recent Policy Address that the Government will adopt a number of measures to enhance private building management, including consideration to amend the Ordinance to ensure that buildings will not become a threat to the safety of occupants or other members of the public as a result of poor management, and to effectively require the owners or OCs concerned to hire property management companies if the situation warrants. In the meantime, we will also review other provisions of the Ordinance to improve the legal framework of building management. We have proceeded with the preparatory work of forming a task force to review the Ordinance.

The reply to the three parts of the question is as follows:

- (a) The Home Affairs Department has been actively providing assistance and support to OCs to enable them to handle building management matters effectively. Such assistance and support include attending meetings upon invitation, handling enquiries on building management and giving advice on procedures of the meeting convened under the Ordinance and procedures pertaining to procurement, repair and financial management. If there are disputes among owners, OCs and management companies, we may refer the owners and OCs to the Property Management Advisory Centres of the Hong Kong Housing Society for professional advice as the circumstances require.

The respective numbers of cases of requests for handling disputes on building management received by the DOs are as follows:

<i>2007 (from July)</i>	<i>2008</i>	<i>2009</i>	<i>2010 (as at end of September)</i>
951	1 768	1 590	1 330

In the main question, Member requested for a breakdown of the cases by their handling process. And yet, we do not have a comprehensive figure for the time being. What is more, some owners have not made full reports of the handling processes to the DOs.

As far as we understand, most of the disputes over building management are caused by different understanding of the provisions of the Ordinance on the part of owners. To this end, staff of the DOs will give advice to them with reference to relevant provisions of the Ordinance and precedent cases. Most of these cases can be settled through communication and co-ordination.

If the dispute persists and the parties are willing to deal with it by means of mediation, the Home Affairs Department will refer them to a mediation scheme launched by the Home Affairs Department in collaboration with the Hong Kong Mediation Council and the Hong Kong Mediation Centre to receive free professional mediation service. So far, 19 cases have been handled under the scheme, mostly involving disputes over appropriation of maintenance and management fees. There were three cases in which settlement agreements were signed after mediation.

In addition, the Lands Tribunal has implemented a new scheme on building management cases starting 1 July 2009 to facilitate a more expeditious and efficient disposal of cases by the Lands Tribunal. Specific arrangements include: being more proactive in case management through the adoption of automatic and paper directions and checklists, and encouraging the use of mediation as an alternative dispute resolution. In support of such mediation under the scheme, the Judiciary has set up a Building Management Mediation Co-ordinator's Office (BMMCO) in the Lands Tribunal. The BMMCO provides information and enquiry services for members of the public who are willing to attempt voluntary mediation before or after they commence proceedings in the Tribunal. Mediation service is provided by private mediators outside the Judiciary.

- (b) We are aware that the service level of some property management companies is unable to meet the satisfaction of owners and OCs who hence would like to have their managers replaced in the hope of obtaining better services. To address the problem that no termination mechanism in respect of the appointment of managers was provided for in some older deeds of mutual covenant, a new provision was added to the Ordinance when it was last amended, stipulating that under the above circumstances, OCs might, at a general meeting convened, and by a resolution passed by a majority of the votes of the owners voting either personally or by proxy, and supported by the owners of not less than 50% of the shares in aggregate, terminate by notice the deeds of mutual covenant manager's appointment without compensation. The Ordinance provides that only owners of the shares who are required to pay management fees are entitled to vote on the resolution of terminating the appointment of managers. We believe that this provision should have maintained a balance of interests among owners, developers and deeds of mutual covenant managers.

We are eager to listen to the views of Members and will study, in the coming review, whether the number of shares in relation to the termination of the appointment of managers as set out in the Ordinance should be adjusted.

- (c) When the Government enacted the Multi-storey Buildings (Owners Incorporation) Ordinance in 1970, the main purpose was to provide a mechanism for owners of undivided shares in a multi-storey building to form an OC to better manage the common parts of their building. The Multi-storey Buildings (Owners Incorporation) Ordinance was renamed the Building Management Ordinance in 1993. The Ordinance has provided a legal framework for owners of multi-storey buildings to carry out management of their buildings.

In recent years, some owners of house developments have requested the Government to provide them with similar legal framework for the management of their developments. However, it may not be feasible to apply the concept of management of multi-storey buildings to that of house developments. This is because owners of

individual house developments are the sole owners of their respective lots and they do not co-own the land or properties in the development with other owners. Unlike owners of multi-storey buildings, they do not own undivided shares. In fact, the areas which are taken as common parts in house developments are for the use of owners only. Such areas are still owned by the developers. It follows that the management and maintenance of these common parts are still the responsibilities of the developers.

There are fundamental differences in respect of ownership structure, nature of the title and management between multi-storey buildings and house developments. We understand that owners' committees have been formed in some house developments and that they have been working closely with the managers in the management and maintenance of the developments. We will examine ways to enhance the management of house developments when reviewing the Ordinance.

MR RONNY TONG (in Cantonese): *President, I wish to follow up on part (b) of the main reply. Since building management is seen by many developers as a highly profitable business, therefore the process of replacing managers often meets with strong resistance. We have received a lot of complaints alleging that many management companies would impede information flow, smear or attack owners who wish to replace the managers, or even manipulate the voting result by using the title of the developers concerned. I wish to ask the Secretary if consideration will be made to amending the Ordinance to make such acts as impeding information flow or smearing of owners an offence. Furthermore, in case the manager and the developer concerned hold partial ownership, should their shares not be counted in the voting or should they refrain from voting on resolutions concerning the replacement of managers?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Regarding these issues, Hong Kong should act in accordance with the law. Insofar as part (b) of the main question is concerned, the spirit of the existing Ordinance will be violated if ownership holders are not allowed to vote. As to whether this point should be taken into consideration when amending the Ordinance, different parties should

be consulted for this purpose. Regarding the use of illegal acts or smear campaign, it is believed that they can be dealt with under the prevailing judicial system.

MR RONNY TONG (in Cantonese): *Can the Secretary clearly explain which provisions of the existing law deal with these acts?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, if someone uses unlawful or illegal means to prejudice the result of any collective decision or the discussion outcome of OCs, law-enforcement actions will be taken.

MR RONNY TONG (in Cantonese): *The Secretary has not answered the question. One of the supplementary questions is: Some managers have made use of their power to impede information flow, for example owners are not allowed to distribute leaflets consulting residents on the need to replace their managers, and such act is not permitted by the relevant management companies. Are there any legislative provisions to regulate such practices?*

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

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, Hong Kong treasures very much the free flow of information. In fact, the Basic Law has provided for the freedom of information.

DR PRISCILLA LEUNG (in Cantonese): *President, Cap. 334 is like a double-bladed sword, especially after the implementation of the Operation Building Bright (the Operation), which might do harm despite its good intentions. Sometimes, when huge maintenance fees are concerned, a harmonious housing estate may very often be disrupted, or OCs are susceptible to corruption and competition for management right, and even attract the triads. In the disputes which I deal with most often, the parties concerned lodge complaints to the ICAC against each other every day. The ICAC has to deal with problems related to*

OCs all the time. The most civilized way is to resolve by a lawsuit. Yet, fights and assaults are also not uncommon.

Therefore, I wish to ask the Government, apart from the introduction of a mediation mechanism, a measure commendable by the public, to deal with disputes before submitting the case to the Lands Tribunal, will the Government consider playing a more important role in view of the fact that the fees involved can be as high as hundreds of millions of dollars, and even \$200 million to \$300 million for large housing estates? Given the huge profits, it is highly likely that split-up and competition for economic interests will arise. Can the Government assume a third-party role to ensure equity? What I mean is that as government representatives often attend the OC meetings, is it possible to designate someone to deal with the management problems of OCs first, especially in relation to the power of OCs in handling the Operation, so as to ensure that it is rational and transparent? Otherwise, residents will be living under fear all the time.

PRESIDENT (in Cantonese): Dr LEUNG, please ask your supplementary question in a concise manner.

SECRETARY FOR HOME AFFAIRS (in Cantonese): I am afraid that, for the time being, it is impossible for the Home Affairs Department to carry out inspections or checks on all operations of OCs beforehand. Staff will be deployed to provide advice only when requests for assistance are made to the Home Affairs Department by OCs which fail to resolve the problems or disputes on their own.

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

DR PRISCILLA LEUNG (in Cantonese): *Yes. I wish to ask if it is possible to deploy staff for assistance as early as possible when the fees involved exceeds a certain amount. Will it consider setting the threshold? This is because, in some cases, the fees involved may be hundreds of millions of dollars*

PRESIDENT (in Cantonese): When Members raise questions, please state clearly what the question is. Members may elaborate on the details, including the relevant background, but their question should be as concise as possible. Furthermore, Members should not, in raising the question, keep changing the content.

Secretary, do you have anything to add?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, we will liaise with the relevant authority of the Operation to see if the project can be further improved.

MR ALBERT HO (in Cantonese): *So far, the Ordinance still provides that the deeds of covenant manager can only be dismissed when owners of more than 50% of the shares voted for the dismissal. This requirement reveals how the Government has policy-wise favoured and indulged major developers, thereby inducing them to suppress small owners by taking advantage of their special positions.*

Is the Secretary aware that, even though major owners have often secured more than 30% of the shares of the housing estate shopping mall, the Government still requires the residents to obtain 50% support from the remaining 70% shares, which adds up to nearly 70% to 80% of the shares in aggregate, before a management company can be replaced. How can this be possible in the real world? This is downright unrealistic. As a matter of fact, in the past, a lot of elected Members — except those returned by functional constituencies, as many of them only protect the interests of the business sector — had requested that the relevant provisions be on a par with the current provisions concerning the establishment of OCs. In other words, the required shares will be lowered to 30% and the decision to replace management companies will rest with the Lands Tribunal if the situation warrants

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

MR ALBERT HO (in Cantonese): *My supplementary question is, will the Secretary reconsider and accept the views expressed in the past by many Members by lowering the threshold to 30%, so that only 30% of owners are required to support the resolution for dismissing the deeds of covenant management company, and enabling the dismissal of the management company by court orders when, say, 20% or 10% of the shares make an application to the Lands Tribunal if the situation warrants? Why is this not feasible?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the threshold of 50% was agreed by the relevant Bills Committee and the Legislative Council after deliberation when the Ordinance was last revised. What is more, this is stipulated in the law. No doubt, we have heard different voices. While some people consider the threshold too high, some consider that it should be further raised to ensure stability in the overall management of buildings. Both sides of the views were heard.

When the 50% threshold was set in the past, presumably people from all walks of life, including the Legislative Council, considered it a proper balance. Whether or not there is a need to seek a new balance in view of the changing social conditions, which may suggest a higher or lower threshold, can be further discussed when legislative amendment is considered. We must forge a general consensus in society as the issue involves a balance of interests among different parties.

MR IP KWOK-HIM (in Cantonese): *There have been numerous discussions in the Legislative Council or the community concerning the assistance to be provided for the management of house-type properties belonging to the same housing estate. In the main reply, the Secretary said that as the properties are located in the same lot, the common parts are still owned by the developer concerned. These common parts are merely for the use of owners, who cannot exercise management right over them. In the main reply, the Secretary also mentioned that owners' committees have been formed to deal with the situation, but they do not have any power, nor can they exercise the right of management. Secretary, under this circumstance, should the Government think of some ways to enable owners of these properties to manage the common parts therein, so as to enhance the quality of living?*

In fact, this question has been discussed for a long time. There has been a suggestion that, in order to resolve this problem, the sum of the aggregate shares should be divided by the number of shares in the relevant lot. I wish to ask the Government if a relevant review has actually been carried out, or has the Government simply turned a blind eye to the problem in view of the numerous insurmountable difficulties.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, just as I have elaborated in the main reply, the existing Ordinance was originated from the need to have a deeds of covenant for the management of multi-storey buildings, which is definitely different from house developments. It is therefore extremely difficult to apply the Ordinance to the management of house developments.

According to the views collected, management problems and disputes pertaining to house developments mainly involve a particular house development, and the relevant situation has yet to be known. Nonetheless, the problem is mainly related to a particular house development whose deed of covenant was made under a relatively special situation. As to whether it is necessary to formulate a legislation applicable to all house developments to deal with this relatively special situation, an investigation has to be conducted. We will adopt an open attitude in receiving views.

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

MR IP KWOK-HIM (in Cantonese): *President, the Secretary has not answered whether the issue is being dealt with at the moment. Or, has he slackened off, and is he just pointing out the problems without actually tackling them?*

PRESIDENT (in Cantonese): I think that the Secretary has answered the question. Secretary, a Member asks if there is any slackening off.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, we have not sat with our arms folded.

PRESIDENT (in Cantonese): This Council has spent nearly 22 minutes on this question. Third question.

Safety of Nuclear Power Plants near Hong Kong

3. **MS AUDREY EU** (in Cantonese): *President, it has been learnt that the Guangdong Province is now planning its medium-to-long term development of nuclear power in accordance with the Medium-to-Long Term Development Plan of Nuclear Power (2005-2020) (the Development Plan) issued by the National Development and Reform Commission, and plans to build more nuclear power stations. Further, the Hong Kong Special Administrative Region (HKSAR) Government is currently conducting public consultation on a plan to increase imported nuclear energy in order to reduce greenhouse gas emissions. Yet, quite a number of members of the public have relayed to me that they are worried about the safety and risks of nuclear power, and they have criticized that the existing official contingency notification channel between Guangdong and Hong Kong as well as the standing monitoring mechanism lack transparency and public participation. In this connection, will the Government inform this Council:*

- (a) *since the issuance of the Development Plan, whether the HKSAR Government has ascertained from the Guangdong Province the latest progress of its plan for the medium-to-long term development of nuclear power, including the respective numbers of nuclear power stations and generating units which are under planning, the capacity of such units, as well as the assessment of the risk they pose for the safety of Hong Kong; if so, of the details; if not, the reasons for that;*
- (b) *whether the authorities had, in the past two years, drawn up plans to enhance the transparency of the official contingency notification channel between the Governments of Guangdong and Hong Kong; if so, of the details; if not, the reasons for that; and*

- (c) *whether the authorities had, in the past two years, drawn up strategies to make use of the opportunity of increasing imported nuclear energy from the neighbouring places to reinforce public participation in the nuclear power safety monitoring system; if so, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, thanks to Ms Audrey EU for her question.

According to the Development Plan issued by the National Reform and Development Commission, the nuclear power projects in Guangdong, which have been approved or reviewed or commenced site selection work include Lingao Nuclear Power Station Phase 2, Yangjiang Nuclear Power Station, Yaogu Nuclear Power Station in Taishan and Tianwei Nuclear Power Station in Lufeng. There would be about 14 generation units with a total installed capacity of about 14 000 MW.

The construction and operation of nuclear power stations in the Mainland are regulated by relevant national safety regulations for civilian nuclear facilities, and have to comply with national regulatory requirements before the plants could obtain the construction and safety operation approval. The requirements on construction and operation meet the international standards. The Ministry of Environmental Protection (MEP) is responsible for the environmental monitoring of the nuclear power stations. The National Nuclear Safety Administration is a regulatory body under the MEP and is in charge of overseeing the safety operation of nuclear power stations, and carrying out inspection.

Nuclear power has been under progressive development in the Mainland. Hong Kong Nuclear Investment Company Limited (HKNIC), a wholly-owned subsidiary of the CLP Holdings Limited (CLP), has been investing and taking part in the operation of the Daya Bay Nuclear Power Station (Daya Bay), and nuclear electricity is imported for use in Hong Kong. The nuclear technology adopted by Daya Bay and other nuclear power stations in the Mainland is relatively mature and widely used both locally and overseas.

As regards emergency arrangement and risk assessment on nuclear incidents, it has been an international practice (and adopted by the Mainland) to

develop contingency plan with regard to the distance from nuclear power stations. According to practices commonly adopted internationally, in case of nuclear incidents, full countermeasures have to be considered for the area within 10 km to 16 km from the nuclear power station, to prevent direct exposure to radiation or inhalation of contaminated air. Generally, ingestion pathway countermeasures are to be considered for the area within 50 km to 80 km from the nuclear power station, to prevent the intake of contaminated food, water, milk, and so on, by the public. Among the existing and planned nuclear power stations in the Guangdong province, Daya Bay is the closest to Hong Kong. It is about 20 km away from the nearest land base of Hong Kong and 50 km away from the city centre. Since the operation of the Daya Bay, the governments of Hong Kong and Guangdong have established contingency and notification mechanisms on emergency arrangements for the nuclear power station. Co-operation agreement and information exchange on emergency response at the Daya Bay and Lingao nuclear power stations have also been worked out. The above co-operation, emergency response and notification arrangements are set out in details in the Daya Bay Contingency Plan, which has been uploaded onto the website of the Security Bureau for public reference. Other nuclear power stations under construction or planning, including those in Yangjiang, Yaogu and Tianwei, are generally more than 100 km away from Hong Kong, ranging from 130 km to 200 km.

According to the bilateral co-operation agreement, the SAR Government and the Guangdong authorities have established an emergency notification channel between the two governments. In simple terms, the Prevention and Emergency Administrative Commission Office of Guangdong Province for Nuclear Accident of Civil Nuclear Facility (PEACO, GD) is responsible for co-ordinating contingency actions to be taken by various Guangdong authorities in response to events at Daya Bay. In case of a contingency event or accident at the station, the Daya Bay operator will inform the PEACO, GD and other relevant state organizations immediately. The PEACO, GD will notify the HKSAR Government in accordance with the arrangements agreed between the two sides and the classification of the "emergency situation". The classification of "emergency situation" follows the four-category system of the International Atomic Energy Agency (IAEA) for classifying nuclear emergencies according to its impact on safety. The four categories are "Emergency Standby", "Plant Emergency", "Site Emergency" and "Off-Site Emergency".

In case of an "Off-Site Emergency", the PEACO, GD will immediately inform the SAR Government via the Hong Kong Observatory (HKO). The HKO will acknowledge receipt, inform the Security Bureau, and commence the assessment process. Security Bureau will determine the appropriate level of activation of the Daya Bay Contingency Plan. It will also direct and co-ordinate the Government's response to the nuclear incident. The PEACO, GD will provide updates on the situation no longer than every six hours. It will give further notification immediately on detecting significant changes.

In respect of non off-site emergencies, the PEACO, GD is also obliged to notify the SAR Government. Depending on the situation, Security Bureau will determine the appropriate level of activation of the Daya Bay Contingency Plan. Upon receiving a report of "Site Emergency" from Daya Bay, the PEACO, GD will make a first notification to the Hong Kong authorities as soon as possible based on the circumstances at the time and at the latest two hours after being notified by Daya Bay. Thereafter, the PEACO, GD will make follow-up notifications once every six hours. If there are significant changes, the follow-up notifications will be made as soon as possible. In case of nuclear emergencies at Daya Bay which fall into the categories of "Plant Emergency" or "Emergency Standby", the Guangdong authorities will inform the Hong Kong authorities at the same time when they report to the IAEA.

The Guangdong and Hong Kong authorities have established to meet annually for reviewing the bilateral co-operation arrangements, sharing experiences and identifying opportunities for enhancement of co-operation. In order to improve the notification mechanism, Security Bureau has stepped up the discussion with the PEACO, GD for a review of it. The PEACO, GD has acknowledged the need for enhancements to the existing co-operation arrangement and notification mechanism. Both sides agreed to assign experts for further discussions. The Administration will report the result of the discussions to the Panel on Security in future.

For incidents without any impact on environmental or public safety, the HKNIC at present provides information through its website on the number of Licensing Operational Events and general operation data of Daya Bay on a monthly basis. Notwithstanding, the SAR Government is aware of the public concerns over the occurrence of similar events recently, and understand that transparency and timely disclosure of information is an important basis for

maintaining public confidence in the safe operation of the nuclear power station. To strengthen the HKNIC's existing public communication mechanism, the Government has already asked the CLP and HKNIC to timely disclose to the public any incidents related to radiation and the safe operation of Daya Bay, and to put in place proper arrangements for the release of relevant information to the public to enhance the transparency of the operation of the nuclear power station. We believe that whilst ensuring nuclear power safety, public confidence in nuclear power should also be strengthened and maintained with enhanced transparency of the operation of the nuclear power station.

Hong Kong has also put in place its own monitoring and alert mechanism. The HKO has set up 10 field stations to monitor the ambient gamma radiation level. An alarm will immediately sound if the radiation level exceeds the preset level. As new nuclear power stations will be established at locations in Guangdong to the west of Hong Kong, the HKO plans to set up the eleventh radiation monitoring station in the western part of Hong Kong. Moreover, the HKO uploads daily on its website information on the radioactivity level of the previous day. Its website also contains information on radiation monitoring, assessment and protection. The HKO organizes various promotional activities on the knowledge of radioactivity on a regular basis to enhance public awareness on the monitoring of radioactivity.

MS AUDREY EU (in Cantonese): *President, you may recall that this is not the first time I make the same complaint to you. The questions raised in my main question are very specific and itemized as parts (a), (b) and (c). But the Government just lumps its reply together because it wants to avoid giving specific answers to my questions.*

President, in part (a) of my main question, I asked whether the SAR Government had, since the issuance of the Development Plan, ascertained from the Guangdong Province the latest progress of its plan for the medium-to-long term development of nuclear power. I asked specifically about risk assessments in relation to the safety of Hong Kong. President, as you can see, the Secretary has not answered my question at all. He just mentioned some content of the Development Plan in the first paragraph of the main reply.

President, given the extremely low transparency of the official contingency notification channel between the governments of Guangdong and Hong Kong —

in fact, a special meeting of the Panel on Security was held yesterday to discuss this matter — I asked in part (b) of the main question whether the authorities had drawn up any plans to enhance the transparency of the notification channel. However, the Secretary only mentioned towards the end of the main reply that he was aware of public concern about the lack of transparency and hence, the Government had asked the CLP and HKNIC (instead of official authorities of the two places) to timely disclose to the public any incidents related to radiation and the safe operation of Daya Bay, and to put in place proper arrangements for the release of relevant information to the public to enhance the transparency of the operation of the nuclear power station. That was how he answered my question.

President, in part (c) of my main question, I asked the Secretary whether the authorities had drawn up strategies to make use of the opportunity of increasing imported nuclear energy from the neighbouring places to reinforce public participation in the nuclear power safety monitoring system. Again, the Secretary has not answered my question at all.

President, this is not this first time I complain, the Secretary has not answered my questions at all. President, can I ask the Secretary to furnish a written reply for these specific questions of mine? I have already repeated my questions. Nonetheless, I would like the Secretary to give an oral reply as to whether discussions have been held with the Guangdong authorities on the assessment of risks posed by the selected sites of nuclear power plants. If discussions have been held, please give us the details.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, among the nuclear power stations in Guangdong, Daya Bay is closest to Hong Kong and the Guangdong authorities have of course conducted risk assessment on the plant. Regarding the selected sites of nuclear power stations under planning, the Guangdong authorities would definitely carry out risk assessments. As I have explained in the main reply, when conducting risk assessments, consideration would generally be given to the distance between the selected sites of nuclear power stations and the neighbouring places in compliance with practices adopted internationally.

Regarding the notification channel mentioned by Ms Audrey EU, I have already responded to that in the main reply. As far as I know, a special meeting

of the Panel on Security was held yesterday and our colleagues have already provided Members with detailed explanation during the meeting. Notwithstanding, if Ms EU has further questions, we will gladly reply. Thank you, President.

MS AUDREY EU (in Cantonese): *He has not responded whether he would at least give a written reply to provide supplementary information to my questions. President, he has not replied my questions at all. For example, I asked him whether there were any strategies or directions and if he said no, then he could give "No" as an answer. I asked him for the reasons and if he considered that the notification channels were transparent enough and hence, there was no need for strengthening, this could also be an answer. But he has in fact not given any answers. President, I ask him for a written reply. I have raised a specific and fair question and I expect a fair reply. Thank you, President.*

PRESIDENT (in Cantonese): Secretary, can you provide supplementary information in writing as requested by the Member?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I have tried to give explanations as best as I could both in the main reply and in my oral replies to the supplementary questions. Just now, Ms Audrey EU asked whether Hong Kong had formulated strategies in view of certain developments in the Guangdong Province. In fact, in the public consultation on climate change conducted recently, we have noted that there were opportunities for co-operation with the Mainland in respect of fuel mix for energy production. We will continue to identify and explore further co-operation opportunities with the Mainland on energy matters. Thank you, President.

MS AUDREY EU (in Cantonese): *My question is very simple. I just ask whether you can provide a written reply to my questions, for example, in part (c) of my main question, I ask about public participation. Have you replied anything at all in that respect?*

PRESIDENT (in Cantonese): Ms EU, your request is very clear. I think the Secretary has also clearly heard that the Member asking the main question considers that the main reply given by the Government fails to answer some specific questions she raised. As such, will the Secretary consider the Member's opinion and provide supplementary information in writing later on.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I will try my best.

MR TAM YIU-CHUNG (in Cantonese): *President, I raised a question in this Council on 30 June this year about the small increase in radioactivity observed in the reactor cooling water at Unit 2 of Daya Bay on 23 May this year, and I asked whether the Government had planned to review the existing reporting system on nuclear incidents. In his reply, the Secretary for Security stated that he hoped the review could be completed as soon as possible and discussions with the CLP and the Daya Bay Nuclear Power Operations and Management Company Limited have been held. Since then, four months have passed and the Secretary for Environment is still saying in the main reply that the Security Bureau has stepped up the discussion with the PEACO, GD for a review of the notification mechanism and that both sides acknowledge the need for enhancements to the existing co-operation arrangement and notification mechanism. However, both sides have yet to come to any conclusion. I would like the Secretary for Security to give us an account as to how the review is progressing, whether there are any difficulties and when the result of the discussions will be reported to the Legislative Council.*

SECRETARY FOR SECURITY (in Cantonese): President, the Hong Kong and Guangdong authorities have all along been working under an established and effective bilateral agreement in respect of the notification mechanism. If any changes are contemplated, it must be made after thorough discussions so that practical arrangements would be drawn up accordingly. Moreover, mutual agreement is required before actual implementation. Therefore, it would take some time before any changes can be made to the agreement. Perhaps, let me explain the Government's stand on this matter to Members, which might also serve to answer Ms Audrey EU's question just now. The Government share with the public in hoping that the notification mechanism will be more timely and

more transparent in future. As the Hong Kong and Guangdong authorities are holding discussions and a consensus has yet to be reached, I do not consider it appropriate for me to divulge here whether both sides have any disagreements because we still need to hold further discussions with the Guangdong authorities. Once solid progress is made, we will report the result of the discussions to the Panel on Security. Thank you, President.

PROF PATRICK LAU (in Cantonese): *President, I would like to ask the Secretary, since the commissioning of Daya Bay some 20 years ago, the proportion of nuclear electricity supplied to Hong Kong and to other places, and whether there is any surplus electricity which has been wasted?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, since its commissioning in 1994, about 70% of the electricity output of Daya Bay has been supplied to Hong Kong, and the remaining output is being used in the Guangdong Province. All electricity output have been utilized.

PROF PATRICK LAU (in Cantonese): *President,*

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

PROF PATRICK LAU (in Cantonese): *My question is about whether any surplus electricity has been wasted?*

PRESIDENT (in Cantonese): I think the Secretary has already given an answer.

DR MARGARET NG (in Cantonese): *President, we learnt of two facts at the special meeting of the Panel on Security held yesterday. The nuclear incident happened on 23 October; the HKNIC only knew about the incident on 27 October and the Security Bureau on 2 November; and after the Security Bureau learnt*

about all the facts — actually not all the facts are known yet — the public only knew about the incident until 15 or 16 November. President, it took too long to get the public informed. Yesterday, we asked why we were not notified sooner, and we were informed that as the HKNIC only held 25% of the shares, not much information could be provided by the company. President, while this answer may be true, it is extremely worrying because what concerns us is neither the share distribution nor the clientele of the company, but the safety of the 7 million people of Hong Kong.

President, I would like to seek the Government's undertaking on the following: first, the Chief Executive will personally take up the matter with the Central Authorities; second, to seek an undertaking from the Central Authorities that when the HKNIC learns about any incident, the HKSAR Government will also be notified immediately; and before such a guarantee is obtained from the Central Authorities, no discussions on the further expansion of nuclear power generation will be held. Thank you.

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for the Environment, please reply.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I think the Government's stand on this matter is evident from my main reply and the Secretary for Security's remarks. The Government's stand is that should any incident occur which involves nuclear power safety, corresponding measures must of course be triggered off immediately. Even for incidents which do not relate to radiation or have any safety or environmental implications, the Government would like to receive timely notifications. As I have said clearly in the main reply, we would like to build up public confidence in nuclear power. At present, the two governments are working under an established mechanism. And as the Secretary for Security has mentioned, we have initiated discussions with the relevant Guangdong authorities on ways to strengthen the notification arrangements. Regardless of whether there will be further development of nuclear power in future, the notification mechanism must be enhanced so as to increase public confidence in nuclear power. Thank you, President.

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

DR MARGARET NG (in Cantonese): *The Secretary has not answered the part about whether the Government can undertake, firstly, that the Chief Executive will personally take up the matter with the Central Authorities; and secondly, that before the Central Authorities give its formal undertaking that we will be notified once the HKNIC learns about any incident, no further discussion will be held about the development of additional nuclear power stations in the Guangdong Province.*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, both myself and the Secretary for Security are speaking on behalf of the entire Government to convey its stance on the matter. If it is necessary to hold discussions with the relevant ministries and commissions in the Mainland, we will do so. Moreover, the development of nuclear power not only copes with climate change, it also enables Hong Kong's fuel combination to go low-carbon. We are happy to listen to any views from members of the public in the ongoing public consultation exercise. Thank you, President.

PRESIDENT (in Cantonese): This Council has spent more than 22 minutes on this question. But as the Secretary has used quite some time to give his reply to the main question, I will allow one more Member to raise a supplementary question.

DR PHILIP WONG (in Cantonese): *President, the Government told us that a comprehensive contingency plan was already in place. I would like to ask the Secretary whether this comprehensive contingency plan will be reviewed periodically and which government department is responsible for the review?*

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Security, please reply.

SECRETARY FOR SECURITY (in Cantonese): President, maybe let me answer part of Ms Audrey EU's question. The SAR Government shares the grave concern of the people about nuclear power safety because the lives of seven million citizens of Hong Kong are at stake. Actually, Daya Bay itself has built in multiple protection systems and adopted highly stringent requirements in respect of day-to-day operation and maintenance in accordance with international safety standards. Therefore, the risk of any incident or release of radioactive materials from the power station is extremely small. However, as a precaution, the SAR Government has formulated the comprehensive Daya Bay Contingency Plan, which would immediately come into operation in the event of any accidents at the power station leading to a release of radioactivity. While this contingency plan will be reviewed constantly, it has also gone through four exercises under the observation of the IAEA or other international experts for testing its effectiveness. I can say to Members that these four exercises have all shown that our contingency plan is sound and all the concerned departments and agencies are fully prepared to respond immediately in case there is any unfortunate accident involving the release of radioactive materials from the nuclear power station. Thank you, President.

PRESIDENT (in Cantonese): The Member is asking about whether this contingency plan will be reviewed periodically and which department is responsible?

SECRETARY FOR SECURITY (in Cantonese): It is the Security Bureau's responsibility and we will review the contingency plan periodically.

PRESIDENT (in Cantonese): Fourth question.

Post-service Employment Arrangements for Senior Staff of Hong Kong Monetary Authority

4. **MRS REGINA IP** (in Cantonese): *To ensure that the post-service employment of former directorate civil servants will not lead to conflict of interests with their previous government service, the Government has put in place stringent arrangements and vetting and approving procedures for post-service*

employment. For example, the control periods and sanitization periods for civil servants at Directorate Pay Scale Point 4 (or equivalent) are two years and 12 months respectively. However, there have been comments that post-service employment arrangements for senior staff of the Hong Kong Monetary Authority (HKMA) are much less stringent. For example, a former Deputy Chief Executive and a former Executive Director of the HKMA who left employment in May 2005 and January 2006 respectively had taken up senior positions in local banks within the same year, and the former Chief Executive became a non-executive director in three listed companies within a year after his leaving employment in October 2009. There have been comments that the HKMA being the central bank, the manager of the Exchange Fund of Hong Kong and an important institution monitoring the banking system of Hong Kong, major conflict of interests will arise if its senior staff members are allowed to join banks or financial institutions shortly after their leaving employment. In this connection, will the Government inform this Council:

- (a) of the post-service employment arrangements for the Chief Executive, Deputy Chief Executives and Executive Directors of the HKMA, including the control periods and sanitization periods, as well as the restrictions and vetting and approving mechanism for taking up full-time remunerated work or work of a commercial nature;*
- (b) given that it was mentioned in the Annual Report 2009 of the HKMA that "HKMA is an integral part of the Hong Kong Government", why the post-service employment arrangements for its senior management staff are less stringent than those for civil servants at Directorate Pay Scale Point 4; and*
- (c) whether it has plans to review the existing arrangements and vetting and approving procedures for post-service employment for senior staff of the HKMA, so as to strengthen public recognition of the integrity and honesty of its team members, as well as to more effectively prevent conflict of interests?*

FINANCIAL SECRETARY (in Cantonese): President, my reply to the three-part question is as follows:

- (a) The HKMA staff exit management arrangement consists of two parts: a notice period and a control period.

The standard period of notice of termination is six months for staff at the Executive Director level and above. The HKMA makes full use of the notice period as necessary to ensure that the departing employee is separated from sensitive duties or duties that might have conflict of interest with any future employment.

The control period for the incumbent Chief Executive of the HKMA is 12 months from the termination of his employment with the HKMA. The control period for officers at the Deputy Chief Executive and Executive Director levels is six months. These officers must obtain prior approval before he or she may:

- (1) enter business on his or her own account;
 - (2) become a partner of a partnership;
 - (3) become a director of a company; or
 - (4) become an employee, whether or not on a full-time basis in Hong Kong during the control period.
- (b) The HKMA and the civil service employ staff on different terms. A direct comparison between the two would not be appropriate.
- (c) The Governance Sub-Committee of the Exchange Fund Advisory Committee will, taking into account the actual circumstances, keep under review the need to re-examine the post-termination employment policies and procedures and submit recommendations to me.

MRS REGINA IP (in Cantonese): *President, the Financial Secretary said that employees of the HKMA are not civil servants and thus cannot be compared with civil servants. But has the Financial Secretary noticed that the HKMA also states in its annual report that it is "an integral part of the Hong Kong*

Government" and is responsible for the enforcement of several ordinances? The fact that the licence plate of the Chief Executive of the HKMA is AM78 well indicates his official status. Senior staff of the HKMA have great public power, and they may have greater access to sensitive information of the market than a civil servant ranks at D4, say, a civil servant responsible for education. Will the Financial Secretary review this policy, and require these staff to have longer notification and control periods, so as to prevent unfair incidents like that of Ms Amy IP's from occurring? Ms IP left the HKMA in January 2006 and took up a senior post in DBS in February.

FINANCIAL SECRETARY (in Cantonese): President, the HKMA is part of the government establishment, but the employment terms of its staff are different with that of civil servants. Hence, we cannot directly compare the post-termination employment arrangements of the two. However, we know that the HKMA has imposed very stringent requirements on the conduct of its employees, and has put in place comprehensive internal control and declaration procedures. These arrangements can ensure that employees are subject to proper monitoring, as well as check and balance in the delivery of their duties, so as to prevent possible conflicts of interests.

We see that the existing post-termination arrangements of the HKMA are working effectively and they are similar to practices adopted by central banks and regulatory authorities in advanced systems like the United States and the United Kingdom. The Governance Sub-Committee will review the post-termination arrangements of the HKMA at times and make recommendations to me. We will continue with this practice.

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

MRS REGINA IP (in Cantonese): *The Financial Secretary has not answered my question regarding why those arrangements cannot be changed? Actually, for employees of the HKMA at Executive Director level, they hold greater public power, enforce more ordinances and have greater access to more information than civil servants rank at D4. The Financial Secretary has not answered why*

the policy has not been changed, he just said that the two systems are different. They are indeed exercising public power.

PRESIDENT (in Cantonese): Mrs Regina IP, I believe this a very good topic for debate, but I think the Financial Secretary has explained why he considers the existing system reasonable. You can disagree with the explanation of the Financial Secretary.

MR CHIM PUI-CHUNG (in Cantonese): *President, we know that the former Chief Executive of HKMA received a remuneration of almost \$10 million in the past. But in less than a year after leaving employment, he has immediately joined three organizations. The public may understand this attitude. I have to ask the Financial Secretary about the comments made by employees of the HKMA. For instance, the former Chief Executive of HKMA once said that the second wave of financial crisis was approaching; but where is it? Can he show us? Such remarks will affect the attitude of banks in approving loans to small and medium enterprises. When he said that the monetary system of the world is now in chaos, what is the basis? Hence, I have to ask the Financial Secretary, apart from the time restrictions on departing, does he plan to ask the Governance Sub-committee to review the remarks made by HKMA employees and examine whether those remarks will affect the financial market in Hong Kong?*

PRESIDENT (in Cantonese): Mr CHIM, the theme of this main question is on the post-termination employment arrangement of HKMA employees.

MR CHIM PUI-CHUNG (in Cantonese): *President, allow me to explain. Since these employees are occupying important positions, if they are only subject to restrictions on the time of departure, the transition period and the requirement to undergo the sanitization period If they keep giving comments every day, is it it is thus related to the post-termination restriction. Therefore, in addition to requiring them to undergo the sanitization period, will the Government restrict them in making comments? Since they know a lot of secret information, their comments will have a bearing on overall financial market in Hong Kong.*

PRESIDENT (in Cantonese): I still do not see how their comments and the post-termination arrangements are

MR CHIM PUI-CHUNG (in Cantonese): *President, perhaps you may let the Financial Secretary give his reply. You do not have to make the decision for him.*

PRESIDENT (in Cantonese): Mr CHIM, I have the responsibility to rule whether your supplementary question has deviated from the content of the main question.

MR CHIM PUI-CHUNG (in Cantonese): *President*

(Mr James TO stood up)

PRESIDENT (in Cantonese): Mr TO, do you have a point of order?

MR JAMES TO (in Cantonese): *President, part (c) of the main question is about the public recognition of the integrity and honesty of its team members. As for the earlier question of Mr CHIM Pui-chung, he means to ask whether their comments with ulterior motives will affect the market. If so, it is a matter of integrity and honesty. Therefore, President, Mr CHIM's supplementary question is related to the main question.*

PRESIDENT (in Cantonese): Mr CHIM, do you mean to ask what Mr TO said earlier?

MR CHIM PUI-CHUNG (in Cantonese): *No matter how, I think my supplementary question is related to the main question. As to what it means, I think probably because I helped him yesterday and dined with him the day before, so he gave me a hand now. (Laughter)*

FINANCIAL SECRETARY (in Cantonese): President, I share your view. I do not see there is any special relationship. However, all senior staff of the HKMA must comply with the internal control procedures and other applicable procedures. Regarding the working procedures of the Chief Executive of the HKMA, I believe all aspects have been covered. As to the remarks given by these employees, I believe they have the freedom of expression.

MR CHAN KIN-POR (in Cantonese): *I would like to ask the Financial Secretary, apart from the notification period and the control period, has the Government put in place any legislation or measures to ensure that senior staff of the HKMA, who have taken up new employment in another organizations upon leaving the HKMA, will not make use of the information they obtained during their previous employment in HKMA to help the new organization in conducting business?*

FINANCIAL SECRETARY (in Cantonese): President, I have mentioned briefly earlier that comprehensive internal control and declaration procedures have been laid down by the HKMA, so that employees can avoid conflict of interests.

As for Mr CHAN's supplementary question, one of the examples may be related to HKMA employees responsible for the regulatory work of banks. These employees may have come across some sensitive information in the course of their regulatory work, but they are subject to the stringent regulation of the secrecy provision under the Banking Ordinance. It is stipulated in section 120 of the Ordinance that the employee concerned "shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the exercise of any function under this Ordinance". There are other provisions. These secrecy provisions are applicable to all HKMA employees, regardless of their ranks, and the provision will be also applicable to all staff leaving the HKMA for an unlimited period. Anyone contravening this provision is liable to penalties for criminal offences, and may be subject to a fine and imprisonment of up to two years.

MS LI FUNG-YING (in Cantonese): *President, in part (c) of the main question of Ms Regina IP, it is asked whether the Government has plans to review the*

existing arrangement for post-service employment for senior staff. The Financial Secretary said in his reply that the Governance Sub-committee would submit recommendations to him at times. However, in the entire process of policy formulation and scrutiny, the Financial Secretary is playing the important role of a gate-keeper, does he consider it necessary to review the arrangement?

FINANCIAL SECRETARY (in Cantonese): President, regarding the post-termination arrangements for the employees concerned, the Governance Sub-Committee will conduct reviews at times. When the Governance Sub-Committee considers it is necessary to conduct reviews, they will submit recommendations to me and examine ways to achieve the best result. We will pay close attention to the development in this respect.

PRESIDENT (in Cantonese): Ms LI, has your supplementary question not been answered?

MS LI FUNG-YING (in Cantonese): *President, my supplementary question is straightforward. Just now, I asked the Financial Secretary whether he considered it necessary to conduct a review. But he just said that the Governance Sub-Committee would submit recommendations to him, without stating whether or not the Governance Sub-Committee considered a review was necessary. My question to the Financial Secretary is: Does he consider it necessary to conduct a review?*

FINANCIAL SECRETARY (in Cantonese): President, I consider the existing post-termination arrangements of HKMA effective and comparable to practices now adopted by certain advanced economic systems. We will keep a close watch on the situation in this respect.

DR PHILIP WONG (in Cantonese): *President, I am really lucky today, for I have the opportunities to ask supplementary questions on two main questions.*

May I ask the Financial Secretary whether we can draw on the experience of central banks overseas and make relevant arrangements? Financial

Secretary, will you inform us of the similarities and differences of the post-termination employment arrangements for senior staff adopted by HKMA and central banks overseas?

FINANCIAL SECRETARY (in Cantonese): President, the post-termination employment arrangements for staff of central banks and monetary regulatory organizations of different districts differ in one way or the other. Moreover, I believe certain regulatory control will be imposed to cope with individual situations, and the various elements considered include their historical backgrounds, social cultures, the employment condition and the market situation. Hence, it will be difficult to make a direct comparison.

Take the Bank of England as an example. According to my understanding, senior officers of the bank have to give a three-month notification prior to their departure. The Bank of England will consider imposing certain restrictions on departing employees during the notification period. For instance, the employees concerned will be assigned to take up other duties or be requested to stop exercising all duties, but they will continue receiving salary till they leave the service. The Bank of England does not impose any restriction on post-termination employment on their employees. As far as I understand, the Financial Service Authority of Britain adopts similar practices.

As for HKMA, Deputy Chief Executives and Executive Directors are required to give six months notification prior to their departure. In this respect, the notification period we adopted is longer, and a control period of six months after departure is imposed. During the period, HKMA will adopt proper measures by all means to handle any actual or potential conflicts of interest of the employees concerned. As for the post of Chief Executive, the control period is as long as 12 months.

MR CHAN KAM-LAM (in Cantonese): *President, in part (a) of the main reply of the Financial Secretary, it is said that the control periods for officers at the Chief Executive, Deputy Chief Executive and Executive Director levels vary. But there are some so-called exceptional cases, in which prior approval will be granted for engaging in activities mentioned by the Financial Secretary. Will the Financial Secretary inform us of the mechanism and criteria adopted for scrutinizing the applications of those exceptional cases? Who will be allowed to*

engage in the four activities mentioned during the control period? What are the criteria adopted?

FINANCIAL SECRETARY (in Cantonese): President, as I mentioned in the main reply, prior approval is required for Deputy Chief Executives or Executive Directors of the HKMA to engage in certain activities during the control period. These applications are approved by the Chief Executive of the HKMA. If the application is made by the Chief Executive of HKMA, it will be approved by the Financial Secretary. In handling these applications, the HKMA must consult the advice from a panel composed of the Chairman of the Governance Sub-Committee of the Exchange Fund Advisory Committee and two other members of the Governance Sub-Committee.

In determining whether approval should be given, they will consider four aspects. First, is there any relationship between the organization in question and the HKMA? What is the nature of the relationship? Has the employee concerned been involved in the relationship during his or her employment with the HKMA? If the employee has, what is the nature and degree of the involvement? Second, basing on the relationship mentioned earlier, will the involvement in the relationship present an actual or potential conflict of interest for the employee concerned in the new employment? Third, will the separation from sensitive duties during the period of notice of termination be sufficient to remove or minimize any actual or potential conflicts of interest mentioned above? Fourth, will the approval granted, for any other reason, be against the public interest? Hence, we will undergo a very stringent process in considering the approval of such applications before coming up with the final decision.

MR LAU KONG-WAH (in Cantonese): *President, in the past few years, the sentiments of society have changed and the public hold higher expectations. The several criteria mentioned by the Financial Secretary earlier include public interest. According to the approval criteria applicable to civil servants, the impression given to the public is also a factor for consideration. May I ask the Financial Secretary whether a review will be conducted in this respect? Moreover, is this a proper practice to impose only a control period but no sanitization period at all, and will this practice remain unchanged anyway?*

FINANCIAL SECRETARY (in Cantonese): President, we consider the existing arrangement acceptable for many employees of the HKMA are recruited from the market. We consider that these employees have to possess expertise and experience in certain specialized areas in order to fulfil their duties. Besides, we actually accept that talents mobility to a certain extent should be maintained between private organizations and the HKMA, which is essential for the authorities to keep abreast of the times in respect of its regulatory capacity. We consider that this objective can be fulfilled under the existing mechanism. However, we will examine the need to conduct reviews at times.

PRESIDENT (in Cantonese): This Council has spent more than 21 minutes on this question. The fifth question.

New Hospital in Tin Shui Wai

5. **MR WONG KWOK-HING** (in Cantonese): *President, in his Policy Address delivered on 13 October 2010, the Chief Executive has mentioned that to meet the increasing demand for healthcare services in Tin Shui Wai, the authorities have decided to build a new hospital in the area, which is expected to be completed in 2016. In this connection, will the Government inform this Council:*

- (a) *given that the Secretary for Food and Health said last year that Tin Shui Wai Hospital was expected to be completed and to come into operation in 2015, but now the expected completion date will be delayed for one year, of the reasons for that; whether the authorities have corresponding measures to meet residents' needs for public healthcare services during the extended period for completion of the hospital, and to shorten the construction time of the hospital to strive for its completion in 2015;*
- (b) *when the authorities will make a decision on the site of the hospital; of the details of the hospital's design as well as the facilities and services to be provided, including the number of beds and whether out-patient services for traditional Chinese medicine will be available, and so on; the estimated number of residents the hospital*

can serve, and whether it can meet the needs of the population in Yuen Long and Tin Shui Wai; and

- (c) *whether the authorities will consider recruiting, as far as possible, suitable candidates from the unemployed in the district for the jobs created by the hospital in the future, so as to alleviate the employment problems in the district?*

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

- (a) To strengthen the provision of healthcare services in Tin Shui Wai New Town, which has seen rapid development in recent years, we plan to build a public hospital in Tin Shui Wai. As the proposed hospital site is situated in an area which may contain marble cavity, a longer construction period is usually required for completion of the foundation works. Under such circumstances, it is expected that the completion date of the hospital will be slightly put back for a few months to mid-2016. We will expedite the planning of the works as far as circumstances permit in an effort to complete the construction works as early as possible.

Before completion of the new hospital, healthcare services for Tin Shui Wai residents will continue to be provided by hospitals and related specialist out-patient clinics and general out-patient clinics under the New Territories West Cluster (NTWC). In the past few years, the Hospital Authority (HA) has provided additional funding to the NTWC to enhance the healthcare services for residents of New Territories West. For instance, in the two years of 2009-2010 and 2010-2011, services provided by Pok Oi Hospital and Tuen Mun Hospital have been expanded, including provision of some 220 additional beds, an increase of 20 operating theatre sessions per week in Pok Oi Hospital, installation of a second magnetic resonance imaging scanner in Tuen Mun Hospital to shorten patients' waiting time for examination, and strengthening of cataract service.

Besides, the NTWC has strengthened its ambulatory and community-based services such as expansion of its haemodialysis

services and services provided by its chemotherapy day centre, implementation of a community-based Case Management Programme for persons with severe mental illness, strengthening of psychiatric specialist out-patient services for children and youths, expansion of psychogeriatric outreach services for the elderly to cover private residential care homes for the elderly, implementation of an integrated discharge support programme to provide post-discharge support services to those high-risk elderly who have difficulty in taking care of themselves, and enhancement of the services of the substance abuse clinic.

The NTWC will continue to closely monitor Tin Shui Wai residents' demand for healthcare services and ensure that they can receive appropriate treatment before the completion of the new hospital.

- (b) On 4 November 2010, we obtained the support of the Yuen Long District Council (the Culture, Recreation, Community Service and Housing Committee) to construct the Tin Shui Wai Hospital at the site in Tin Shui Wai Area 32. To expedite the project works, the Architectural Services Department will adopt a "design-and-build" approach (both design and construction to be undertaken by the same contractor) for the construction of Tin Shui Wai Hospital. In addition, for more accurate project cost estimation, we will first conduct a contractor prequalification exercise for the project, and proceed with the tendering procedures upon completion of the prequalification exercise. We will then seek funding approval from the Legislative Council based on the tender price.

Upon commissioning, Tin Shui Wai Hospital will become one of the hospitals under the NTWC, which serves Yuen Long and Tuen Mun districts. The NTWC will continue to make optimal use of its resources to provide services according to priorities based on the needs for medical services in the community. The development potentials of the NTWC will also be maximized by utilizing the strengths of Tin Shui Wai Hospital and other hospitals under the NTWC to complement each other to provide the most appropriate treatment to local residents. Under the current plan, the main facilities and services to be provided at Tin Shui Wai Hospital include 250 to 300 beds to provide in-patient services (for

emergency medicine, rehabilitation, convalescent and palliative care); an accident and emergency department; a number of ambulatory services (including a specialist out-patient clinic (which provides family medicine and psychiatric services), a general out-patient clinic, a haemodialysis centre, a geriatric day hospital, a psychiatric day hospital, hospice day care, daytime rehabilitation services and an endoscopy suite); various community care services (including community nursing/community geriatric assessment, community rehabilitation services, psychiatric outreach services, medical social work, and a health resource centre); and such support services as laboratory and diagnostic radiological services. Based on the projected population growth in the NTWC, the total number of beds within the cluster upon completion of the new hospital should be able to meet the service demands arising from the increase in population.

On Chinese medicine services, the Government's objectives are to develop standards in Chinese medicine practice, to systematize the knowledge base of Chinese medicine through, amongst others, clinical research and to provide training in "evidence-based" Chinese medicine. To achieve these objectives, the Government will establish in phases one public Chinese medicine clinic (CMC) in each of the 18 districts in Hong Kong. The CMC serving Yuen Long district (including Tin Shui Wai) is located on third floor, Yuen Long Madam Yung Fung Shee Health Centre. As there is already a CMC in Yuen Long district, we have no plan to set up an additional CMC in Tin Shui Wai Hospital.

Apart from the construction of Tin Shui Wai Hospital, the NTWC has also launched new mode of service delivery by setting up a nurse and allied health clinic inside a general out-patient clinic to follow-up on the treatment of chronic patients, setting up a Centre for Healthy Life to enhance psychosocial services for patients suffering from cancer and other chronic illnesses.

To cope with the increasing demand for healthcare services in Yuen Long and Tin Shui Wai, the NTWC will in the coming years continue to closely monitor and assess the residents' demand and enhance its services, including provision of additional beds in Pok Oi

Hospital by phases, and construction of an integrated building in Tin Shui Wai Area 109. The integrated building is scheduled to come into full operation in 2012-2013 for provision of a general out-patient clinic, a family medicine integrated clinic, visiting services by community nurses and community psychiatric nurses, and an allied health clinic offering physiotherapy service, occupational therapy service and services provided by registered dietitians.

- (c) On the recruitment of staff, the HA will choose suitable and capable candidates to take up the posts. The entry requirements are different for different grades of HA staff, including healthcare personnel and clerical staff, general services and technical services assistants, and so on. We understand that most of the job seekers prefer to work in the area where they live, especially those unemployed who are usually engaged in supporting work. The HA will keep the matter in view and welcome suitable persons to join and work in Tin Shui Wai Hospital in future.

MR WONG KWOK-HING (in Cantonese): *President, I wish to put a supplementary question to the Secretary. The Tin Shui Wai Hospital under the present plan has 250 to 300 beds, but there are over 300 000 residents in Tin Shui Wai. Will the 250 to 300 beds be sufficient? In addition, the Government has a large-scale housing development project at Hung Shui Kiu which is adjacent to Tin Shui Wai and the provision of public healthcare facilities often lags behind community development. As a large number of people will move into the large-scale housing development project upon its completion, can the Secretary also take this factor into consideration and take this opportunity to increase the number of beds in Tin Shui Wai Hospital? Even if the 300 beds cannot be provided immediately, can additional space or additional floors be reserved for future expansion when the need arises? This is easier than constructing the additional floors at a later time. Can this be done?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, the current population in Tin Shui Wai is about 289 000. We anticipate that by 2018, that is two years after the hospital has come into operation, the population will rise to about 290 000. We also note that the elderly population (people aged

over 65) in the district is smaller than that of other districts in Hong Kong and its growth rate also differs from that of other districts. Thus, the needs of the people living in the district, particularly the need for healthcare services, will increase slowly rather than abruptly.

We agree that any new hospital constructed should reserve space to meet future needs, such as for expansion or provision of additional beds. Of course, we also have to see whether this is feasible in terms of plot ratio and design, and hospitals generally will not operate at full capacity in day one. Beds will be added in phases, so that the services provided can dovetail with the needs of the entire community systematically. We have taken due consideration to the needs of Tin Shui Wai Hospital in the coming decades in respect of timing and design. But I need to stress that Tin Shui Wai Hospital is not an independent hospital. It is a hospital under the NTWC. Many healthcare departments (particularly those providing specialist services) are established with consideration given to the planning of the entire district, so as to maintain the standard of specialist services.

DR JOSEPH LEE (in Cantonese): *President, the Secretary just said that the number of hospital beds in New Territories West can be increased to about 550 by 2016 and a number of community services will also be provided. Of course, regarding the hardware, just now the Secretary replied that the hardware should be able to meet the demands for healthcare services of the increasing population in the district by that time. However, we are concerned that although the hardware, such as hospital beds, are sufficient, will manpower such as nurses, doctors and professional healthcare personnels be insufficient by then? May I ask the Secretary, has he started planning in this regard, will an appropriate number of doctors, nurses and professional healthcare personnels be trained, so that by 2016 there will be sufficient manpower to handle the additional hospital beds in any of the three hospitals in New Territories West, that is, Tuen Mun Hospital, Pok Oi Hospital or Tin Shui Wai Hospital? Can the Secretary provide some statistics for us?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as far as the future manpower is concerned, apart from the new hospital, we also have to take into consideration current manpower wastage in hospitals and the overall development trend in Hong Kong, including private hospitals and other geriatric services which also require healthcare personnels. Thus, we have made

projections and planning for these increased manpower needs. In particular, we plan to increase the number of doctors. At present, there are 240 medical students graduated from universities every year. According to a three-year plan, the intake of medical students by university has increased to 320. With the first batch of students to be graduated in 2013, there will be 320 doctors joining the medical sector every year by then. In addition, we are considering increasing the training quota. As far as nurses are concerned, the number of nursing graduates has increased by about 600 this year, maintaining at 2 000 nurses a year in future. Of course, subject to the overall situation, we will adjust the number of nurses to be trained by professional institutions and those to be trained by the HA and some private hospitals. It is hoped that this approach can standardize the professional level and give recognition to all nurses trained by different institutions. However, we also note that at different stages, perhaps due to different economic situation, some people may have difficulties in finding a job, but at another time, there is a shortage of manpower. We hope that base on our current projections, we can plan for the talents and manpower required in the entire healthcare system in the coming one or two decades.

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

DR JOSEPH LEE (in Cantonese): *In fact, my question is very straight forward. I hope the Secretary can provide us with some statistics to illustrate the required manpower for the New Territories West by 2016, such as doctors and nurses, and*

PRESIDENT (in Cantonese): Are you asking the Secretary to provide some statistics?

DR JOSEPH LEE (in Cantonese): *Yes. I did not ask the Secretary to provide statistics for the whole territory, but only statistics for the New Territories West.*

PRESIDENT (in Cantonese): Secretary, can you provide the relevant statistics?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I will try to get the projected figures from the HA for Members. (Appendix I)

MR ALAN LEONG (in Cantonese): *President, the Secretary has, in both the written and oral replies, kept saying that Tin Shui Wai Hospital is one of the hospitals under the NTWC, and that the Hospital has to complement other hospitals or clinics under the NTWC to provide comprehensive healthcare services, so as to meet the needs of residents in New Territories West. Can the Secretary explain how these hospitals and clinics divide the work among them?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, simply speaking, hospitals are grouped according to several different service levels. We hold that hospitals such as Tin Shui Wai Hospital and Pok Oi Hospital are district hospitals for the general public. These hospitals cater for the needs of district residents, particularly providing accident and emergency services. However, for some specialist services, such as neurosurgery or cancer treatment, expensive equipments or specialists are required. We cannot provide these services in every district. These specialist services must be provided in larger service units or hospitals, so as to work in tandem with other departments such as pathology or diagnostic radiology. Tin Shui Wai Hospital is similar to the case of Pok Oi Hospital. Both of them are district hospitals. We opine that district hospitals must be able to handle accident and emergency cases in the district so that local residents seeking help from the hospitals can be taken care of expeditiously.

DR LEUNG KA-LAU (in Cantonese): *President, the Secretary always says that the number of medical and nursing students will be increased. Can the Secretary clarify, with the increased intake of students, will the HA employ all the graduates? If these additional graduates are not employed, what is the use of increasing the intake? Let me cite an example. When Pok Oi Hospital in New Territories West was re-opened two years ago, colleagues from Tuen Mun Hospital were required to work there. Colleagues from Tuen Mun Hospital certainly had strong views about this. If Pok Oi Hospital was ready for service, why did it need Tuen Mun Hospital to help provide its services? In the reply from the NTWC, colleagues of Tuen Mun Hospital were told that because they have been serving people in New Territory West and the new hospital, that is Pok*

Oi Hospital, also serves the same population, they should continue to take up the services provided by Pok Oi Hospital. Thus, to date, many services in Pok Oi Hospital now are taken up by staff from Tuen Mun Hospital at the same time. May I ask the Secretary, upon the commissioning of Tin Shui Wai Hospital, instead of deploying colleagues from Tuen Mun Hospital and Pok Oi Hospital, whether additional staff will be proportionally recruited according to the number of hospital beds and the services provided?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, the establishment of any new hospital requires redeployment of manpower from existing hospitals. This is a normal practice. The related regional cluster will kick-start many new projects before the establishment of the new hospital to train manpower for future use. Hence, if Member asked whether manpower would be redeployed from existing hospitals, the answer is affirmative; but new staff will also be recruited. The important point is that in the continuous expansion of Pok Oi Hospital in the past few years, sufficient resources have been provided for it to recruit staff. Thus, the establishment of Pok Oi Hospital include newly recruited employees and existing experienced staff. This is a normal practice. The future Tin Shui Wai Hospital will also be like this. I am afraid it is impossible to transfer all newly recruited staff to Tin Shui Wai Hospital and remain all experienced staff in existing hospitals. There must be doctors who have served for a long time and with clinical experience to take up the leading posts and provide the services there. Thus, on the whole, the doctors within a cluster are responsible for providing the services in that cluster and the management of the cluster is tasked with the duty to ensure that all hospitals have maintained their position and service standard. This is very important.

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

DR LEUNG KA-LAU (in Cantonese): *President, may the Secretary provide some statistics in writing after the meeting because he said that at present, additional staff are recruited beforehand*

PRESIDENT (in Cantonese): Dr LEUNG, we are not in a debate.

DR LEUNG KA-LAU (in Cantonese): *President, I am not debating.*

PRESIDENT (in Cantonese): Would you please repeat the part you think the Secretary has not answered.

DR LEUNG KA-LAU (in Cantonese): *I hope the Secretary can provide some statistics because in his reply just now, the Secretary said that he planned to recruit additional manpower beforehand so that the newly recruited staff will be transferred to the new hospital later. I hope the Secretary can provide some statistics to illustrate how the authorities will increase additional staff in the NTWC in the coming few years, so as to facilitate the redeployment of manpower in future. I hope the Secretary can provide a paper on manpower planning in the coming few years.*

PRESIDENT (in Cantonese): Secretary, can you provide the relevant statistics?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): I will provide the information as far as feasible, so as to illustrate the required manpower and its deployment upon commissioning of Tin Shui Wai Hospital. (Appendix II) With regards from where the manpower will be deployed, as Members also know, many staff is redeployed from the cluster but some will be redeployed from other clusters. The responsibility of providing manpower is not taken up by the NTWC alone.

PRESIDENT (in Cantonese): This Council has used more than 21 minutes on this question. Last question seeking an oral reply. Mr WONG Ting-kwong will ask this question on behalf of Mr WONG Yung-kan.

Code of Marketing of Breastmilk Substitutes

6. **MR WONG TING-KWONG** (in Cantonese): *It has been learnt that the Department of Health has set up a taskforce to develop a Code of Marketing of Breastmilk Substitutes (the Code). In this connection, will the Government inform this Council:*

- (a) *whether the Government had conducted any studies in the past three years on the reasons for some mothers in Hong Kong not breastfeeding their babies; if it had, of the outcome; if not, on what basis the Government will formulate the relevant policies for encouraging breastfeeding; of the work progress of the aforesaid taskforce to date; when the trade and the public will be consulted on the content of the Code; and*
- (b) *whether the Code to be drawn up will regulate all marketing activities relating to breastmilk substitutes in Hong Kong, including marketing of milk powder products through retailers and the Internet; if it will, how the activities will be regulated; if not, of the reasons for that and how the effectiveness of the Code can be ensured?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, breastfeeding is an important public health issue. The World Health Organization (WHO) recommends breastfeeding as the way of providing the best food for the healthy growth and development of infants. The Government has all along endeavoured to promote, protect and support breastfeeding, and implement this policy through the Department of Health and the Hospital Authority. Healthcare professionals provide counselling service for breastfeeding mothers, and help post-natal women acquire breastfeeding skills and tackle the problems they may encounter during breastfeeding. Over the past 10 years, the percentage of babies discharged from public hospitals who had been breastfed has risen from 53% in 2000 to 73% in 2009.

To provide more support to breastfeeding women, the Government has actively promoted the provision of baby care rooms in public places. The Government's efforts include introduction of the Advisory Guidelines on

Babycare Facilities (the Guidelines) in August 2008 for reference by government departments and public organizations. Besides, to encourage the provision of babycare rooms in private commercial premises, the Government has issued a Practice Note on the Provision of Babycare Rooms in Commercial Buildings (the Practice Note) since February 2009. Government departments and property developers have responded favourably to the Guidelines and the Practice Note. As at October 2010, there were some 150 babycare rooms in government properties, whereas a total of 12 shopping arcades under the management of the Urban Renewal Authority, the Link and the MTR Corporation Limited already provided or would provide babycare rooms on their premises. In addition, babycare rooms will be provided in a number of projects to be carried out by property developers as shown on the plans submitted for approval by the Buildings Department as at the end of 2009.

President, our reply to the question raised by Mr WONG Ting-kwong on behalf of Mr WONG Yung-kan is as follows:

- (a) As revealed by researches conducted by the Department of Health, local academic institutions and non-governmental organizations (NGOs), the main reasons for mothers giving up breastfeeding their babies include: lack of breastfeeding techniques, perception of having not sufficient breastmilk, discomfort of having painful and engorged breasts, need to return to work, and so on. Surveys conducted by certain NGOs also show that the percentage of local obstetricians and paediatricians who have received breastfeeding training is on the low side and suggest that the relevant training should be strengthened.

As mentioned above, the Government has formulated a policy to promote, protect and support breastfeeding based on the recommendations made in the Innocenti Declaration of the WHO and the United Nations Children's Fund and in light of the findings of local researches. Healthcare professionals of the Department of Health's Maternal and Child Health Centres (MCHC) have received formal training to provide professional counselling services to breastfeeding mothers. Workshops have also been conducted to equip breastfeeding working mothers with the necessary skills to get them prepared for continuing breastfeeding after returning to work.

Besides, the Department of Health is preparing a package of training kits for obstetricians, paediatricians, doctors working in accident and emergency departments and family physicians so as to let them have a better understanding of the breastfeeding policy and update them on the latest knowledge about breastfeeding coaching, with a view to providing more effective professional support to local mothers and babies.

With the objectives to prevent non-communicable diseases and promote community health, the Food and Health Bureau has earlier set up a Steering Committee on Prevention and Control of Non-communicable Diseases. Under this Steering Committee, a Working Group on Diet and Physical Activity has been established to make recommendations on matters relating to eating habits and physical activity, and set up a Taskforce to develop and promulgate a Hong Kong Code of Marketing of Breastmilk Substitutes (the Code). The Taskforce, formed in June 2010, is comprised of representatives from relevant government departments (including the Food and Health Bureau, Department of Health, Food and Environmental Hygiene Department, Television and Entertainment Licensing Authority), Hospital Authority, specialist groups, Consumer Council, NGOs, and so on. The terms of reference of the Taskforce are as follows:

- (i) To develop and promulgate the Code according to the International the Code of the WHO and subsequent World Health Assembly resolutions;
- (ii) To develop a system for monitoring the compliance with the Code; and
- (iii) To monitor the compliance with the Code by the trade.

It is expected that the drafting of the Code will be completed by the end of 2011. Thereafter, the Government will introduce and publicize the Code to the trade and the public.

- (b) The aim of the Code is to exercise regulation over the manufacturers and distributors of breastmilk substitutes so as to prohibit them from

advertising and marketing their breastmilk substitutes and related products by way of malpractice. The scope of regulation as recommended in the WHO Code covers marketing practices for all breastmilk substitutes including infant and baby formulas, feeding bottles, teats, baby food and related products. Manufacturers and distributors are prohibited from promotion of their products among the public by way of advertisement or other forms of promotion including distribution of free samples of milk powder and coupons to mothers, product labels, information on baby feeding, thematic talks, and activities such as mothers' clubs and babies' clubs, and so on. In addition, no words or pictures idealizing infant formulas or breastmilk substitutes are allowed on the product labels. The Government will develop the Code having regard to the details and scope of regulation recommended in the WHO Code.

At present, many countries like Australia, New Zealand, Singapore and Malaysia, and so on, have formulated voluntary guidelines applicable in their own countries for compliance by the trade with reference to the WHO Code. In light of the experience of these countries, it would be more effective in the control of undesirable marketing practices if appropriate monitoring and sanction mechanisms are put in place in tandem with implementation of the Code. When the Code comes into effect, the Department of Health will monitor the situation and canvass the views of various parties to consider if there is a need to step up enforcement and regulation through the Code.

MR WONG TING-KWONG (in Cantonese): *President, baby formulas are the major breastmilk substitutes on sale in Hong Kong and their marketing channels are rather diversified. People may purchase from the authorized and listed sellers of poisons, supermarkets, stores and a number of retail outlets, as well as through the Internet. Apart from baby formulas sold by wholesalers, the sale of baby formulas not imported through local dealers is also very common in Hong Kong. I would like to ask, what is the coverage of supervision exercised by the Government in respect of the sales of breastmilk substitutes? Does the Government have sufficient manpower to exercise full-scale supervision covering the so-called "dealer imported" and "parallel imported" baby formulas?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): At present, enforcement actions in this respect have been taken by the Government pursuant to the regulations on the composition and labelling of food and drugs under Cap. 132. According to the relevant regulations, all baby formulas must bear proper labels indicating the durability. Inspections and checks will be carried out by the Government in accordance with the regulations, which include the buying of samples for examinations through the Internet. Apart from the retail outlets and Internet purchase as mentioned by Mr WONG earlier on, some organizations may also conduct transactions in the form of clubs. We are very concerned about this situation, and will examine if baby formulas which are unhealthy or of substandard ingredients have been imported into Hong Kong for sale. We are pretty worried that baby formulas with undesirable ingredients will flow into our local market. Therefore, our work in this respect will continue. Over the past few years, a lot of follow-up actions have been taken in the aftermath of the melamine incident. Hence, milk or breastmilk substitutes currently on sale in Hong Kong are highly safe.

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

MR WONG TING-KWONG (in Cantonese): *The Secretary has not answered whether or not there is sufficient manpower to enforce the law?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we will certainly increase manpower in the light of market developments and the necessary coverage of our supervision or control. Meanwhile, we do have sufficient manpower.

MR FRED LI (in Cantonese): *President, I think that Members are concerned about the baby formulas imported from Japan. This is because many labels have not provided any Chinese translation, and the method of consumption is basically missing. I therefore wish to draw the Secretary's attention to this point.*

President, what I wish to say is that, advertisements of baby formulas are similar to that of slimming products. I have seen many TV advertisements — I wonder if the President has seen any — which have described baby formulas as extremely powerful. Many ingredients, though I cannot name any, are claimed to turn whoever consumes it into a genius. Has the Secretary monitored if these advertisements are misrepresented or misleading in the hope of luring parents into buying, making them perceive that the baby formulas concerned are better than breastmilk?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I am aware that most of the ingredients described in the advertisements are actually the essential ingredients of baby formulas. The advertisements merely claim that such ingredients have been added to the baby formulas, which is nonetheless a common practice. Whether the addition of the relevant ingredients have any implication on the baby formulas' nutritional value or the growth of babies has yet be supported by scientific evidence. Apparently, this is just a marketing practice which does not contravene any existing ordinances in some cases. Therefore, in this connection, apart from paying special attention to the marketing practices of baby formulas, mothers should also be educated such that they will breastfeed their babies by all means. The WHO, in particular, has also pointed out that breastfeeding enables babies to develop and grow more healthily. Breastmilk is particularly important to newborn babies in the first six months. Hence, it would be best to breastfeed until at least two years old.

DR JOSEPH LEE (in Cantonese): *President, in reply to Mr WONG Ting-kwong earlier on, the Secretary pointed out that the authorities have sufficient manpower to carry out inspections. Just as Mr Fred LI has said, although the sale of Japanese baby formulas on the Internet is very popular nowadays, we know nothing about their marketing practices at all. While the Secretary claimed that a code of marketing of breastmilk substitutes is being developed, which is voluntary in nature, he has not given a concrete answer as of how the sale of breastmilk substitutes on the Internet is being monitored to ensure food safety and the accuracy of labels. Basically, I am referring to the baby formulas imported from Japan. Given that we cannot read Japanese, as Mr Fred LI has said, have the authorities established a proper licensing system to govern pre-sale and after-sale services, and trace the source of the products concerned,*

with a view to ensuring that baby formulas being sold on the Internet will not be harmful to babies after consumption?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I must first point out that I do not suggest anyone to purchase any product without knowing the language of the label affixed to it. I believe not many people will do so, especially when the product concerned is an essential food of their children. Baby formulas are particularly important to babies because milk is their major food for the first six months after birth. Milk is their only food. If babies are not provided with appropriate nutrients, their future growth will be seriously affected. The Code will certainly cover baby formulas being sold through different outlets or imported from different countries. In this connection, the Code will apply indiscriminately to different products.

An important point is that, we hope to clearly inform the public of the products which have failed to comply with the Code through inspection, so that they can heighten their awareness or take precautionary actions. Furthermore, this can also prevent the trade from arbitrarily making claims that may influence members of the public. I consider that our present approach is on a par with that of the WHO and other advanced countries, and we will keep an eye on the future developments. Meanwhile, we think that the Code will be promulgated and implemented at the end of next year (that is 2011).

MR TAM YIU-CHUNG (in Cantonese): *President, I am aware that in order to feed their babies with breastmilk, sometimes working mothers have to express breastmilk in advance and refrigerate it for consumption of their babies when necessary. Does it involve any unsafe factors? What do these mothers need to be aware of?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, working mothers often express breastmilk in advance and refrigerate it in a container for consumption of their babies when necessary. With regard to breast care and the handling and storage of expressed breastmilk, the Department of Health has provided a lot of detailed information to the relevant service organizations, including the MCHCs and the paediatric and obstetric clinics of the Hospital Authority. Promotional and educational information has also been printed for

mothers' reference. Furthermore, members of the public may download the relevant information from the Internet. I hope that the mothers concerned will read the information, and will not purchase any substitutes arbitrarily on believing the claims of the advertisements. Breastfeeding is the best. Mothers may have the wrong perception of not being strong enough or having insufficient breastmilk. However, it is common for post-natal mothers who breastfeed their babies to have insufficient breastmilk in the first few days. Breastmilk will gradually increase in the following days. Therefore, nearly all healthy mothers can breastfeed their babies provided that their breastfeeding technique is correct.

MR PAUL TSE (in Cantonese): *President, in the reply, the authorities have pointed out that the percentage of babies who had been breastfed was 73% in 2009, which is indeed a very high percentage. However, I still want to know if the Government has assessed whether the major customers of baby formulas in the local market are Hong Kong residents. Or, just as what we have observed, in the aftermath of Mainland's melamine incident, many Mainland people have made special trips to Hong Kong to buy baby formulas in bulk? What is more, many Hong Kong-born infants who live in the Mainland also consume baby formulas. Given that Mainland residents can also watch Hong Kong television advertisements, will the Administration consider the fact that the market has changed as many Hong Kong-born infants are actually living in the Mainland when formulating policy to govern the contents and forms of advertisements?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, it is our responsibility to inform the public of the accurate information in relation to the advantages of breastfeeding, the ingredients or sales of breastmilk substitutes. We prepare to deal with these matters in the Code.

As to the question of whether the local market mainly caters for mothers of local or Mainland infants, we will definitely allow the market to develop freely basing on the free-market principles. Nonetheless, we observe that people from the Mainland have particular interests in Hong Kong products. They do not only buy baby formulas, but also other products in which they have more confidence. Hence, they will often bring home various products when they come to visit Hong Kong. I nonetheless do not know what their market share is. Yet, I was told by the relevant business organizations that the percentage is pretty high.

The most important thing is that mothers should know what products they have bought and how to use them. I wish to highlight one thing to parents that baby formulas should not be regarded as the most nutritious food. When infants are six months old, they should start eating something else. As they grow up, they will have to start eating different food, such as vegetables and fruits. Parents should not think that their children can grow healthily by feeding them with milk alone. This is indeed a major cause of obesity of our children. We would like to provide the public, including people who wish to purchase baby formulas in Hong Kong, with more information, so that they all receive the correct information on health. Promotion will be launched in Hong Kong by all means. It is hoped that inbound tourists will understand the aim of our shops is to make profits by selling healthy and reliable products.

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

WRITTEN ANSWERS TO QUESTIONS

Employment of Programme Workers

7. **MR IP WAI-MING** (in Chinese): *President, at present, the Government allocates the posts of temporary Programme Workers (PWs) to a number of subvented welfare non-governmental organizations (NGOs), in order to assist them in their daily operation and service provision. In this connection, will the Government inform this Council:*

- (a) *since 2008, of the annual amount of funding allocated by the Government to social welfare organizations for employment of PWs, the number of PWs that could be employed with the funding, and the actual number of PWs employed by such organizations;*
- (b) *of the main duties of PWs; whether it will review afresh if there is a long-term and sustained need to retain such PW posts, and whether it will consider converting such posts to permanent posts; if not, of the reasons for that; and*

- (c) *given that PWs are employed on contract terms, how their years of service will be calculated, and whether there is avenue for promotion for them at present; if so, of the details?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, as a special measure introduced during the economic downturn to strengthen support for youth employment, 3 000 temporary work opportunities were created for young people aged between 15 and 29. Allocations were made to welfare service units of NGOs subvented by the Social Welfare Department (SWD) in April 2008 for three years for the purpose of enhancing the employability of young people. With the gradual recovery of the economy, the Government has decided to extend the scheme for one year to March 2010 so that young people may have more time to equip and prepare themselves for joining the labour market for open employment before the cessation of the scheme.

My reply to the three parts of the question raised by Mr IP Wai-ming is set out below:

- (a) During the three-year period between 2008-2009 and 2010-2011, the Government has allocated \$300 million annually for the provision of the 3 000 temporary work opportunities. There is mobility under the scheme as operating NGOs are encouraged to assist the youths concerned in finding open employment after they have acquired working experience. The NGOs subvented by the SWD employed a total of 4 077 and 4 031 PWs in 2008-2009 and 2009-2010 respectively.
- (b) The 3 000 temporary work opportunities have been allocated to welfare service units under NGOs subvented by the SWD mainly to assist social workers in organizing programmes for various welfare service areas, including children and youth, youths at risk, offenders, elderly and persons with disabilities. Since these work opportunities are temporary and short-term in nature and are not the core posts in the welfare NGOs, we consider it inappropriate to regularize these work opportunities.
- (c) The temporary work opportunities are provided to young people as a special measure during the economic downturn for them to acquire

working experience and enhance their employability in the open market. The purpose of on-the-job training for these young people would be achieved as they acquire certain working experience through these temporary work opportunities. The young people may then seek job opportunities in the open market according to their interests, wish and career aspiration. In fact, many of those who participated in the scheme have successfully secured employment in the open market, thereby attesting to the attainment of the objective of creating these work opportunities.

Use of Public Funds by Hong Kong Baptist University

8. **MR CHEUNG MAN-KWONG** (in Chinese): *President, I have received complaints from teaching staff members and representatives of staff unions of the Hong Kong Baptist University (the HKBU) querying that there are irregularities in the appointments and dismissals of senior staff by the University and the Council (including the appointment of a Vice-President in 2006 and the dismissal of an Assistant Registrar early this year, and so on), the use of public funds, and in awarding degrees of the HKBU to graduates of the United International College (UIC) which was jointly established by the HKBU and the Beijing Normal University. In this connection, will the Government inform this Council, if it knows:*

- (a) *whether the HKBU has an established procedure that selection of senior staff must be considered by a selection committee established by the Council and approved finally by the Council before appointments are made; given that it was reported that the HKBU bypassed the selection committee and endorsed the appointment of a Vice-President in 2006, whether such a practice was in line with the established procedure, and why the appointment was not processed by the selection committee when such a committee had already been established; how the University ensures that the procedure of appointing senior staff is fair and just;*
- (b) *whether the University Grants Committee (UGC)-funded institutions may appoint, using public funds, remunerated teaching staff from local post-secondary institutions or those in other regions to concurrently serve in full-time, part-time or any form of positions; if*

not, how UGC deals with those UGC-funded institutions that have made such appointments; if they can, of the criteria of making such appointments, and the UGC-funded institutions that had made such appointments in the past five years, the number of teaching staff involved, payroll expenses and the reasons;

- (c) whether the UIC has, since its establishment, used any funding from the UGC (including loans provided by the HKBU); if it has, of the details including the amount involved, loan items and repayment arrangements, and so on;*
- (d) given that it was reported that the UIC had appointed the former President of the HKBU as its President, which unit or person determined the remuneration of the President of the UIC, and the amount of UGC funding involved in the payroll;*
- (e) given that under section 23 of the Hong Kong Baptist University Ordinance (Cap. 1126), the award of degrees by the HKBU itself under authorization should follow the statutes made under the Ordinance, including establishing a Senate, as well as the Senate vetting and approving the various statutes to regulate matters relating to curriculum and academic matters, and so on, whether the UIC has followed the relevant statutory procedure of the HKBU at present before awarding the degrees of the HKBU to graduates of the UIC; if it has, of a list of the contents of the relevant procedure according to the scope of work and functions of the Senate under the legislation; if not, why graduates of the UIC can be awarded degrees equivalent to those of the HKBU when it does not have the statutory self-accrediting status and its accrediting procedure is inconsistent with that of the HKBU; and whether the UGC allows institutions which are linked with universities having statutory self-accrediting status in Hong Kong to award local degrees without following statutory procedure;*
- (f) whether the HKBU has an independent monitoring mechanism at present, so as to ensure that there is no role conflict when the University handles complaint and appeal cases lodged by dismissed teaching staff, and the handling procedure is fair and just; and*

- (g) *the numbers of UGC-funded institutions that had provided monetary compensation with public funds to staff who were dismissed in each of the past five years, together with a breakdown by name of institution and the amount involved?*

SECRETARY FOR EDUCATION (in Chinese): President, the eight institutions funded through the UGC are autonomous statutory bodies established pursuant to their respective ordinances. They enjoy, within the restraints of the laws of Hong Kong, considerable institutional autonomy in a number of areas such as curriculum design, selection and recruitment of staff and students, and internal allocation and management of finances. While enjoying autonomy, institutions have to comply with the UGC's Notes on Procedures, which set out, *inter alia*, that institutions should only apply UGC funds within the ambit of UGC-fundable activities, and that UGC-funded activities and non-UGC funded activities should be separately accounted for and subject to financial audit by external auditors and value for money audits by the Director of Audit. Heads of institutions are required to provide a Certificate of Accountability to the UGC annually to confirm that public funds allocated via the UGC had been spent in accordance with the UGC regulations and guidelines.

In relation to selection and recruitment of staff, unless expressly provided for in the relevant Ordinance, the Council of an institution has the authority to decide the appropriate recruitment procedures, having regard to the operational need of the institution concerned. On the handling of staff grievances, institutions have established their own grievance handling procedures taking into account their different policies, practices, values and cultures. The UGC has completed a research on the best practices in 10 overseas institutions, and shared with the UGC-funded institutions and the Legislative Council Panel on Education the findings and the "best practice package". Institutions have all agreed to keep their grievance procedures under review and consider implementing the recommendations made by the UGC.

Our reply to the specific questions is set out below:

- (a) The HKBU has advised us that according to the principles of openness and fairness, the HKBU has established policy guidelines and procedures on the appointment of senior management staff. The Council is the approving authority of the appointments of the

President and Vice-Chancellor and Vice-Presidents. In 2006, the Council approved, after an open and rigorous selection process, a recommendation from the Search Committee (appointed by the Council) to appoint two new Vice-Presidents for filling the upcoming vacancies. The exercise was conducted in accordance with established procedures and guidelines.

- (b) The eight UGC-funded institutions appoint visiting staff who are scholars on sabbatical leave/secondment from institutions in other regions for academic exchange/research collaboration. Upon taking up the appointment at the UGC-funded institutions, the visiting staff will fulfil their duties as stipulated in the employment agreements. The remuneration arrangements between the visiting staff and their parent institutions and the UGC-funded institutions' decisions to appoint the visiting staff are two independent issues. Hence the UGC-funded institutions do not keep information on such remuneration arrangements.
- (c) The HKBU has confirmed that since the establishment of the UIC, the HKBU has not utilized UGC funding but has, with the approval of the HKBU Council, provided the UIC with HK\$150 million from the private (non-UGC) funds of the University for the construction of the UIC campus and as part of its start-up costs.
- (d) The salary of the President of the UIC was approved by the Council of the UIC. It has not involved any use of public funds from the UGC.
- (e) According to the HKBU, the University has established a rigorous Quality Assurance (QA) protocol which also applies to the monitoring of academic programmes at the UIC. The accreditation process for UIC programmes is consistent with that adopted by the HKBU. Proposals for any new programmes to be delivered at the UIC must be accredited by a panel consisting of external experts from around the world. The accreditation report is then vetted by the HKBU's Quality Assurance Committee (QAC) before it is forwarded to the HKBU's Senate for approval. All major changes to the programmes at the UIC, including change of titles, units for graduation, graduation requirements, and so on, must be vetted by the HKBU's QAC before forwarding to the HKBU's Senate for

approval. The QA protocol also governs the approval procedures for various minor changes to the academic programmes at the UIC, and teaching evaluation process at the end of each semester.

The HKBU has advised us that all graduation and admission matters including honours classification have to be submitted by the UIC to the Senate of the HKBU for formal approval. In addition, to ensure consistency with the rules and procedures at the HKBU, the University maintains a close monitoring of the operations and admission standards at the UIC by conducting regular (every 18 months) on-site Institutional Reviews (IR) at the UIC. IR Reports and the UIC responses are submitted via the HKBU's QAC to the Senate for approval. To ensure quality, the University assumes full control of the accreditation and QA procedures for all the HKBU degree programmes offered at the UIC.

All eight UGC-funded institutions are self-accrediting, and their first degree and above programmes (regardless of funding source or location) are subject to quality audit of the Quality Assurance Council established under the aegis of the UGC. The purpose of auditing programmes outside Hong Kong is to examine if the quality of student learning is the same as in the corresponding or similar programmes offered in Hong Kong. In the case of the HKBU, the quality audit also covers UIC activities.

- (f) Service termination of academic/administrative staff on substantiated appointment will be considered by an independent Committee on Termination of Appointment set up under the Personnel Committee of the University Council. The Committee is chaired by a lay member of the Personnel Committee, and comprises, *inter alia*, at least one other lay member of the Personnel Committee. Any appeal against the decision of service termination made by the Committee will be handled by the University Council. Similarly, for service termination of academic/teaching and administrative staff on contract, the University will set up an independent University Review Panel chaired by a Vice-President and comprises at least four other independent senior academic/teaching and/or administrative staff members to adjudicate on the case. A staff member who is not satisfied with the decision of service termination can appeal to the President and Vice-Chancellor who will consider if

there are "procedural irregularities" or any "new evidences/arguments" presented and could then adopt measures as he considers appropriate under the circumstances in examining the appeal.

- (g) According to the eight UGC-funded institutions, payments to staff members upon termination of service in the past five years were made in accordance with the contractual and legal requirements. No additional compensation was involved.

Euro IV and V Public Light Buses

9. **MR FRED LI** (in Chinese): *President, many members of the transport trade have complained to me that there are serious defects in the braking, exhaust and fuel systems of the existing Euro IV and Euro V public light buses (PLBs). These PLBs have to stop frequently for 20 to 45 minutes while travelling to perform a "carbon-burning" process. This affects the working hours of the drivers and the quality of PLB services. Besides, due to frequent mechanical failures of Euro IV PLBs, members of the trade are afraid of buying new ones. As a result, many PLBs which are older than normal PLBs have to be used for extended periods. The repair and maintenance costs of such PLBs are extremely high, and it is also difficult to achieve the Government's emission reduction targets. In this connection, will the Government inform this Council:*

- (a) *whether it knows the number of Euro commercial vehicles (from Pre-Euro models to Euro V models) in Hong Kong at present, as well as the ages in general, actual ages and service years upon retirement of such vehicles, and provide breakdowns of such figures by vehicle type;*
- (b) *of the number of old PLBs replaced through the Government's grant scheme and the total amount of grants paid by the Government in the past three years;*
- (c) *whether it has received complaints from the trade about the aforesaid problems of PLBs; if so, of the number and main contents of the complaints received in the past two years;*

- (d) *of the number of PLBs which are older than normal PLBs and have to be used for extended periods; whether the authorities have assessed the impact of emissions from such PLBs on the air quality of Hong Kong; if so, of the details; if not, the reasons for that; and the Government's strategies to reduce such air pollution;*
- (e) *when introducing Euro IV and Euro V PLBs into Hong Kong, whether the Government had conducted the relevant feasibility and technicality studies to ensure that these PLB models were suitable for operation in Hong Kong; if so, of the details; if not, the reasons for that; and*
- (f) *of the levels of emissions from Euro IV and Euro V PLBs before and during the "carbon-burning" process, and how such levels of emissions compare with the current emission requirements for Euro IV and Euro V vehicles in Hong Kong?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, the operational mode of Euro IV and Euro V diesel PLBs is different from that of the diesel light buses that have been used by the trade. To meet Euro IV or more stringent particulates emission standards, light bus manufacturers have adopted diesel particulate filter (DPF) which is an advanced particulates emission reduction technology. During the operation of the vehicle, the DPF not only collects the particulates, but also automatically burns off the particulates to achieve self-regeneration. If excessive particulates are trapped in the DPF, the engine control system of the vehicle will send a signal to the driver for regeneration. The driver should then stop the vehicle as soon as practicable and start the manual regeneration process to burn off the trapped particulates. During the DPF regeneration process, there may be a slight seepage of diesel into the engine oil tank. It takes some time for the light bus trade to get used to this new operational mode of the DPF.

When the new generation of light buses was first introduced, some light buses required frequent manual regeneration of the DPFs and there was excessive seepage of diesel into the engine oil tank. When the problems were brought to the notice of the Environmental Protection Department (EPD) in April 2008, it immediately followed up the issue with major light bus manufacturers' local authorized agents. Tripartite meetings were held with relevant transport trade organizations and the authorized agents of the light buses for joint follow-up

action. The engineers of the manufacturers also came to Hong Kong promptly to understand the situation and work out a solution. In April 2009, one of the major manufacturers improved the engine control units (ECUs) and solved the problems of excessive seepage of diesel into engine oil tank and frequent manual regeneration of the DPFs. Newly ordered light buses are also equipped with the modified ECUs. According to the manufacturer, so far no further complaint has been received from the trade. In a meeting with light bus trade organizations in June 2009, the EPD noted that the problem had been handled properly. According to the other supplier who only provides light buses to one operator, the problem was solved in early 2010.

Our replies to the specific questions raised are as follows:

- (a) We do not have information on the age profile of retired vehicles. A breakdown of the average age and number of licensed vehicles by Euro standards in Hong Kong as at 4 October 2010 is shown in the table below:

<i>Vehicle Class</i>	<i>Average age of vehicles in years (number of vehicles)</i>						<i>Entire Fleet</i>
	<i>Pre-Euro</i>	<i>Euro I</i>	<i>Euro II</i>	<i>Euro III</i>	<i>Euro IV</i>	<i>Euro V</i>	
Private light bus	18.4 (364)	14.6 (406)	10.8 (385)	6.7 (257)	3.3 (350)	1.9 (287)	9.9 (2 049)
Public light bus	17.2 (43)	14.2 (376)	9.8 (1 070)	6.6 (2 298)	3.4 (268)	1.8 (293)	7.6 (4 348)
Non-franchised bus	19.6 (227)	15.2 (245)	11.6 (2 001)	7.4 (2 788)	3.1 (1 932)	0.5 (264)	7.7 (7 457)
Light goods vehicle	18.4 (11 486)	14.5 (9 841)	11.6 (14 749)	6.8 (17 866)	2.8 (14 930)	0 (0)	10.0 (68 872)
Medium goods vehicle	19.0 (8 408)	15.2 (2 707)	12.0 (8 423)	7.1 (9 604)	2.9 (7 215)	0.6 (296)	10.7 (36 653)
Heavy goods vehicle	19.2 (683)	15.1 (318)	12.0 (1 053)	7.8 (507)	2.0 (608)	1.4 (13)	11.3 (3 182)
Taxi*	16** (1)	15** (1)	9.9 (14 748)	7 (1 520)	3.1 (1 970)	0 (0)	8.9 (18 240)

Notes:

* Starting from August 2001, newly registered taxis must be run on liquefied petroleum gas.

** Currently, there are only two Euro I or before diesel taxis.

- (b) The Government completed on 31 March 2010 a three-year grant scheme on replacement of pre-Euro and Euro I diesel commercial vehicles. Under the scheme, a total of 328 pre-Euro and Euro I PLBs were replaced with new models. Owners of 137 PLBs who had not completed the application procedures for the grant on time were allowed to retain their eligibility until 31 March 2011. As at end-October 2010, a total of 431 light buses have been replaced with new models under the scheme, and the total amount of grant involved was \$23.08 million.
- (c) The light bus trade's complaints were mainly concerned with excessive seepage of diesel into the engine oil tank and frequent manual regeneration of the DPFs. The complaints involved two light bus models. According to light bus suppliers, less than 60 PLB complaints were received over the past two years.
- (d) Vehicles have no fixed serviceable lifespan and we do not have statutory limit on vehicle age. The law only requires that an in-use vehicle complies with the concerned emission and safety standards when renewing the vehicle licence. In deciding to replace their vehicles, vehicle owners usually consider factors such as vehicle reliability, whether the concerned vehicles can meet their daily operational needs, maintenance expenses and financial considerations, and so on. The above table indicates that the average age of PLBs is generally lower than other commercial vehicles.

Expediting the retirement of highly polluting diesel commercial vehicles, including light buses, will facilitate early improvement of roadside air quality. Replacing pre-Euro, Euro I or Euro II vehicles by Euro IV models can reduce the emissions of particulates and nitrogen oxides by 87% to 97% and 50% to 61% respectively. Therefore, the Government launched a 36-month grant scheme to encourage the early replacement of pre-Euro/Euro I and Euro II diesel commercial vehicles in 2007 and 2010 respectively. We also consider that their early replacement cannot be expedited solely through the grant scheme. As such, we proposed at the meeting of the Panel on Environmental Affairs of the Legislative Council on

24 November 2008 to consider introducing suitable disincentive measures to discourage the continued use of these highly polluting old vehicles, such as increasing the licence fees for old diesel commercial vehicles. Our proposal, however, was not supported by the Panel. We also proposed at the meeting of the Subcommittee on Improving Air Quality of the Panel on Environmental Affairs on 10 March 2010 to revisit the proposal, but Members still had reservations about the proposal. We will continue to follow up on the above proposal and other disincentive measures with the Panel, so as to expedite the retirement of highly polluting commercial vehicles and improve roadside air quality.

- (e) The Government follows international practices by requiring vehicle suppliers to provide sufficient information to prove that vehicles supplied to Hong Kong meet local statutory requirements in respect of safety, emissions and noise before their first registration. Euro IV and Euro V diesel light bus models are registered in Hong Kong according to the above established procedures. Following the type-approval of vehicle models, the EPD requires the vehicle manufacturer to randomly select the relevant vehicle model from the production line for emission tests and submit a test report annually. The EPD also sends professional staff to check the quality control measures at the vehicle manufacturing plant. Should there be problems involving individual models, we will follow up with the trade and the vehicle supplier concerned to solve the problems.
- (f) As explained in the first two paragraphs of this reply, to meet Euro IV or more stringent particulates emission standards, light bus manufacturers have adopted DPFs. During the operation of the vehicle, a DPF traps the particulates and burns them away for regeneration. Manual regeneration will be activated only when the DPF fails to remove the trapped particulates, resulting in an excessive accumulation of particulates. Therefore, under normal operation, the overall exhaust emission performance of the PLB can meet their designed emission standards, irrespective of whether the regeneration is in automatic or manual mode.

Implementation of Road Traffic (Driving-offence Points) Ordinance

10. **MS MIRIAM LAU** (in Chinese): *President, some members of the transport trade have pointed out that when hiring a driver, vehicle owners in the trade can hardly know, by checking the details on the applicant's driving licence, if he has been disqualified from driving for having incurred 15 points or more within two years because of driving offences; and the employer will not without apparent reason check his driving licence after hiring him. Moreover, if the driver fails to appear in court after incurring 15 points or more, his driving licence will not be seized and he can continue to drive until it expires. There is no way for vehicle owners in the trade to crosscheck such information, according to sections 42(3) and 42(4) of the Road Traffic Ordinance (Cap. 374), yet any person who permits a motor vehicle to be driven by a person who is not the holder of a valid driving licence of the class to which such vehicle belongs commits an offence, vehicle owners in the trade are thus afraid of being charged innocently. In this connection, will the Government inform this Council:*

- (a) *since the Government amended the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) last year, of the total number of drivers who had incurred 15 points or more but failed to appear in court up to this month; and among them, the number of those who are drivers of commercial vehicles;*
- (b) *focusing on the problem that drivers can still drive on roads after incurring 15 points or more, what proposals the authorities have to combat such situation, so as to protect the safety of road users; and*
- (c) *given that at present, vehicle owners have no way of knowing the driving records of a driver (including whether he has committed any driving offence or whether he has incurred almost 15 points) by checking the details on his driving licence, whether the authorities will consider asking the Transport Department (TD) to provide channels for vehicle owners to inspect such records or provide a blacklist for their reference, so as to ensure that they will not be charged innocently; if they will, of the plan and the time to implement it; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the Road Traffic (Driving-offence Points) (Amendment) Ordinance 2009 (Cap. 375) (the Amendment Ordinance) took effect on 29 May 2009. The Amendment Ordinance has introduced various measures to address the situation that some drivers have tried to circumvent the Driving-offence Points (DOP) System by avoiding receiving summons. Such measures include the introduction of the "deemed served" mechanism regarding the service of DOP summonses, and authorizing the Commissioner for Transport (C for T) to refuse issue, reissue or renewal of the driving licence of those who fail to appear in court upon receiving the summons.

Our replies to the specific questions are as follows:

- (a) According to the records of the TD, during the period between the enactment of the Amendment Ordinance on 29 May 2009 and end-October 2010, there are a total of 5 599 cases in which summonses were issued to drivers with 15 or more DOPs under the DOP System. Out of these cases, 4 947 cases (about 88%) had been dealt with in either the first or second court hearing, and the drivers concerned had been disqualified from driving. For the rest of the cases, the drivers in 601 cases were issued with an arrest warrant by the Court for failing to appear in court as scheduled, and another 51 cases were being scheduled for court hearing. For cases where warrants were issued, 467 warrants (about 78%) had been executed and the drivers concerned had been disqualified eventually. For the remaining 134 cases where the arrest warrants were still in force, they involved 127 drivers including 60 drivers who were holding commercial vehicle driving licences. The above figures reveal that, since the coming into force of the Amendment Ordinance, the great majority of summonses issued under the DOP System have been dealt with successfully.
- (b) The Amendment Ordinance has introduced the "deemed served" mechanism. Under this mechanism, if a driver has incurred 15 or more DOPs due to traffic offences, the Court will serve the driver concerned a summons by ordinary post to his address registered under TD. If the driver concerned fails to appear in his disqualification hearing, the Court will serve the summons again by

registered post, which will be deemed to have been served even if it is returned undelivered. If the driver concerned still does not appear in court, an arrest warrant will be issued by the Court. C for T will also refuse issue, reissue or renewal of the relevant driving licences.

As shown by the figures in part (a) of this reply, following the enactment of the Amendment Ordinance, the great majority of summonses issued under the DOP System have been dealt with successfully through court hearing and execution of the arrest warrants by the police, and the drivers concerned have been disqualified. In addition, since the coming into force of the Amendment Ordinance, C for T had refused the issue, reissue and renewal of the driving licences of 74 drivers against whom an arrest warrant had been issued, and 64 of them been disqualified by the Court. We believe the measures introduced by the Amendment Ordinance have effectively improved the situation where drivers continue to drive on roads after they have accumulated 15 or more DOPs. We will continue to monitor the situation.

- (c) The Secretary for Justice will make prosecution decision on a case-by-case basis in accordance with the established principles in the Statement of Prosecution Policy and Practice. We understand that the authorities concerned may not prosecute a case if there is insufficient evidence or the public interest does not require a prosecution.

At present, drivers may apply for a Certificate Relating to Previous Conviction (the Certificate) from the police under section 75(5) of the Road Traffic Ordinance (Cap. 374) to obtain the following information:

- (i) previous conviction record under the Road Traffic Ordinance (Cap. 374) in the past 10 years;
- (ii) payment record under the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) in the past three years;

- (iii) record of DOP under section 3(2) of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) in the past five years; and
- (iv) record of Disqualification Order issued under section 8 of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) in the past 10 years.

Drivers may authorize a person to collect the Certificate on their behalf when submitting application.

Employers or vehicle owners may consider requiring the candidates to produce such a Certificate when recruiting drivers, and request the drivers employed to produce their DOP records from time to time.

As to whether the authorities concerned would offer other channels for vehicle owners to inspect the driving licence records of their drivers, or providing a "blacklist" for employers' or vehicle owners' reference, we have to handle this issue carefully as the relevant records involve personal data which is protected by the Personal Data (Privacy) Ordinance (Cap. 486). We are of the view that the existing arrangement is able to strike a balance among the needs of different parties. That said, we will continue to monitor the situation and will explore whether there are better means to meet the needs of the parties concerned.

Procurement of Policies of Third Party Risks Insurance by Owners' Corporations

11. **MR KAM NAI-WAI** (in Chinese): *President, under the Building Management (Third Party Risks Insurance) Regulation (the Regulation) (Cap. 344, sub. leg. B), with effect from 1 January next year, all Owners' Corporations (OCs) are required to procure and keep in force policies of third party risks insurance (insurance policy) in relation to the common parts of the buildings and properties of OCs. The minimum insured amount of each policy shall be \$10 million per event. In this connection, will the Government inform this Council:*

- (a) *of the total number of buildings in Hong Kong which have formed OCs at present, and, among them, whether it knows the respective numbers of buildings the OCs of which have and have not procured insurance policies, with a breakdown by District Council (DC) district;*
- (b) *of the total number of buildings aged 30 years or above in Hong Kong at present, and, among them, the number of those which have formed OCs, the number of those which have not formed OCs and whether it knows the reasons for that, as well as the number of buildings which have deregistered their OCs within the last two years, with a breakdown by DC district;*
- (c) *of the number of OCs to which the cross-professional working groups (the working groups) formed by the Government have provided professional advice; and as far as the working groups know, how many of such OCs have not yet procured insurance policies to date and whether it knows the reasons for that, what kind of assistance the working groups have provided to these OCs, why such assistance has not been able to facilitate these OCs to procure insurance policies successfully, and what further initiatives the working groups are planning to adopt to help these OCs to successfully procure insurance policies by 1 January next year;*
- (d) *whether the working groups are aware if any member of the management committees (MCs) of OCs which have not yet procured insurance policies to date is intending to resign or dissolve the OC, so that he will not breach the law for failing to procure insurance policies after the commencement of the aforesaid Regulation; and*
- (e) *whether, after 1 January next year, the authorities will immediately institute prosecutions against OCs and their MC members for failing to procure insurance policies; if not, what objective criteria they will consider in offering a grace period and of the duration of the grace period?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, the mandatory requirement for an OC to procure a third party risks insurance policy (insurance policy) in respect of the common parts of the building and the property of the OC aims at reducing the risks faced by owners in case of accidents and, at the same time, offering better protection for the public.

In 2007, the Legislative Council passed the amendments to section 28 of the Buildings Management Ordinance (the Ordinance) and the Regulation. After consultation with the Panel on Home Affairs of the Legislative Council in December 2008, the Government announced that the legislation concerned would come into effect on 1 January 2011 to allow OCs to have sufficient time to procure insurance policies for their buildings.

The Regulation requires the insurance policy to cover liabilities incurred by an OC in relation to the common parts of the building and the property of the OC in respect of the bodily injury to and/or the death of a third party. The minimum insured amount of each policy shall be \$10 million per event.

Upon commencement of the legislation, if an OC fails to comply with the requirement to procure insurance, every member of the MC shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000. However, it would be a defence for members of the MC if they can demonstrate that they have exercised all due diligence to procure insurance.

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

- (a) As at 30 September 2010, the detailed figures of procurement of insurance policies for buildings with OCs in six districts with a relatively higher concentration of aged buildings are as follows:

	<i>Number of buildings which have procured insurance policies</i>	<i>Number of buildings which have yet to procure insurance policies</i>	<i>Total</i>
Central and Western	1 463	91	1 554
Wan Chai	1 157	36	1 193
Kowloon City	1 293	109	1 402
Sham Shui Po	970	130	1 100

	<i>Number of buildings which have procured insurance policies</i>	<i>Number of buildings which have yet to procure insurance policies</i>	<i>Total</i>
Yau Tsim Mong	1 278	147	1 425
Tsuen Wan	397	49	446
Other Districts	8 984	193	9 177
Total	15 542	755	16 297

- (b) At present, there are around 17 000 buildings aged 30 years or above in Hong Kong, and about 40% of them have formed OCs. We do not have statistics on OCs compiled on the basis of DC districts and age of buildings. According to the register of OCs maintained by the Land Registrar, a total of six OCs, involving 14 buildings, have applied for deregistration over the past two years. Apart from forming OCs, owners of private buildings may choose to establish other residents' organizations such as owner's committees, or to employ property management companies to assist their daily operation in respect of building management and maintenance.

The reason for the relatively small number of old buildings with OCs, as we understand, is that the owners of these buildings are mostly elderly people and grassroots who, owing to financial constraints or other reasons, are not capable of improving the maintenance and management of the buildings in which they are living although they want to do so. Moreover, some owners, who are in anticipation of acquisition and redevelopment, are not willing to spend money on maintenance and management of their buildings. Besides, it is common to find unclear titles in these buildings. It is also difficult to contact some owners who have leased their flats through agents.

In view of this, we have, in collaboration with the Hong Kong Housing Society and four professional associations of the property management industry, launched the Building Management Professional Service Scheme on a pilot basis since April 2010. Under this one-year pilot scheme, free professional advice and follow-up services on building management are provided to owners of old buildings based in clusters. We will draw on the valuable

experience gained from the pilot scheme and discuss with the property management industry feasible modes of co-operation in the future.

- (c) All District Offices (DOs) have taken an active role in encouraging and assisting OCs in procuring insurance. We have taken the initiative to contact individual OCs and, taking into account their circumstances, provided them with a full range of assistance which include promoting the importance of procuring insurance policies to owners, providing information on insurance procurement and assisting OCs to convene meetings to discuss matters on insurance procurement, and so on.

As far as we understand, upon receipt of an OC's request for procurement of insurance, an insurance company will normally conduct a risk assessment based on a number of factors, such as building age, existence of unauthorized structures, repair and maintenance condition of the building and claim history. Whether the insurance company accepts the insurance and the level of premium charged are quantitative risk indicators. We are aware that the OCs of some old buildings or those with unauthorized structures may be declined for insurance or required to pay higher premiums. To deal with such cases, we have been actively introducing to OCs various building maintenance loan and assistance schemes available and encouraging them to carry out maintenance to improve the conditions of their buildings. Once the required maintenance work is completed, the OCs may enjoy lower premiums.

With the above efforts made by DOs, as at September 2010, 15 542 or 95.4% of the total number of buildings with OCs have procured insurance policies. There are about 750 or 4.6% of the total number of buildings with OCs which have not procured third party risks insurance, among them about 30% have indicated that their buildings are under repair and they would procure insurance policies upon completion of the repair work, while about another 20% are asking insurance companies for quotations.

(d) and (e)

We understand that individual MC members of OCs which have not procured insurance policies have expressed concern about possible violation of the law for failing to procure insurance policies. To further dispel doubts and worries of OCs and owners over the relevant legislation, the Home Affairs Department (HAD) has issued letters to all OCs early this month, informing them that if an OC encounters difficulties in procuring an insurance policy for its building, we will not take prosecution against the OC immediately when the relevant sections of the Ordinance have come into effect, provided that it can prove that it has taken the initiative and tried its best to procure an insurance policy by taking the following steps:

Firstly, the OCs should contact their respective DOs immediately. We will provide the owners with information of insurance procurement and assist the OCs to convene meetings to discuss matters related to insurance procurement.

Secondly, if an OC has been declined for insurance, we will refer the case to the Hong Kong Federation of Insurers (HKFI) for assistance. We will also provide the OC with a list of insurance companies authorized by the HKFI as insurers of third party risks insurance for buildings and a list of insurance consultant companies provided by the Professional Insurance Brokers Association to facilitate the OC's procurement of an insurance policy.

Thirdly, if the OC of an old building needs assistance in co-ordinating repair works, after knowing the reasons of decline for insurance, we will arrange for one-stop building management services to be provided by property management professionals so that the OC can secure insurance coverage within a reasonable period of time. These include providing assistance in electing members to fill vacant posts of the MC so as to restore normal operation of the OC, giving advice on how to improve the maintenance condition of the building, assisting the OC to invite tenders, and helping the OC to apply for financial assistance from various loan and assistance schemes administered by the Government and other supporting organizations.

The HAD has also issued letters to all OCs, inviting them to attend a new round of district talks jointly organized by the HAD and HKFI later this month. During such talks, enquiries from OCs and owners who have not procured insurance policies will be answered.

Special Loan Guarantee Scheme

12. **DR LAM TAI-FAI** (in Chinese): *President, in his 2010-2011 Policy Address, the Chief Executive said that, "we must remain vigilant since there are still many uncertainties in the external economy. We need to guard against greater downside risks in the global economy and increased risks of asset-price bubbles in Asia resulting from the fragile recovery of the US economy and the lingering sovereign debt crisis in Europe The Hong Kong Mortgage Corporation Limited is exploring the establishment of a market-oriented loan guarantee scheme to provide a sustainable platform for obtaining credit". In this connection, will the Government inform this Council:*

- (a) *given that the Government has anticipated that there are still many uncertainties in the external economy, whether the Government will reconsider extending the application period for the Special Loan Guarantee Scheme (SpGS) which will expire at the end of this year; if it will, of the details; if not, the reasons for that;*
- (b) *whether it has assessed if termination of SpGS by the Government as scheduled will affect the capability of small and medium enterprises (SMEs) and the overall economy of Hong Kong in weathering further deterioration of the external economic situations; if it has, of the details; if not, the reasons for that;*
- (c) *whether it has assessed if the actual default rate and the fund involved under SpGS to date are at variance with the assumed default rate of 12% and the estimated maximum expenditure exposure of \$11.8 billion; if it has, of the details; if not, the reasons for that;*
- (d) *whether the aforesaid loan guarantee scheme, now being explored by the Hong Kong Mortgage Corporation Limited (HKMC), is meant to replace SpGS; if not, whether the Government will introduce other*

related measures; if so, when the scheme will be launched and, given that there are only 31 working days (excluding Saturdays) left before the application period of SpGS ends, of the reasons for the Government's not announcing the details of the scheme by now; how the Government ensures that there will be a smooth transition between the scheme or other related measures and SpGS when SpGS ends;

- (e) whether the loan guarantee scheme or other measures now being explored by the HKMC will continue with the arrangements under SpGS, including provision to SMEs of a loan guarantee ratio of up to 80%, a maximum loan amount of \$12 million for each enterprise, \$100 billion guarantee commitment and revolving credit line, and so on; if so, of the details; if not, the reasons for that; and*
- (f) how the Government will consult the banking sector and SMEs, and ensure that banks will not tighten their credits and that financing will be easier for SMEs?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, the Government launched the SpGS on 15 December 2008 with a total guarantee commitment of \$100 billion to help enterprises tide over the credit crunch problem arising from the global financial crisis. As at 12 November 2010, over 37 000 applications have been approved under the SpGS, involving a total loan amount of over \$90 billion. The scheme has benefited nearly 20 000 enterprises, of which 95% are SMEs, and helped preserve over 330 000 jobs.

In response to Dr LAM Tai-fai's question, the reply is as follows:

- (a) and (b)

When the Government introduced the SpGS in December 2008, it had been clearly pointed out that the scheme was a time-limited initiative with the aim of helping enterprises tide over the credit crunch problem arising from the global financial crisis. It was an exceptional measure introduced during exceptional times. In order

to provide continued support to Hong Kong enterprises during the crisis and to allow sufficient time for them to consolidate their businesses after the crisis, the Government has extended the application period thrice until end 2010.

In 2010, the credit crunch has been relieved following the significant improvement in the economic situation of Hong Kong. We should let the credit market resume its normal operation. The credit market has by and large returned to the pre-crisis level. According to Hong Kong Monetary Authority's Half-yearly Monetary and Financial Stability Report published in September 2010, domestic loans returned to their pre-crisis peak in the first quarter and grew at a pace of 14% in the second quarter compared with a year earlier. Many SMEs also inform us that the lending environment has greatly improved. In fact, in recent months, the number of applications under the SpGS has reduced.

Based on the above considerations, we will end the SpGS on 1 January 2011 according to the original plan. However, the existing SME Loan Guarantee Scheme (SGS), including the enhancement measures introduced in November 2008, will continue to render appropriate assistance to SMEs.

The Government will continue to closely monitor the external economic environment and its impact on Hong Kong's economy and enterprises. We would introduce additional measures where appropriate in the light of economic circumstances and needs.

- (c) As at 12 November 2010, the Trade and Industry Department has received 177 default claims under the SpGS, involving a total claim amount of about \$173 million. The default rate is about 0.25%.

It is too early to estimate the actual default rate at this stage. As the majority of loans under the SpGS have only been approved for about one year and the maximum guarantee period provided by the Government is five years, we expect the number of default claims will increase with time.

(d) to (f)

The HKMC announced on 15 November its plan to introduce the market-based SME Financing Guarantee Scheme in January 2011, with a view to providing SMEs with an additional financing option. The scheme has drawn reference to the SpGS, with appropriate adjustments to provide more coverage and flexibility. The scheme could provide a guarantee coverage of up to 70%. The maximum loan amount for each enterprise is \$12 million, which can take the form of term loan or revolving facility and is not subject to any ratio in respect of the two types of loans. Through the provision of loan guarantee, the scheme will encourage the Authorized Institutions to provide more financing options for SMEs in Hong Kong, complementary to the SGS.

We understand that the HKMC has suitably taken into account the views of the SMEs, the banking sector as well as other relevant organizations when drawing up the details of the scheme. It has also conducted in-depth analyses on all relevant factors such as the market situation, needs of enterprises as well as risk exposure to ensure that the scheme can meet market demand and function effectively.

Neighbourhood Support Child Care Project

13. **MR CHEUNG KWOK-CHE** (in Chinese): *President, according to the Policy Initiatives of the Labour and Welfare Bureau for 2010-2011 presented by the Government to the Legislative Council Panel on Welfare Services, the Government has decided to extend the Neighbourhood Support Child Care Project (the Project) to all the 18 districts. In this connection, will the Government inform this Council:*

- (a) *whether the authorities will review the service charges of the Project and the amount of allowance for home-based child carers;*
- (b) *whether the amount of allowance for home-based child carers will be adjusted to the level of or above the minimum wage after the*

initial statutory minimum wage rate under the Minimum Wage Ordinance (Cap. 608) has been implemented;

- (c) of the respective numbers of applicants on the waiting lists for the home-based child care service and centre-based care group service provided by each of the operating organizations of the Project; and*
- (d) whether the authorities have plans to relax the existing age limits of the service targets of the centre-based groups from children aged three to under six to include all children aged under 12; and those of home-based child care service from children aged under six to include children aged under 12?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, it is the responsibility of parents to take care of their young children. To support parents who are unable to take care of their children temporarily because of work or other reasons, the Social Welfare Department (SWD) has all along been providing subvention to non-governmental organizations (NGOs) to run a variety of child care services. The Department also strives to increase the flexibility of such services.

In 2008, the SWD launched the three-year Neighbourhood Support Child Care Project (NSCCP) on a pilot basis. The NSCCP aims to provide needy families with more flexible child care service in addition to regular services and to foster, at the same time, mutual help and care in the community. The NSCCP services include home-based care service for children aged under six and centre-based care group for children aged between three and under six. Service operators recruit and train carers in the neighbourhood to take care of children at the carers' homes or in the service centres run by the operators.

The pilot stage of the NSCCP will be completed by the end of March 2011. We consider that the objectives of the NSCCP have been achieved and have thus decided to regularize it and extend its service coverage from 11 districts at present to all 18 districts so as to benefit more needy families.

My reply to the four parts of Mr CHEUNG Kwok-che's question is set out below:

- (a) The service charges and incentive payments for home-based child carers of the NSCCP are determined by service operators. That said, when submitting their service proposals to the SWD, service operators are required, in accordance with their circumstances and those of their respective districts, to provide information about the overall financial arrangements for their projects, including the proposed service charges and incentive payments for home-based child carers. In assessing the service proposals submitted by service operators, the SWD will give full consideration as to whether the level of service charges and incentive payments are reasonable. Families with financial difficulties will be granted fee waiving or reduction, subject to their passing the social need and means tests.
- (b) The NSCCP is not an employment project. Its objective is to provide needy families with more flexible child care service and to foster community participation and mutual help in the neighbourhood. Remuneration should not be the primary consideration. At present, home-based child carers under the NSCCP are providing services as volunteers in the spirit of care for others. They do not have employment relationship with the service operators.
- (c) Since the implementation of the NSCCP, the SWD has not received any report on needy children having to wait for the service or not given the service because of insufficient service places. The existing utilization indicates that the NSCCP can largely address the service demands in the districts.
- (d) To match service needs, the child care services subsidized by the SWD have various service targets. While the service targets of the NSCCP are young children under six, service operators will provide temporary services for children aged six or above in exceptional circumstances (for example, when there is an urgent need for child care services because of sudden incidents) on a discretionary basis to ensure that the children concerned could be taken care of properly.

The service needs of children aged six or above are quite different. We believe that the After School Care Programme (ASCP) targeting children aged six to 12, instead of the NSCCP, can better meet their

needs. Services provided under the ASCP include meal service, parental guidance and education, skills learning and social activities, and so on. The SWD provides fee waiving or reduction to needy low income families.

The centre-based care group under the NSCCP provides care services through group activities which are for children aged between three and under six. We consider that home-based personal care should be more suitable for children aged below three and the home-based child care service of the NSCCP can address their service needs.

Implementation of Building Management (Third Party Risks Insurance) Regulation

14. **MR FREDERICK FUNG** (in Chinese): *President, the amended section 28 of the Building Management Ordinance (the Ordinance) (Cap. 344) and the Building Management (Third Party Risks Insurance) Regulation (the Regulation) (Cap. 344, sub. leg. B) will come into operation on 1 January 2011. These provisions require all owners' corporations (OCs) to procure and keep in force policies of third party risks insurance (insurance policy) in relation to the common parts of the buildings and the properties of OCs. Should an OC fail to comply with such requirement, members of the OC's management committee (MC) shall be held responsible and liable on conviction to a maximum fine of \$50,000. In this connection, will the Government inform this Council:*

- (a) *of the publicity and promotional activities conducted in respect of the aforesaid provisions (including the number of times and the circumstances in which District Offices (DOs) communicated and made contacts with OCs); whether the authorities have assessed the possible difficulties faced by OCs in complying with the aforesaid requirement; if they have, of the difficulties; whether they have considered and offered any support and assistance; if not, the reasons for that, and whether the authorities have been preoccupied solely with amending the legislation and have not taken into account the actual circumstances and have not provided adequate corresponding measures; and*

- (b) *given that some owners have pointed out that at present, around 800 private buildings have not been able to procure insurance policies due to problems in raising funds or excessively high insurance premium, which may ultimately lead to a substantial number of cases of breaches or even an upsurge of resignation of MC members, whether the authorities have looked into the situation concerned and offered appropriate assistance (including liaising with building owners, assisting in fund-raising and acting as an intermediary in their discussion with insurance companies and banks), so as to increase their opportunities of procuring insurance policies; and whether the authorities will consider deferring enforcement of the amendment for one year to allow sufficient time for OCs to procure insurance?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, the mandatory requirement for an OC to procure a third party risks insurance policy (insurance policy) in respect of the common parts of the building and the property of the OC aims at reducing the risks faced by owners in case of accidents and, at the same time, offering better protection for the public.

In 2007, the Legislative Council passed the amendments to section 28 of the Ordinance and the Regulation. After consultation with the Panel on Home Affairs of the Legislative Council in December 2008, the Government announced that the legislation concerned would come into effect on 1 January 2011 to allow OCs to have sufficient time to procure insurance policies for their buildings.

The Regulation requires the insurance policy to cover liabilities incurred by an OC in relation to the common parts of the building and the property of the OC in respect of the bodily injury to and/or the death of a third party. The minimum insured amount of each policy shall be \$10 million per event.

Upon commencement of the legislation, if an OC fails to comply with the requirement to procure insurance, every member of the MC shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000. However, it would be a defence for members of the MC if they can demonstrate that they have exercised all due diligence to procure insurance.

The reply to the two parts of the question is as follows:

- (a) All DOs have taken an active role in encouraging and assisting OCs in procuring insurance. We have taken the initiative to contact individual OCs and, taking into account their circumstances, provided them with a full range of assistance which include promoting the importance of procuring insurance policies to owners, providing information on insurance procurement and assisting OCs to convene meetings to discuss matters on insurance procurement, and so on.

As far as we understand, upon receipt of an OC's request for procurement of insurance, an insurance company will normally conduct a risk assessment based on a number of factors, such as building age, existence of unauthorized structures, repair and maintenance condition of the building and claim history. Whether the insurance company accepts the insurance and the level of premium charged are quantitative risk indicators. We are aware that the OCs of some old buildings or those with unauthorized structures may be declined for insurance or required to pay higher premiums. To deal with such cases, we have been actively introducing to OCs various building maintenance loan and assistance schemes available and encouraging them to carry out maintenance to improve the conditions of their buildings. Once the required maintenance work is completed, the OCs may enjoy lower premiums.

- (b) With the above efforts made by DOs, as at September 2010, 15 542 or 95.4% of the total number of buildings with OCs have procured insurance policies. There are about 750 or 4.6% of the total number of buildings with OCs which have not procured third party risks insurance, among them about 30% have indicated that their buildings are under repair and they would procure insurance policies upon completion of the repair work, while about another 20% are asking insurance companies for quotations. If an OC encounters difficulties in procuring an insurance policy for its buildings, we will not take prosecution against the OC immediately when the relevant sections of the Ordinance have come into effect, provided that it can

prove that it has taken the initiative and tried its best to procure an insurance policy by taking the following steps:

Firstly, the OCs should contact their respective DOs immediately. We will provide the owners with information of insurance procurement and assist the OCs to convene meetings to discuss matters related to insurance procurement.

Secondly, if an OC has been declined for insurance, we will refer the case to the Hong Kong Federation of Insurers (HKFI) for assistance. We will also provide the OC with a list of insurance companies authorized by HKFI as insurers of third party risks insurance for buildings and a list of insurance consultant companies provided by the Professional Insurance Brokers Association to facilitate the OC's procurement of an insurance policy.

Thirdly, if the OC of an old building needs assistance in co-ordinating repair works, after knowing the reasons of decline for insurance, we will arrange for one-stop building management services to be provided by property management professionals so that the OC can secure insurance coverage within a reasonable period of time. These include providing assistance in electing members to fill vacant posts of the MC so as to restore normal operation of the OC, giving advice on how to improve the maintenance condition of the building, assisting the OC to invite tenders, and helping the OC to apply for financial assistance from various loan and assistance schemes administered by the Government and other supporting organizations.

To further dispel doubts and worries of OCs and owners over the relevant legislation, the Home Affairs Department (HAD) has issued letters to all OCs early this month, informing them of the above arrangements and inviting them to attend a new round of district talks jointly organized by the HAD and HKFI later this month. During such talks, enquiries from OCs and owners who have not procured insurance policies will be answered.

Assistance for Hong Kong Residents Facing Criminal Charges in Overseas Countries

15. **MR PAUL TSE** (in Chinese): *President, regarding the assistance provided by the Government for Hong Kong residents detained overseas for being involved in criminal cases, will the Government inform this Council:*

- (a) *given that Hong Kong resident Mr CHEUNG Tai-on and two other Hong Kong people have been jailed in the Philippines for over a decade for having allegedly involved in a narcotics case and their trial has still not been concluded, what assistance the Government had offered in connection with this case in the past 10 years;*
- (b) *given that I have learnt that the Philippine authorities intend to conclude the trial of the case in part (a) as soon as possible, yet Mr CHEUNG and his legal representative have indicated that they lack support and need assistance, whether the Government will take the initiative to follow up and offer assistance; and*
- (c) *of the total number of cases received by the Government in the past three years of Hong Kong people being unreasonably detained overseas for having involved in criminal cases and requesting assistance to return to Hong Kong; which government departments or inter-departmental bodies had offered them assistance; and whether an assessment had been made on the actual effectiveness of such assistance; if so, of the results; if not, whether such an assessment can be made as soon as possible?*

SECRETARY FOR SECURITY (in Chinese): President,

(a) and (b)

The Hong Kong SAR Government attaches much importance to cases where individual Hong Kong residents are detained outside Hong Kong for a long period of time. Since the receipt of the request for assistance, the Assistance to Hong Kong Residents Unit

(AHU) of the Immigration Department has been working with the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR (OCMFA) and the Chinese Embassy (the Embassy) in the Philippines for providing assistance to the subject. The Embassy has liaised with the local judicial authorities on the case on various occasions, and has visited the subject. Besides, the Embassy and AHU have been in contact with the subject and his family in Hong Kong, and reflected their wishes to the Philippine authorities on matters such as ensuring that the subject is provided with basic necessities and translation service during trial.

OCMFA, the Embassy and AHU will continue to liaise closely with the subject and his family in Hong Kong for providing all practicable assistance to the subject.

- (c) Since 2007, the number of assistance requests received by AHU on Hong Kong residents imprisoned or detained outside Hong Kong is as follows:

2007	145
2008	131
2009	115
2010 (Jan to Oct)	89

Upon receipt of assistance requests, AHU will, having regard to the nature and the circumstances of individual cases as well as the wishes of the subjects, provide practicable assistance like informing the subjects' families in Hong Kong of their detention. For cases involving detention in the Mainland, AHU will work with the relevant policy bureau and departments (for example, Constitutional and Mainland Affairs Bureau, the Office of the Government of the Hong Kong Special Administrative Region in Beijing, the Hong Kong Economic and Trade Office in Guangdong and Hong Kong Police) in providing assistance. For overseas cases, assistance will be provided via OCMFA and the Chinese Diplomatic and Consular Missions (CDCMs). The assistance rendered include approaching

relevant authorities to reflect the wishes of the assistance seekers and making enquiries on case progress, and providing information on local lawyers and translators, and so on.

To conclude, when handling the assistance request, AHU will maintain close liaison with the subject, his/her family in Hong Kong, OCMFA, CDCMs and relevant government departments in rendering practicable assistance and taking appropriate follow-up actions.

Operation of Hong Kong Girl Guides Association

16. **MR WONG YUK-MAN** (in Chinese): *President, after the Secretary for Home Affairs answered a Legislative Council Member's question concerning the operation of the Hong Kong Girl Guides Association (the Association) on 14 July this year, I have received complaints from parents, elderly persons and kindergarten teachers respectively that the funds allocated for "Happy Bee" teams and "Golden Guides" of the Association are insufficient, and there are not enough promotion opportunities for "Happy Bee" members. In this connection, will the Government inform this Council:*

- (a) *whether it knows the number of the Association's "Happy Bee" teams and the number of their members at present, as well as the number of male guiders of "Happy Bee" and the number of male commissioners of various grades;*
- (b) *whether it knows how male members of "Happy Bee" are promoted to "Brownies";*
- (c) *given that Secretary for Home Affairs has indicated that "a provision in the Association's constitution provides that one of the aims of the Association is to provide girls and young women with the opportunity for self-training in different areas", whether it has assessed if the recruitment of "Happy Bee" male members has breached the Association's constitution and contradicted the aims of its establishment; if it has, of the results;*

- (d) *whether it knows if the Association will recruit male members for "Brownies", "Guides", "Rangers", "Golden Guides" and "Guiders", so that male members can be promoted grade by grade; if it will, when it will do so; if not, the reasons for that;*
- (e) *of the amounts of funds provided by the Government for the "Happy Bee" and "Golden Guide" programmes of the Association in each of the past five years (list in a table);*
- (f) *whether it knows if the establishment of "Happy Bee" teams and the recruitment of male members by the Association have been authorized and recognized by the World Association of Girl Guides and Girl Scouts (WAGGGS); if so, of the date when authorization and recognition were given; if not, the reasons for that; and*
- (g) *whether it knows if the establishment of "Golden Guide" teams and the recruitment of elderly members by the Association have been authorized and recognized by WAGGGS; if so, of the date when authorization and recognition were given; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, the Association was established in 1916. It is an independent statutory non-governmental organization. The Government respects the independence of the Association. My reply to the question of Mr WONG Yuk-man is as follows:

- (a) According to the information provided by the Association, the Association has a total of 222 "Happy Bee" teams with 7 769 participants at present. There are neither male guiders nor male commissioners in "Happy Bee" teams.
- (b) It is understood that boy members of "Happy Bee" will not be promoted to "Brownies". However, the Association would refer boy participants who are interested in developing themselves through scouting activities to the Scout Association of Hong Kong.
- (c) The Constitution of the Association specifies that the Association is established with a view to providing girl guides with the opportunity

for self-training in the development of character, responsible citizenship and service to the community.

We understand that "Happy Bee" is one of the service programmes of the Association with the objective of assisting the mental and physical development of pre-school children and this is not in contradiction with the above mentioned aim of establishment. The "Happy Bee" programme admits boy members but they will not become Brownies. This has not breached the Association's Constitution, nor the aims of its establishment. We also understand that the Association has informed the WAGGGS of the programme. WAGGGS has no objection to the implementation of the programme by the Association.

- (d) We understand that the Association do not recruit male members for "Brownies", "Girl Guides", "Rangers", "Golden Guides" and "Guiders".
- (e) The Home Affairs Bureau provides the Association with funding for the promotion of youth development. The Bureau has not provided funding for "Happy Bee" and "Golden Guides" programmes.
- (f) and (g)

We understand that the Association has informed WAGGGS of the "Happy Bee" and "Golden Guides" programmes. The WAGGGS has no objection to the implementation of the programmes by the Association.

Files and Documents Relating to Introduction of Local Legislation to Implement Article 23 of Basic Law

17. **MS CYD HO** (in Chinese): *President, the authorities announced on 24 September 2002 the introduction of local legislation to implement Article 23 of the Basic Law (BL 23). Regarding the files and documents relating to the aforesaid local legislation, will the Government inform this Council:*

- (a) *of the total number of files opened by the authorities for the introduction of the aforesaid local legislation, the total number of pages of documents, and among them, the number of files and documents classified as confidential; the government departments and/or bureaux involved in the preparation of these documents, the number of officers in charge and their respective ranks, and list the various information in the table below;*

	<i>Number of files opened and number of pages</i>	<i>Number of new pages added to old files</i>	<i>Government departments and/or bureaux involved</i>	<i>Total number of officers in charge and the number of officers in each rank</i>
<i>1 Jul 1997 to 30 Aug 1998</i>				
<i>31 Aug 1998 to 24 Sep 2002</i>				
<i>25 Sep 2002 to 1 Jul 2003</i>				
<i>2 Jul 2003 to 6 Jul 2003</i>				
<i>7 Jul 2003 to 25 Jul 2003</i>				
<i>26 Jul 2003 to 5 Sep 2003</i>				
<i>6 Sep 2003 to 12 Mar 2005</i>				
<i>13 Mar 2005 to 13 Oct 2010</i>				
<i>14 Oct 2010 to present</i>				

- (b) *of the number of files that have been transferred to the Government Records Service (GRS) for appraisal since the authorities' decision to shelve the legislative proposal on 5 September 2003; among them, of the number of files destroyed upon appraisal, the number of those transferred to GRS for permanent preservation, the number of files and documents that are classified as active and are still being kept by the government departments and/or bureaux concerned;*

- (c) *among the files and documents that have been transferred to GRS in part (b), of the number of those that are classified as confidential, and when they can be made available for public perusal; and*
- (d) *of the names of the files and documents that are classified as active and are still being kept by the government departments and/or bureaux concerned?*

SECRETARY FOR SECURITY (in Chinese): President, our consolidated reply to Member's questions regarding the consultation and legislative exercise of BL 23 launched in 2002 is as follows:

The Security Bureau has opened a total of 119 files to keep records related to the BL 23 legislative exercise. These files are kept under the following six subjects:

- (1) BL 23;
- (2) General enquiry and correspondence from the public relating to BL 23;
- (3) Press cutting — BL 23;
- (4) Meeting with District Council Members on BL 23;
- (5) BL 23 — Discussion forums and interviews; and
- (6) Legislative Council questions and motions on BL 23.

Of the above 119 files, 88 are classified as confidential. We have not kept statistics on the number of pages contained in each of these files.

The consultation and legislative exercise launched in 2002 was led by Security Bureau and the relevant departments under its purview. The key responsible officers included the Secretary for Security, the Permanent Secretary for Security, a Deputy Secretary for Secretary, a Principal Assistant Secretary for

Security and an Assistant Secretary for Security. Similar to legislative work under other policy areas, Security Bureau sought legal advice from the Department of Justice as and when needed.

Security Bureau has all along been managing and maintaining records in accordance with the procedures and guidelines on management of government records drawn up by the GRS. Before destruction of government records, Security Bureau will consult the GRS with a view to identifying records of enduring value and arranging transfer of such records to the GRS for permanent preservation. As the legislative work regarding BL 23 is yet to be completed, we do not have any plan to destroy the aforesaid files and do not need to consider whether we would transfer any of them to GRS.

Monitoring Quality of LPG

18. **MR WONG SING-CHI** (in Chinese): *President, following a large number of stalling incidents involving the liquefied petroleum gas (LPG) taxis and public light buses which happened in Hong Kong earlier this year, the Electrical and Mechanical Services Department (EMSD) set up the Task Force on the LPG Vehicle Stalling Incident (the Task Force) to follow up the incidents. The Task Force published its investigation reports (the report) on 16 March and 1 September this year respectively, identifying several factors and problems which might possibly be the causes of the incidents. They included the quality of LPG, the operation of clearing the residues and water at the bottom of LPG tanks (commonly referred to as "water draining") and the maintenance of vehicles, and so on. In this connection, will the Government inform this Council:*

- (a) *given that it was pointed out in the report that the EMSD had sent various LPG samples collected from different LPG terminals and filling stations to independent laboratories in Huizhou and Germany for testing, whether the authorities have studied establishing independent laboratories in Hong Kong so that the relevant tests can be conducted locally; if they have, of the details; if not, the reasons for that;*
- (b) *whether the authorities will consider introducing penalty for failure to follow the work procedure for terminals when conducting water*

draining operations so as to ensure that the quality of LPG and normal operation of gas piping; if they will, of the details; if not, the reasons for that; and

- (c) *regarding a number of recommendations proposed in the report (including the EMSD should continue to conduct random LPG sample tests to ensure that the quality of LPG complies with the auto-LPG specification, incorporating information on the key maintenance issues identified in the testing scheme, particularly those procedures which have often been neglected and the use of appropriate tools, into the Code of Practice on the Repair and Maintenance of LPG Vehicle Fuel System (the Code) being drafted, incorporating key maintenance issues into the syllabus of courses relating to LPG vehicles to be offered by the Vocational Training Council (VTC) in the future; and the trade should further enhance the maintenance and repair of LPG vehicles, and so on), of the progress of the follow-up actions taken by the authorities and the timetable for implementing the recommendations; when the drafting of the Code is expected to complete; and whether they have discussed respectively with the VTC and the trade details of the implementation of the recommendations; if they have, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, the EMSD set up a task force to investigate the engine stalling incidents of LPG vehicles (the incident) which took place at the beginning of this year. The investigation report was published on 16 March 2010, and the results of the LPG Vehicle Testing Scheme (the Scheme) were also released on 1 September 2010.

- (a) LPG samples taken during the task force's investigation were analysed by independent laboratories in Huizhou and Germany. This arrangement was made with regard to the requirement on the laboratory tests as well as time considerations. As an internationally-recognized independent testing institute is planning to set up a laboratory in Hong Kong, local testing on LPG samples which can meet the relevant standards is expected to be available soon.

- (b) In general, LPG supply companies have developed internal work procedures (including the water draining operation) that can best meet the characteristics of their LPG sources and the design of their terminals. Since the incident, the EMSD has examined the water draining operation records in the routine LPG terminal safety inspections. Since January 2010, the EMSD has examined nearly 450 records of water draining operations so far, which were found to be in compliance with the internal work procedures of respective LPG supply companies. The EMSD will closely monitor the LPG terminal operations and take follow-up actions when necessary.
- (c) The EMSD is actively following up the recommendations in the investigation report and the progress is as follows:

(1) *LPG Quality*

The EMSD will continue to review the independent testing reports submitted by LPG supply companies upon each shipment of LPG, to ensure that the quality of imported LPG complies with the specification. The EMSD is also taking forward the LPG Sample Testing Programme, under which random LPG samples have been taken from various LPG filling stations and terminals on a regular basis. A total of 93 samples had been taken and tested between 7 January 2010 and 15 November 2010. The laboratory test results, which have been uploaded on the internet for public reference, showed that the quality of the LPG would not affect the performance of the vehicles.

(2) *Code of Practice on the Repair and Maintenance of LPG Vehicle Fuel System*

Key maintenance issues identified in the Scheme, in particular the procedures that may easily be neglected, such as the maintenance of ageing or deteriorating parts and the use of appropriate tools, have been incorporated into the draft Code. Subject to views from relevant trade as gauged in the consultation which commenced in September 2010, the Code

is expected to be finalized and effective by end December 2010.

(3) *Maintenance of LPG Vehicles*

The VTC has agreed to incorporate the key maintenance issues into the syllabus of future training courses on the maintenance of LPG vehicles, so as to enhance the know-how of vehicle mechanics in respect of LPG vehicle maintenance.

The EMSD has also distributed leaflets to the trade since March 2010, to provide technical advice on key issues of LPG vehicle maintenance. In addition, the EMSD, together with the agent of the LPG vehicles, organized two briefing sessions for the trade in May and July 2010 to further enhance the understanding of the trade to issues relating to vehicle maintenance.

The EMSD will also organize briefing sessions upon the implementation of the Code to explain to the trade requirements stipulated therein.

Redevelopment of Public Housing Estates

19. **MR LAU KONG-WAH** (in Chinese): *President, government figures show that in Hong Kong a huge population of over 2 million people live in public rental housing (PRH), yet quite a number of public housing estates are up to 30 and 40 years old and are facing problems such as dilapidation and ageing population, and so on. Since the completion of the Comprehensive Redevelopment Programme (CRP) under the Hong Kong Housing Authority (HA), the authorities no longer put forward a systematic approach for redeveloping public housing. Some residents of Lek Yuen Estate in Sha Tin earlier relayed to me their hope that the estate would be cleared and redeveloped in phases by the authorities because, being the first public housing estate in the area, it has a history of 35 years during which the buildings are subject to wear and tear, the kitchen and toilet in the units are relatively small, living conditions are cramped, and some of the blocks do not have lifts, thus impeding access by*

the elderly, but the Housing Department (HD) has refused to clear and redevelop the buildings on grounds that structurally the buildings are in good shape. Moreover, recently there have been reports that the Hong Kong Housing Society (HS) intends to redevelop Ming Wah Building in Shau Kei Wan, which is under its management. In this connection, will the Government inform this Council:

- (a) of the number of public housing estates under the HA and HS which are over 30 years old and over 40 years old respectively, together with a list of their names;*
- (b) of the current criteria for vetting and approving redevelopment of public housing estates by the authorities, and the number of PRH units to be redeveloped in the next five years;*
- (c) given that after the preliminary structural study of Lek Yuen Estate earlier this year, the HD has refused to clear and redevelop the estate on grounds that structurally the buildings are in good shape and with a little maintenance, the buildings' service life can be extended by 15 years, yet when making the decision earlier to redevelop So Uk Estate, the authorities had taken into account that the condition of the buildings can only be maintained for 10-odd years, the maintenance cost is high, and redevelopment is more cost-effective, and so on, of the maintenance costs incurred by the authorities at present for the aforesaid 30 to 40 years old public housing estates, and how such costs compare with those of redevelopment;*
- (d) of the specific content of the proposal on the Ming Wah Building Redevelopment Project that the HS submitted to the Transport and Housing Bureau, and when the Project can commence; and*
- (e) given the growing demand for housing in Hong Kong, whether the authorities will consider formulating afresh an overall plan for public housing redevelopment in order to make better use of resources and improve the quality of life of PRH residents, and consider at the same time increasing the number of units in such redevelopment, as well as including elements of mixed housing development such as the addition of elderly housing?*

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

- (a) As at 30 September 2010, under the HA there were 42 PRH estates of age over 30 years. Among them, 10 estates are at 40 years and above. The relevant estates are set out below:

<i>PRH Estates under the HA with Age[#] at 40 and above</i>	
1	Model Housing Estate
2	Sai Wan Estate
3	So Uk Estate*
4	Wo Lok Estate
5	Choi Hung Estate
6	Ma Tau Wai Estate
7	Fuk Loi Estate
8	Tung Tau (I) Estate*
9	Wah Fu (I) and (II) Estate
10	Ping Shek Estate

Notes:

Building age is calculated with reference to the earliest completed block of the estate

* Estates that have been included in the redevelopment programme

<i>PRH Estates under the HA with Age[#] Between 30 and 39</i>	
1	Mei Tung Estate
2	Oi Man Estate
3	Kwai Shing (West) Estate
4	Lek Yuen Estate
5	Lai King Estate
6	Lei Muk Shue (II) Estate
7	Pak Tin Estate
8	Lai Yiu Estate
9	Hing Wah (II) Estate
10	Cheung Ching Estate
11	Nam Shan Estate
12	Yue Wan Estate
13	Tai Hing Estate
14	Wo Che Estate
15	Cheung Shan Estate
16	Fu Shan Estate

<i>PRH Estates under the HA with Age[#] Between 30 and 39</i>	
17	Shun Lee Estate
18	Choi Wan (II) Estate
19	Shun On Estate
20	Choi Wan (I) Estate
21	Tai Wo Hau Estate
22	Cheung Hong Estate
23	Shek Kip Mei Estate
24	Wan Tsui Estate
25	On Ting Estate
26	Shek Wai Kok Estate
27	Sha Kok Estate
28	Ap Lei Chau Estate
29	Sam Shing Estate
30	Lung Tin Estate
31	Yau Oi Estate
32	Tai Yuen Estate

Note:

Building age is calculated with reference to the earliest completed block of the estate

In addition, there are 10 public housing estates under the HS which have buildings aged over 30 years. Eight of them have buildings aged over 40 years or above. Those public housing estates are set out below:

<i>Public Housing Estates under the HS with Age[#] at 40 and above</i>	
1	Kwun Lung Lau
2	Ming Wah Dai Ha
3	Yue Kwong Chuen
4	Kwun Tong Garden Estate
5	Chun Seen Mei Chuen
6	Healthy Village
7	Moon Lok Dai Ha
8	Lok Man Sun Chuen

Note:

Building age is calculated with reference to the earliest completed block of the estate

<i>Public Housing Estates under the HS with Age[#] Between 30 and 39</i>	
1	Cho Yiu Chuen
2	Lai Tak Tsuen

Note:

Building age is calculated with reference to the earliest completed block of the estate

- (b) The White Paper on Long Term Housing Strategy promulgated in 1998 has set out the new strategy for the redevelopment of PRH estates. Following the completion of the CRP, future redevelopment will be carried out as required having regard to the actual conditions of individual estates. Only when an estate is found to be structurally unsafe or no longer cost-effective to maintain will clearance be carried out.

In September 2005, the HA reaffirmed this principle of redevelopment and endorsed the strategy of sustaining existing aged PRH estates. The HA launched the Comprehensive Structural Investigation Programme to find out the building conditions of the older PRH estates, ascertain the structural safety of the housing blocks and determine the cost-effectiveness to sustain the blocks by repair/strengthening works. If this is not possible, consideration will be given to demolish them. The HA also rolled out the Estate Improvement Programme (EIP) to ensure the sustainability of the existing PRH blocks in terms of safety, building quality, quality of accommodation, lifestyle, and living standard.

As at 30 September 2010, structural investigations for 14 estates approaching or exceeding 40 years^{Note} of age have been completed. Apart from So Uk Estate and Tung Tau (I) Estate which will be to be cleared, 12 estates were confirmed to be structurally safe and can be retained with appropriate repair works. We will continue to conduct structural investigation for other estates with ages approaching 40 years.

Note: Including So Uk Estate, Sai Wan Estate, Model Housing Estate, Choi Hung Estate, Wo Lok Estate, Ma Tau Wai Estate, Tung Tau (I) Estate, Fuk Loi Estate, Wah Fu (I) and (II) Estate, Ping Shek Estate, Oi Man Estate, Mei Tung Estate, Lek Yuen Estate and Kwai Shing (West) Estate.

In addition, the HS will conduct feasibility studies on the redevelopment of its older rental housing estates for long-term redevelopment planning.

- (c) In the course of the structural investigation, we would estimate the repair costs for sustaining the blocks of an estate for another 15 years without the need for major structural repairs. A financial viability assessment would also be made. Where it was found to be financially viable, the estate blocks would be repaired and retained.

According to the result of the structural investigation, 12 estates (including Lek Yuen Estate mentioned in the question) were found to be structurally safe and financially viable for retention as the average repair cost per flat in these estates was below \$20,000, as compared with approximately \$50,000 per flat for retaining the So Uk Estate and Tung Tau (I) Estate. We have concluded that it is cost-effective to retain these 12 estates.

- (d) The HKHS has submitted a preliminary proposal to the Transport and Housing Bureau on the redevelopment of the Ming Wah Dai Ha. The Transport and Housing Bureau is considering the proposal and is liaising closely with the HKHS. The HKHS will make public the details and the timetable of the redevelopment in due course.
- (e) Under the principles of redevelopment which were reaffirmed by the HA in September 2005, clearance will be conducted only when an estate is found to be structurally unsafe or no longer cost-effective to maintain. The HA also endorsed the strategy of sustaining existing aged PRH estates.

Irrespective of the age of the public housing estates, the HA is committed to improving the living standards of our tenants. We have carried out continuous estate maintenance works, EIP and if appropriate, revitalization schemes. An example of the latter is the work carried out at the Ping Shek Estate.

Regarding incorporating the requirements for senior citizens, since 2002 all new public housing developments use the universal design approach with provisions for safety and convenience for the senior

citizens (such as the provision of barrier free access), enabling them to enjoy independent living. Such provisions have suitably catered for the need of the elderly tenants to age in place.

Regarding the HKHS, as mentioned in the reply to part (b) and part (d) above, the HKHS will conduct feasibility studies on redeveloping aged rental housing estates for long-term redevelopment planning. It has submitted a preliminary proposal on redeveloping the Ming Wah Dai Ha to the Transport and Housing Bureau.

SkyPier at Hong Kong International Airport

20. **DR DAVID LI:** *President, regarding SkyPier at the Hong Kong International Airport (HKIA), will the Government inform this Council:*

- (a) of the respective responsibilities of the government departments concerned and the Airport Authority regarding policies relating to and the operation of SkyPier;*
- (b) whether the Government has conducted any study on the impact of the Hong Kong-Zhuhai-Macao Bridge on the operation of SkyPier ferry services; if so, of the results; and*
- (c) whether the Government will consider permitting non-transit passengers, particularly residents in Tung Chung, Tsing Yi and Discovery Bay, to benefit from the SkyPier ferry services; if not, of the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING: President,

- (a) The Government has granted land at the HKIA to the Airport Authority Hong Kong (AA) under the relevant land grant. Under the Airport Authority Ordinance (Cap. 483), AA has to operate and develop the HKIA in accordance with the objective of maintaining Hong Kong's status as a centre of international and regional aviation, and conduct its business according to prudent commercial principles

and having regard to safety, security, economy and operational efficiency.

The SkyPier at HKIA provides speedy ferry services for air-to-sea/sea-to-air transit passengers travelling to and from the Pearl River Delta (PRD) and Macao. Transit passengers with a valid air ticket or counterfoil of the boarding pass, a valid ferry ticket and a valid travel document can, on the day of arriving at the airport, take a ferry at the SkyPier travelling to and from PRD or Macao, without going through immigration procedures at the airport.

The SkyPier, a facility of AA, is located within the Airport Restricted Area. AA shall operate the SkyPier in accordance with the Deed of Security signed with the Government in order to meet the security requirements for transit passengers and baggage.

(b) and (c)

In 2008 and 2009, AA looked into a proposal of providing customs, immigration and quarantine (CIQ) facilities at the SkyPier. After considering the relevant factors (including the economic situation at that time, cross-strait direct flights and the impact of the Hong Kong-Zhuhai-Macao Bridge on the estimated service demand), AA has concluded that the provision of the CIQ facilities will not increase the usage of the SkyPier services by transit passengers. AA has therefore decided not to pursue the proposal. The Government considers that given the SkyPier's uniqueness, that is, to satisfy air passengers' needs for cross-boundary transport services, we do not plan at present to allow non-transit passengers to use the SkyPier services.

MOTIONS

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Interpretation and General Clauses Ordinance to amend the Deposit Protection Scheme (Representation on Scheme Membership and Protection of Financial Products under Scheme) (Amendment) Rules 2010.

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

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move to amend the Deposit Protection Scheme (Representation on Scheme Membership and Protection of Financial Products under Scheme) (Amendment) Rules 2010, as set out in the paper circulated to Members.

In the light of the developments in international and local financial markets since the outbreak of the global financial crisis, and the experience gained from operating the Deposit Protection Scheme (the DPS Scheme) since 2006, the Hong Kong Deposit Protection Board (the Board) completed a review of the DPS Scheme in 2009. One of the proposals concluded from the review is to strengthen the representation made by DPS Scheme members regarding their Scheme membership status and the protection status of their financial products. The Board tabled the Amendment Rules at the Legislative Council for negative vetting on 20 October 2010. The Legislative Council then set up the Subcommittee on Deposit Protection Scheme (Representation on Scheme Membership and Protection of Financial Products under Scheme) (Amendment) Rules 2010 (the Subcommittee) to scrutinize the Amendment Rules. The Subcommittee has completed the scrutiny work and indicated support to the Amendment Rules. I would like to express my wholehearted gratitude to Mr CHAN Kam-lam, Chairman of the Subcommittee, and other Subcommittee members for their invaluable views expressed during the course of scrutiny.

In response to the proposals made by the Subcommittee during the scrutiny, we propose to amend to section 15 of the Amendment Rules which adds section 7A to the Deposit Protection Scheme (Representation on Scheme Membership and Protection of Financial Products under Scheme) Rules (Representation Rules). Section 7A provides that a DPS Scheme member is required to reply within a specified time limit to a request by a person holding a financial product offered by the Scheme member for confirmation as to whether the financial product is protected by the DPS Scheme. The purpose of the amendments is to address the proposal of the Subcommittee to shorten the time limit for Scheme members to respond to the request, in the case of an oral reply,

from within five business days to within three business days after the date on which the request is received and, in the case of a written reply, from within 10 business days to within seven business days after the date on which the request is received.

In addition, we propose to make a technical amendment by adding sub-section 2A to section 10 of the Amendment Rules in order to replace "the commencement of these Rules" by "25 September 2006" in section 6(4)(b)(i) of the Representation Rules. The proposed amendment is in line with relevant provisions in the Amendment Rules.

President, the abovementioned amendments have been submitted to the Subcommittee for scrutiny and Members have raised no objection. The Hong Kong Association of Banks has also been informed of the amendments for shortening time limit for responding to enquiries. I hereby move the relevant amendments.

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

"RESOLVED that the Deposit Protection Scheme (Representation on Scheme Membership and Protection of Financial Products under Scheme) (Amendment) Rules 2010, published in the Gazette as Legal Notice No. 131 of 2010 and laid on the table of the Legislative Council on 20 October 2010, be amended as set out in the Schedule."

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

MR CHAN KAM-LAM (in Cantonese): President, in the capacity of the Chairman of the Subcommittee on Deposit Protection Scheme (Representation on Scheme Membership and Protection of Financial Products under Scheme) (Amendment) Rules 2010 (the Subcommittee), I report the deliberation of the Subcommittee to this Council.

The Subcommittee has held one meeting with the Administration to examine the content of the Deposit Protection Scheme (Representation on Scheme Membership and Protection of Financial Products under Scheme) (Amendment) Rules 2010 (the Amendment Rules). The Subcommittee supports the policy objective of the Amendment Rules, that is, to enhance the existing disclosure requirements in the Deposit Protection Scheme (Representation on Scheme Membership and Protection of Financial Products under Scheme) Rules (the Representation Rules) to let holders of financial products to know clearly whether their deposits or investments are protected under the Deposit Protection Scheme (DPS).

In the course of scrutiny, members of the Subcommittee have been particularly concerned about the adequacy of the negative disclosure requirements for non-protected financial products under the DPS. It is required in the proposed section 6A of the Amendment Rules that if the financial product is offered by a Scheme member to a client by telephone, the Scheme member must make negative disclosure to the client by telephone or in writing and obtain the client's acknowledgement of the notice by telephone or in writing. Moreover, proposed section 6B to the Amendment Rules states that if investors have been given and have acknowledged the negative disclosure when the previous transaction of the financial product is conducted, no further negative disclosure is required for subsequent automatic rollover transactions.

The Subcommittee considers even if a notification is made by telephone before the transaction takes place, a Scheme member should further remind investors of the non-protection status of the products concerned. The Subcommittee therefore suggests that a written notice on the non-protection status of the financial product should be served to the client concerned after the transaction is made. As for automatic rollover transactions, members of the Subcommittee consider that it is preferable to keep reminding the investors concerned of the non-protected status of the financial product by issuing a written notice to that effect after each transaction.

The Subcommittee has considered whether the suggested additional requirement of serving a written notice on negative disclosure after each transaction should be specified in the Representation Rules. The Administration has pointed out that as substantial changes to Scheme members' existing operations may be required, Scheme members may not be ready to implement the additional requirement by 1 January 2011 when the Amendment Rules come into

operation. The Administration has proposed to include the additional requirement in the relevant guidelines for Scheme members, and has undertaken to see to it that the additional requirement will be implemented by Scheme members as soon as possible. The Subcommittee has accepted the Administration's proposed arrangement.

It is required under proposed section 7A of the Amendment Rules that upon receiving a request by a client holding a financial product for confirmation as to whether the financial product is protected by the Scheme, the Scheme member concerned has to give an oral reply within five business days or a written reply within 10 business days. If the request is made in writing or by electronic or other means, the Scheme member must give a written reply within 10 business days.

The Subcommittee considers the response time limits mentioned above too long. The Administration has explained that a Scheme member may need time to verify details of a request and if a Scheme member receives many such requests at the same time or within a short period of time, the Scheme member would need some time to clear the backlog. However, the Subcommittee is of the view that such requests are simple in nature. If there is a sudden increase in the number of enquiries from clients about a certain financial product, it probably signals problems in the market. It is then all the more important for Scheme members to respond quickly to fortify clients' confidence. The Subcommittee has noted that a contravention of the requirement in proposed section 7A is not an offence. After deliberation, the Subcommittee has suggested to reduce the time limit for giving an oral reply to three business days, and that for a written reply to seven business days. The Administration has accepted the Subcommittee's suggestion and has agreed to move amendments accordingly.

The Subcommittee notes that Scheme members normally issue statements to clients regarding their accounts and transactions. The Subcommittee suggests that the Hong Kong Deposit Protection Board (the Board) should develop standard wording on the protection status of different financial products, so that Scheme members could attach such wording in the form of a label or explanatory note in the statements to remind clients whether or not the products they are holding are protected by the Scheme. To address the comments of the Subcommittee, the Administration has undertaken to review the guidelines to ensure that standard wording will be provided to Scheme members.

The Subcommittee notes that the Administration will move a technical amendment to replace "the commencement of these Rules" in section 6(4)(b)(i) of the Representation Rules by "25 September 2006".

The Subcommittee supports the Amendment Rules and the amendments to be moved by the Administration.

President, I will now express the views of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB). Since the implementation of the DPS in 2008, the scheme has effectively enhanced the stability of the banking system through the provision of protection to depositors. The scheme has not only bolstered the confidence of local and overseas investors and depositors effectively, but also alleviated the setback caused by the global financial chaos in 2008 to the financial market of Hong Kong.

Starting from 1 January 2011, the protection limit of the DPS will be increased from \$100,000 to \$500,000. This is a reasonable adjustment. By then, 90% of the depositors will be under full coverage, and the protection will serve as the cornerstone for the stability of the financial market.

One of the major objectives for the present amendment of the Deposit Protection Scheme Ordinance is to enhance the transparency of the scope of the DPS, so that depositors can have a clearer understanding of the protection coverage of the scheme. This will enable depositors to make informed decisions on investment, and minimize the possibilities of disputes between Scheme members and clients. The amendments are proposed to tally with the adjustments of the protection limits under the DPS. The enhancement proposals raised during the review of the DPS are also adopted to tighten the disclosure requirements on deposit protection, ensure that investors know whether the financial products they invest are covered by the DPS, and clarify the scope of protection under the DPS. The DAB and I consider that the relevant amendments will enhance the protection for investors and are thus necessary. Therefore, the DAB supports the amendments.

To date, there are still uncertainties regarding the global economy, and the financial markets change rapidly. Apart from Hong Kong, Singapore, Switzerland, the United Kingdom, the United States and various European

countries have increased the protection limit successively. The United States adopts a protection limit of up to US\$250,000. The DAB hopes that the Board will review the DPS at a suitable time to assess the impact of the deposit protection schemes of other financial markets on our financial market, and make suitable adjustments to the protection limit and coverage of the DPS, so as to ensure that the DPS can provide effective protection to depositors in Hong Kong.

With these remarks, President, I support the proposed resolution.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Secretary for Financial Services and the Treasury, you may now reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Again, I would like to thank the Chairman of the Subcommittee, Mr CHAN, and other members of the Subcommittee for their very practical proposals. As mentioned by Mr CHAN earlier, we have accepted those proposals, including the making of a written notification on negative disclosure for each transaction, and the use of standard terms and wordings on the monthly statements, and so on. Regarding these proposals for enhancing the transparency, we have explained the relevant amendments through administrative means, that is, the relevant guidelines, and have conveyed the message to banks.

Thank you, President.

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

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the Waterworks (Amendment) Regulation 2010.

I now call upon Mr Tommy CHEUNG to speak and move the motion.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR TOMMY CHEUNG (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

At the House Committee meeting on 22 October 2010, Members decided to form a Subcommittee to study the Waterworks (Amendment) Regulation 2010 submitted to the Legislative Council on 20 October 2010. To allow sufficient time for the Subcommittee to deliberate on it and submit its deliberation to the House Committee, in the capacity of the Chairman of the Subcommittee, I move to extend the scrutiny period of the subsidiary legislation to 8 December 2010.

President, I urge Members to support this motion.

Mr Tommy CHEUNG moved the following motion:

"RESOLVED that in relation to the Waterworks (Amendment) Regulation 2010, published in the Gazette as Legal Notice No. 129 of 2010, and laid on the table of the Legislative Council on 20 October 2010, the

period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 8 December 2010."

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

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Ms Miriam LAU will move a motion under Rule 49E(2) of the Rules of Procedure to take note of Report No. 4/10-11 of the House Committee laid on the Table of the Council today in relation to the five Orders made under section 49(1A) of the Inland Revenue Ordinance.

According to the relevant debate procedure, I will first call upon Ms Miriam LAU to speak and move the motion, and then call upon the Chairman of the Subcommittee formed to scrutinize the subsidiary legislation concerned to speak, to be followed by other Members. Each Member may only speak once and may speak for up to 15 minutes. Finally, I will call upon the public officer to speak. The debate will come to a close after the public officer has spoken, and the motion will not be put to vote.

Members who wish to speak will please press the "Request to speak" button.

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

MOTION UNDER RULE 49E(2) OF THE RULES OF PROCEDURE

MS MIRIAM LAU (in Cantonese): President, in my capacity as Chairman of the House Committee and in accordance with Rule 49E(2) of the Rules of Procedure, I move the motion as printed on the Agenda to enable Members to debate the following five Orders listed in the Report No. 4/10-11 of the House Committee on consideration of subsidiary legislation and other instruments:

- Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Republic of Hungary) Order;
- Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital) (Republic of Austria) Order;
- Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains) (United Kingdom of Great Britain and Northern Ireland) Order;
- Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Ireland) Order; and

- Specification of Arrangements (The Mainland of China) (Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income) (Third Protocol) Order.

President, I so submit.

Ms Miriam LAU moved the following motion: (Translation)

"That this Council takes note of Report No.4/10-11 of the House Committee laid on the Table of the Council on 17 November 2010 in relation to the subsidiary legislation and instrument(s) as listed below:

<u>Item Number</u>	<u>Title of Subsidiary Legislation or Instrument</u>
(1)	Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Republic of Hungary) Order (L.N. 124/2010)
(2)	Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital) (Republic of Austria) Order (L.N. 125/2010)
(3)	Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains) (United Kingdom of Great Britain and Northern Ireland) Order (L.N. 126/2010)
(4)	Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Ireland) Order (L.N. 127/2010)
(5)	Specification of Arrangements (The Mainland of China) (Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income) (Third Protocol) Order (L.N. 128/2010)."

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

MR JAMES TO (in Cantonese): President, in my capacity as Chairman of the Subcommittee on the Five Orders Made under section 49(1A) of the Inland Revenue Ordinance and Gazetted on 15 October 2010 (the Subcommittee), I now report to the Council on the deliberation of the Subcommittee.

The five Orders seek to implement the agreements which Hong Kong has respectively signed with Hungary, Austria, the United Kingdom and Ireland on double taxation relief and prevention of fiscal evasion with respect to taxes on income and capital (hereinafter referred as the Comprehensive Agreements), and the Third Protocol to the arrangement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (the Arrangement) which Hong Kong has signed with Mainland China. The Third Protocol seeks to update the Exchange of Information (EoI) Article in the Arrangement to the 2004 version of the EoI Article in the Organization for Economic Co-operation and Development model text.

The Subcommittee has held one meeting to meet with the Administration and scrutinize the five Orders. Members have mainly focused on whether and how Hong Kong residents and enterprises will benefit from the relevant agreements, in which areas Hong Kong will correspondingly receive less tax revenue, and whether safeguards are provided in the agreements, as undertaken by the Administration during the scrutiny of the Inland Revenue (Amendment) (No. 3) Bill 2009, to protect Hong Kong taxpayers' right to privacy and confidentiality of the relevant information.

As far as the EoI Article is concerned, the Administration has affirmed that the Hungarian Agreement, the Austrian Agreement, the United Kingdom Agreement and the Irish Agreement as well as the Third Protocol signed with Mainland China have adopted all the safeguards in the sample EoI Article in Hong Kong. It has come to the attention of the Subcommittee that according to sub-paragraph 1 of Paragraph III of the Protocol to the Austrian Agreement, the competent authority of the applicant Party shall provide, in particular, six specified items of information to the competent authority of the requested Party when making a request for information under the Agreement to demonstrate the

foreseeable relevance of the information to the request. Members of the Subcommittee have expressed concern about the effect of this provision on the safeguards provided in the Inland Revenue (Disclosure of Information) Rules (the Rules).

According to the Rules, an EoI request should contain the 12 information items set out in the Schedule to the Rules. The Administration has affirmed that the provisions set out in sub-paragraph 1 of Paragraph III of the Protocol to the Austrian Agreement will not have the effect of restricting the scope of information that may be sought by the competent authority of the requested Party from the competent authority of the applicant Party to the information set out in that Paragraph. Besides, Article 25 of the Austrian Agreement provides that in no case shall the provisions of Paragraphs 1 and 2 of the same Article be construed so as to impose on a Contracting Party the obligation to carry out administrative measures at variance with the laws and administration practice of that or of the other Contracting Party. Accordingly, any EoI obligation on the Government of the Hong Kong Special Administrative Region arising from the Article shall not be at variance with the Rules, which are subsidiary legislation.

Paragraph 4 of the Protocol to the United Kingdom Agreement provides that the competent authority of the United Kingdom may disclose the tax information exchanged to what they locally call the Information Commissioner, the Adjudicator and the Parliamentary Ombudsman and their staff in the investigation of complaints against the administrative actions of Her Majesty's Revenue and Customs. The Subcommittee has sought explanation from the Administration on the rationale for permitting the disclosure of information to the three authorities.

The Administration has advised that, according to the information from the side of the United Kingdom, investigation by any of the three authorities against Her Majesty's Revenue and Customs will be initiated by the taxpayers concerned. Thus, the disclosure of tax information exchanged under EoI requests to these authorities is statutorily allowed and based on the consent of the relevant taxpayers. In this connection, the Administration has explained that the Privacy Commissioner for Personal Data and The Ombudsman in Hong Kong, whose functions are similar to the Information Commissioner, Adjudicator and Parliamentary Ombudsman in the United Kingdom respectively, also have the power to access the tax information exchanged under EoI requests if such

information is required for their investigation of any complaint against the Inland Revenue Department. President, in a word, our system in this regard is similar to the system in the United Kingdom.

Besides, the Subcommittee has also sought detailed explanation from the Administration in respect of the scope of taxes covered by the Comprehensive Agreements, the grounds and criteria for allocating taxing rights under these Agreements and the position of the Hong Kong Government in the course of negotiation.

President, in view of the fact that the above Agreements and Protocols have been incorporated into the appropriate provisions to protect the interests of local taxpayers and the confidentiality of their personal information, the Subcommittee supports the five Orders.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Secretary for Financial Services and the Treasury, please.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I thank Mr TO for his support just now of the five Orders, which seek to implement the Comprehensive Agreements for Avoidance of Double Taxation (CDTAs) which Hong Kong has respectively entered into with Hungary, Austria, the United Kingdom and Ireland and the Third Protocol which Hong Kong has signed with the Mainland. I also thank Mr TO for affirming in his summing up just now that these five Orders have complied fully with the requirements laid down in all passed laws and accorded protection to privacy.

In fact, all CDTAs will be laid before the Legislative Council for scrutiny in the form of subsidiary legislation. As regards these five Orders tabled to the Legislative Council, we have set out clearly in our submissions to the Legislative Council whether safeguards on exchange of information are incorporated into the

individual CDTAs. The Orders were then scrutinized by the Subcommittee. At the meeting of the Subcommittee, we have deliberated on the suitability of the wordings used in the CDTAs. The entire process has ensured that the CDTAs which we have signed with overseas countries are fully covered under the scope of our legislation. Apart from the past three CDTAs and these five CDTAs submitted to the Legislative Council, another eight CDTAs have been signed and deliberated. These agreements will be submitted to the Legislative Council for scrutiny successively. In the coming days, deliberation will be carried on to extend the network of these comprehensive agreements.

Thank you, President.

PRESIDENT (in Cantonese): The debate has now come to a close. Under Rule 49E(9) of the Rules of Procedure, I will not put any question on the motion.

PRESIDENT (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee: that is, the movers of the motions each may speak, including reply, for up to 15 minutes, and have another five minutes to speak on the amendments; the movers of amendments each may speak for up to 10 minutes; and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Reviewing the coverage of the safety net.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

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

REVIEWING THE COVERAGE OF THE SAFETY NET

MS MIRIAM LAU (in Cantonese): President, before I formally speak on the issue, I would like to recap the remarks made by Premier of the State Council, WEN Jiabao, earlier in Macao. He reminded the Macao Government of four

points. One of which urges Macao "to make full use of the favourable condition of the strong financial status of the SAR Government, to focus more public expenditure on improving people's livelihood, speeding up the construction of public housing, stepping up its effort in implementing public transportation works, and endeavouring to solve livelihood issues of the greatest concern to the public", and "particular care should be given to the vulnerable groups" at the same time.

Though these remarks were said to the Macao Government, I think they can also apply to the Hong Kong SAR Government, and we can be enlightened and benefited as well. In comparison with Macao, the financial status of Hong Kong is equally strong, and may be even stronger. Hence, we are absolutely capable of focusing more resources on improving people's livelihood. The Liberal Party hopes to bring out this main theme in the motion debate today. Since the Government has an abundant "supply of cash", it should stop being tight-fisted; and instead, it should provide additional resources to mend the social protection safety net, so that the grassroots with genuine needs can be well protected.

Actually, the Hong Kong Government is well-known for being a plutocrat. Let us look at the fiscal reserves of the Government. As at the end of September, it has more than \$500 billion, which is equivalent to 27 months of recurrent expenditure, and the accumulated surplus of some \$500 billion has not been included. The situation this year is optimistic. Thanks to the buoyant stock market and property market, the Treasury has already recorded a premium income of \$5.31 billion in this financial year, which is \$1.9 billion higher than the forecasted premium income of \$3.41 billion for the year. As for the income generated from stamp duty on property transactions and stock transfers, in view of the continued heavy trading in the stock market and the increase in stamp duty levied on luxury flats, it is highly likely that the actual income will exceed the forecasted income. Against this background, the estimated deficit of \$25.2 billion for this financial year made by the Financial Secretary in this February will very likely be another "underestimate". The Government can even issue an advance surplus notice of tens of billions.

Have Members been clear minded, they may easily notice the pattern of estimates made by the Government on its financial status in the past, that is, "low in estimate and high in actual income, first lower the estimate and then raise it".

Take the five financial years in the past as an example. The discrepancies between the budgeted surplus and the actual surplus ranged from \$9 odd billion the minimum, to nearly \$100 billion the maximum. The annual actual surplus amounts to \$44.7 billion in average. It is evident that despite the repeated cries of an empty Treasury made by the Government, the Treasury has indeed been "flooded by cash" year after year.

Certainly, a Treasury "flooded by cash" is by all means better than a Treasury with no cash. But if the Government still adheres to its old mindset and sticks to the old practices of accumulating surpluses and allowing the Treasury to be "flooded by cash", it is obviously not doing a good job in finance management. It is at best playing a good role of a miser.

Hence, the Liberal Party considers it necessary for the Government to loosen the tap a bit by allocating more resources to support the grassroots and invest in society. Between 8 and 12 November, the Liberal Party conducted a survey on the social protection safety net, and 1 115 people were interviewed at random by telephone. More than half of the interviewees considered that the existing safety net failed to protect all grassroots in need. Among interviewees who considered the safety net inadequate, 75% thought that the Government should increase its recurrent expenditure to enhance the safety net. The mainstream opinion in the community was crystal clear. As for the amount involved, among those who supported an increase in expenditure, more than half of them considered that over \$10 billion should be injected. The Liberal Party has proposed a basket of measures to mend the safety net, and the amount involved is around \$10 billion. In comparison with the huge surplus recorded in each of the past few years, this is only a small amount. The strong foundation of our hundreds of billion dollars of fiscal reserve will remain intact, and the Government can well afford such a small sum of money.

Take the elderly as an example. According to the survey of the Liberal Party, most interviewees considered that the protection provided to the elderly under the safety net was inadequate. In fact, the Liberal Party has all along been urging the Government to lift the absence limit in respect of Old Age Allowance as far as possible, so as to facilitate the elderly to spend their twilight years in their homeland, and provide a living supplement to the elderly in need, and so on. Mr Tommy CHEUNG from the Liberal Party will elaborate on these points later.

As for working-poor households, the latest figures of the Hong Kong Council of Social Service (HKCSS) indicate that the number of working-poor households has reached 210 000. Though some families are receiving Comprehensive Social Security Assistance (CSSA) for low-income households, a substantial number of families, at least 140 000 households, are ineligible for CSSA, and they are forced to live outside the safety net.

Hence, to provide assistance to this group of grass-roots families, the Government should try by all means to remove the stigma attached to low-income recipients of CSSA. Actually, the majority of this grass-roots group has been working hard to be self-reliant, and this spirit deserves commendation. Instead of providing assistance, the Government may offer incentives to them by implementing the work incentive scheme to replace the original CSSA for low-income earners, and hence remove the stigma. The Government can, through the provision of a living supplement, encourage these people to continue to work hard and climb up the social ladder.

For working-poor families earning less than half of the median household income but are ineligible for applying CSSA, they are in fact the sandwiched class who are desperately in need of our enhanced support. Therefore, the Liberal Party has proposed lowering the original threshold of application for low-income CSSA to cover these families. The provision of a monthly living supplement of up to \$2,500 to each household can, on the one hand, recognize their efforts; and, on the other hand, lift them out of poverty immediately and improve their standard of living, so that they do not have to struggle against poverty for years. We believe this is a very meaningful work in alleviating poverty.

The Liberal Party opines that if we rely solely on measures of giving handouts to the grassroots, it is, to a certain extent, just giving relief to the poor but not giving them support. In order to help them move up the social ladder and lift them out of poverty, the Liberal Party always advocates the need to enhance training. For instance, in-service training with allowance should be provided for the middle-aged, so that they can upgrade their basic vocational skill to cope with the development of the knowledge-based economy. At the same time, the Government should increase the number of re-training places, inject more funds into the Continuing Education Fund, and reinstate the SME Training Fund.

As the Government has just announced that the initial minimum wage rate will be set at \$28, the authorities estimate that 45 000 employees may eventually be laid off, and those at the lowest level of the work force will face the highest risk. Surely, the business sector does not wish to see this estimate come true. But the Government has to be prepared for the worst and make contingency plan for possible mass layoffs. As for measures to promote the further development of the economy, I will leave it to Mr Vincent FANG to explain shortly.

At the same time, many parents of the grass-roots families reflect to me the expensive charges and shortage of child care service at present. These parents want to go out to work to earn more income, but they have worries about leaving their children at home.

Actually, child care services are provided by certain primary schools. In comparison with the child care services provided at other places, child care services provided at school are better in terms of hardware, for instance, libraries and computer rooms are provided in schools. Moreover, parents do not have to spend money and time to send their children to child care centres after school. This is thus a win-win situation.

Therefore, the Liberal Party proposes that the Government should introduce a new subsidy scheme to provide free after-school child care services with tutorial classes at the 540 primary schools in the territory. These services are provided for parents of low-income families to offer better care to their children, which will minimize the possibilities of cross-generational poverty.

On the other hand, the Government has granted allowances for new school terms for three consecutive years (2008 to 2010) to alleviate the burden of students from low-income families. In order to ensure that students have a comprehensive and healthy development, both physically and mentally, we consider it necessary to provide subsidies for extracurricular activities, so as to ensure that they will not be deprived of the opportunities to learn outdoors because of the expensive transport fares. In our views, if the relevant subsidy is capped at \$1,000 per annum, it will only cost the Government \$520 million per annum, but the subsidy will benefit some 500 000 students greatly, thus the Government should give due consideration to this proposal.

As for young people, the Liberal Party suggests that the Government should put in vigorous efforts to enhance the employment counselling services.

Furthermore, the authorities should consider encouraging and supporting the introduction of more one-stop Incubation Programmes to provide assistance to business starters in writing business proposals and enhance matching services for investors. The Government may allocate several hundred millions of dollars to set up a business starter fund to help enterprising young people or employees to start their businesses.

President, another group of people who have long been neglected, they are the residents cramped in cage homes and cubicle apartments. These grassroots live unnoticed in the urban areas, having to put up with poor living environment. Worse still, they can in no way benefit from the various "handouts" made by the Government in the past. These people have fallen through the safety net, and they are genuinely the "N-nos", so to speak.

Hence, the Liberal Party urges the Government to examine ways to include these residents in the coverage of the safety net. For instance, it may build more public rental housing units to shorten the waiting time and adjust the rent allowance under CSSA, so that these families may be allocated a flat earlier or their expenditure on housing may be alleviated.

Finally, I would like to talk about a problem that affects society as a whole, which is comparable to the threat of a tiger, and that is, inflation. Since the United States has launched the second round of quantitative easing monetary policy, the exchange rate of Hong Kong Dollars remains at a low level. In addition, the cost of Mainland food ingredient surge by almost 10%, wet markets in Hong Kong are like bull market in the stock exchange, with prices hiking across the board, including that of meat, vegetables and even ginger and garlic. Under the dual attacks, I am definitely not optimistic about the inflation problem faced by Hong Kong in the near future. The common folks, particularly families living in poverty, will be the first to take the blow, suffering from the inflationary pressure of food items. Since the Government only reviews CSSA payment once a year, the livelihood of CSSA families may be greatly affected. Hence, we hope that reviews can be conducted at shorter intervals, say once every six months, so that assistance for CSSA recipients will not fall behind the inflation rate.

President, the level of "cash-flood" in the public coffer is comparable to the storage capacity of reservoirs in the territory, which is at a high level. As our

public coffer is overflowing with cash, why does the Government still insist on turning off the tap and keep holding the cash? Is it turning a blind eye to the plight of the grassroots who are cash-strapped and long for assistance? The Liberal Party again urges the Government to make good use of the cash in the public coffer. It should identify the inadequacies in respect of livelihood issues and fulfil its responsibility in caring for society. It should not have the wishful thinking of shifting all the responsibilities for mending the safety net to the Community Care Fund, instead it should deal with the poverty problem in society in a pragmatic manner. It should mend the social security safety net properly to avoid a large number of people falling through the net. Only by doing so can the Government ease the social conflicts and promote harmony in society.

With these remarks, President, I move the motion.

Ms Miriam LAU moved the following motion: (Translation)

"That, as the Government has adopted a conservative fiscal policy for years, surpluses exceeding the expected levels were often recorded in the past; in addition, since the Exchange Fund had recorded a huge profit of \$74.1 billion in the third quarter of this year, the accumulated surplus for the first nine months of the year increased by \$42 billion, and given the substantial proceeds from land auctions this year, the chance of the Treasury continuing to be 'flooded by cash' has become much greater, yet not only are some grassroots unable to enjoy the fruit of economic development, but they are also unable to benefit from the social security system, resulting in cases of 'falling through the net'; in this connection, this Council proposes that the Administration should identify loopholes in the existing safety net, appropriately extend the safety net to cover more grassroots of different types, and strengthen the support to assist grassroots in climbing up the social ladder and sharing the fruit of economic development, thereby easing class conflicts and promoting social harmony; the relevant measures should include:

- (a) to strengthen the support for the working poor, including removing the stigma attached to the low-income recipients of Comprehensive Social Security Assistance ('CSSA'), lower the threshold of application, and provide such recipients with a 'low-income living supplement', so as to alleviate their conditions of poverty;

- (b) to comprehensively strengthen the in-service training for the middle-aged, increase the number of retraining places, and raise the subsidies for continuing education;
- (c) through promoting the local community economy, developing the six industries with competitive edge and positively supporting the development of social enterprises, to create more jobs suitable for grassroot workers;
- (d) to comprehensively strengthen child care and after-school care services to enable parents of low-income families to work without worries, and proactively cater for the needs of grassroot children, including providing additional subsidies for extracurricular activities;
- (e) to actively assist poor families living in cage homes or cubicle apartments in improving their living environment;
- (f) to strengthen the employment counselling services for young people waiting for employment;
- (g) to further relax the absence limit in respect of Old Age Allowance and CSSA for the elderly, increase the amount of Elderly Healthcare Vouchers to at least \$1,000 a year, and provide needy elderly persons with a living supplement, so as to improve the life of the elderly in their twilight years; and
- (h) to expeditiously increase the number of residential care places for the elderly and provide them with elderly care vouchers, so as to enable elderly persons waiting for residential care services to choose those elderly services that suit them."

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

PRESIDENT (in Cantonese): Ten Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the 10 amendments.

I will call upon Mr LEE Cheuk-yan to speak first, to be followed by Mr WONG Sing-chi, Mr IP Wai-ming, Mr James TO, Mr TAM Yiu-chung, Mr Ronny TONG, Mr CHEUNG Kwok-che, Mr LEUNG Kwok-hung, Mr CHAN Kin-por and Mr Frederick FUNG respectively; but no amendments are to be moved at this stage.

MR LEE CHEUK-YAN (in Cantonese): President, Hong Kong society is now at the juncture where a review of the safety net is needed. Why? Members know that a new situation has arisen. First, the Government has set up the Community Care Fund (CCF). The Government has in fact admitted that the existing safety net does not work, and thus it has to set up the CCF. Since many people outside the safety net are still living in poverty, the Government sets up the CCF to take care of these people. However, the Government is putting the cart before the horse by adopting this approach. If it considers the safety net inadequate, it should address the problem of the safety net, but not set up the CCF. I wonder how the funds will be distributed in future. Members do not know how the Fund operates. This is the first point.

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

The second situation that calls for a review is that the Treasury of the Government is "flooded by cash", as mentioned by Ms Miriam LAU earlier. What is the situation now? The Government is wealthy but its people are poor. The Government has amassed huge reserves and fiscal surpluses. According to some estimates, the budget surplus next year may reach as high as \$70 billion. The Government is holding substantial amount of money but the people are in abject poverty and they cannot share the fruits of prosperity; yet, the Government just turns a blind eye to this. The Government remains conservative and always speaks boldly of the prudent principle in finance management. But prudent finance management means treating the public cruelly; prudent finance management means lacking in love and care, and disregarding the plight of the

public. In my view, this is the second situation that renders the Government to review the safety net at this juncture. The Government is very wealthy and it can definitely afford to do so.

The third situation is that the public are now in dire straits. Though the Government firmly points out that the economy has improved, only a small number of people have benefited from the recovery. A majority of the public has to suffer from inflation, and this problem has affected them personally. If we allow the situation to persist, the living standard of the public will surely deteriorate. When people's living standard deteriorates, the quality of living of wage earners or the middle-class may be impaired. However, for people living in poverty, it will be more than deterioration in the quality of living, for they will be left in the state of abject poverty. Hence, we hope that the Government will understand these three situations clearly and conduct a review of the safety net as soon as possible.

Deputy President, my amendment covers three main areas. First, I propose that the Government should introduce the Negative Income Tax. Many people consider unemployment as the major reason for poverty, but statistics indicate that an overwhelming majority of families in poverty are working families. What are working families? It means at least one member of the family is working. In 2003, when the unemployment rate was at its peak, there were 360 000 households in poverty in the territory, and more than half, 51%, were working households. Why do working households live in poverty? It is because they cannot earn their living despite taking up employment. Hence, if we fail to solve the problem of working poverty, we can in no way address the crux of the poverty problem. Some critics consider that the most effective approach for assisting working-poor families is the introduction of the Negative Income Tax. This is from the laureate of the Nobel Peace I wrongly link it to the Peace Award. This approach is advocated by the laureate of the Nobel Prize in Economics, Milton FRIEDMAN.

The concept of Negative Income Tax is not complicated at all, and it is indeed straightforward. When one's income exceeds a certain taxable amount, he or she has to pay tax. But when his or her income is below a certain taxable amount, he or she will receive subsidies from the Government. It is thus called the "Negative Income Tax". The United Kingdom and the United States have been the pioneers in this respect, and they introduced the "Negative Income Tax"

system in 1971 and 1975 respectively. Starting from 1990s, all the Organization for Economic Co-operation and Development (OECD) countries followed this practice successively. South Korea has joined in recently. The case of Netherland is special in that applications are made on an individual basis, but all other countries use households as the base.

Regarding the Earned Income Tax Credit system adopted in the United States, I would like to explain its operation. This system uses households as the base. For a household with qualifying children, that is, children below 18, or full-time students below 23, or children with disabilities, the authorities will conduct an integrated assessment on the income of the family. Let me illustrate this with the example of a family with three qualifying children. In 2009, for a family earning less than US\$12,570, it would receive a subsidy equivalent to 45% of its income. For a family earning US\$12,570 to US\$16,420, it would receive a maximum of US\$5,657 as subsidy. Honourable Members, please note that it is US\$5,657, that means a family earning only some US\$10,000 can get some US\$5,000. For a family earning more than US\$16,420, the subsidy will phase out by multiplying the excessive income by 21.06%. Take a family earning an annual income of US\$20,000 as an example. In calculating the subsidy it will receive, US\$16,420 will first be deducted from its annual income of US\$20,000 to get the excessive income, and the excessive income is then multiplied by 21.06% at a phasing out rate, and this amount is then deducted from the maximum subsidy of US\$5,657 to arrive at the actual subsidy the family will receive, which is US\$4,900. In other words, the amount of subsidy received will be reduced as the income of the family increases, and when the income of the family reaches US\$43,279, the family will receive no subsidy. This is the entire operation of the Negative Income Tax system. The lower the income a family earns, the higher rate of subsidy it will receive. The amount of subsidy will be reduced to zero eventually. This is the Negative Income Tax system adopted in the United States, and a similar system is adopted in the United Kingdom.

What is the advantage of this concept? It is the best solution to address the problems of low-income and difficulty in finding employment. In the case of a low-income earner, his or her family may not necessarily be living in poverty, for there may be other family members earning higher income. For people earning the minimum wage, this arrangement can slightly increase their income to let them live a relatively dignified life. However, this may not solve

the problem of working poverty. For if only one member in a family works, he or she may not be able to support the living of four to five members. So, the provision of low-income supplement or the implementation of Negative Income Tax system, under which all members of the family are assessed together, is the best or the most effective approach to help these families break away from poverty.

Deputy President, we very much hope that the Government will introduce this system, but is it feasible? The business sector is now discussing the topic on Negative Income Tax, why does the Government not accept this system? There is in fact only one concern, it is a matter of money. I have done some calculations. If a similar system is to be introduced, the expenditure incurred will only be \$10 billion per annum. But certainly, a lot of problems relating to the design or the arrangements have to be deliberated. However, Members may give a second thought about this. If the problem of working poverty can be solved by spending \$10 billion per annum, I think it is worth the money, for it is effective and may lift people out of poverty immediately. Therefore, my first proposal is on the introduction of the Negative Income Tax. I hope the Government will not be tight-fisted about money and take no action.

Another proposal is on low-income CSSA cases, I suggest setting up savings accounts for this type of CSSA recipients. What kind of savings account is this? It is simple. At present, the disregarded income is set at around \$2,500, if a recipient earns more than \$4,000 a month, every dollar he or she earns will be deducted from the subsidy nearly by the same value, and he/she cannot use the money. However, if the amount deducted is not returned to the Government but deposit into the savings account of the family in full, they may have saved \$200,000, for instance, five years later. This is the advantage of the proposal. By then, the savings will be returned to the family in a lump sum on the condition that they will leave the CSSA net.

This proposal can, to a certain extent, offer extra incentive for people to take up employment, for if they work hard and earn more money, they will get more savings. This is different from the existing situation. At present, the extra income earned will only be returned to the Government. On the contrary, the proposed arrangement will offer incentive for them to take up employment to earn more. However, they may still be living in poverty, for the income they earned is still below the specified level. Apart from providing the incentive to

take up employment, this proposal will enable the Government to reduce expenditure. Since these families will get \$200,000 five years later, and they will no longer be eligible for CSSA by then, the Government may save the expenditure in this respect when these families leave the safety net. I have made some calculations about this and I estimate that this measure will incur around \$900 million. But if this can help recipients leave the safety net and reduce government expenditure, it is worth spending this \$900 million. Since the Government can save several hundred million dollars under the arrangement, the additional expenditure incurred will be limited. On the other hand, people may take up employment again after receiving low-income CSSA for some time.

Deputy President, I would like to quote one figure. In 2010, there are 14 050 low-income CSSA cases where the recipients have been receiving CSSA for more than five years, the number accounts for two thirds of all low-income CSSA cases. Members may give a second thought about the great number of recipients receiving CSSA payment for more than five years. They should not be blamed, for their wages are really low. How can we help them break away from the safety net? The implementation of this savings scheme can bring them out of the safety net. This is my second major proposal.

The third major proposal is not focused on working poverty but the problem of the elderly in poverty. Indeed, we have had repeated debates about the establishment of a universal retirement protection system with contributions made by employees, employers and the Government. The Mandatory Provident Fund Scheme is impracticable. It fails to provide protection to elderly persons, housewives and low-income earners. With the establishment of the universal retirement protection system, elderly persons will receive a monthly allowance of \$3,000 immediately, and this will solve the problem of the elderly in poverty.

In respect of these three main proposals, I believe the Government definitely has the financial resources to implement all these. Thank you, Deputy President.

MR WONG SING-CHI (in Cantonese): Deputy President, universal suffrage is really lovely. I learn that the Deputy President may represent the Liberal Party to stand for direct election. All along, the Liberal Party has rarely brought up livelihood issues at meetings of the Legislative Council. So the motion today

proposed by a Member from the Liberal Party is worthy of support. Deputy President, the Democratic Party will support the motion proposed by you.

The Democratic Party always insists that the Government should put in more efforts in alleviating poverty and improving people's livelihood. Deputy President, the question today is put forth by you, but 10 Members have proposed amendments to the motion; and the ideas raised by the 10 Members have indeed been said many times before. Over the years, many Members have proposed a lot of specific proposals. But regrettably, the Government has turned a deaf ear to all of them. All Members are of the opinion that although government revenue has increased in the past and will possibly increase in future, the public are still in dire straits. I know that the Secretary will, in his response later, speak fervently of all the measures implemented by the Government in the past few decades, proclaiming that the Government has done a good job and the right thing. Secretary, had the Government been able to fully solve the problems of the safety net or the poverty problems, there would not be as many as 10 Members putting forth the many amendments to this motion and they would not voiced so many views.

Deputy President, apart from me, Mr James TO from the Democratic Party has also proposed amendments. I will talk more about welfare or other livelihood issues. Actually, we are aware of the pressing needs in medical and healthcare services for the elderly. But regrettably, the amount of healthcare vouchers introduced by the Government in the past is too small, and the elderly just disdain to use those vouchers. Does it mean that the elderly have not been sick or they have not consulted the doctors? No, the elderly simply have not used the healthcare vouchers. Though the Deputy President requests in her motion an increase of the amount of healthcare vouchers to \$1,000 a year, the Democratic Party does not agree to an arbitrary increase, for it is difficult to arrive at an average monthly amount if the amount is set at \$1,000. Hence, we propose increasing the amount to \$1,200, so that the elderly will have at least \$100 a month. The elderly will be comforted to know that they will have \$100 every month for doctor consultation.

The theme of this motion is safety net, but if the elderly have met with difficulties in seeking medical consultation, how will they feel secured both physically and mentally? Hence, Deputy President, we hope that the Government will at least take a big step forward in respect of the amount of

healthcare vouchers and it should not be bound by a mere \$100 to \$200. The vouchers are not alms and the Government should not hope that the elderly will not consult doctors even when they are sick. The present situation seemingly fails to provide the elderly with more secured healthcare services.

Deputy President, regarding the next budget to be announced or the future financial status of the Government, we estimate that there will be tens of billions of surpluses. In the Policy Address announced earlier and in the Budget to be announced, the Democratic Party hopes that the Government should no longer adopt the approach similar to the setting up of the Community Care Fund, where the Government only takes out \$5 billion and then requests the business sector to contribute another \$5 billion. The Fund is neither fish nor fowl, and I cannot tell its nature. We hope that the Government will make some relatively specific commitments or relatively long-term considerations. We thus propose that the Government should allocate \$10 billion for establishing a "residential care homes development fund". We know that elderly persons now have to wait for a long time for residential care places, and elderly persons who need special care, in particular, have to wait 30 to 40 months for such places. They may not live long enough for their turn to come. Moreover, there are many problems with residential care homes at present. Take the residential care homes for persons with disabilities as an example, they are not subject to regulation at present and the relevant legislative work is now in progress. But upon the enactment of the legislation, these residential care homes may have to close down if they lack capital for development. A large number of persons with disabilities will lose their shelters. Since the Government fails to undertake the responsibility, there will be problems in looking after these people.

We notice that many social services organizations, including self-financed residential care homes and residential care homes wishing to do better, lack sufficient resources for better development. In some cases, the current code of practice applicable to private residential care homes cannot meet the requirements for quality services. If we intend to enhance the facilities and service quality of private residential care homes, certain private residential care homes may not be able to bear the cost incurred and may have to cease operation. Hence, Deputy President, we hope that the Government will allocate \$10 billion to set up a rolling fund. We do not request the Government to spend all the \$10 billion. The Government may set aside \$500 million or \$700 million per annum from its revenue to support the development of certain residential care homes. It may

also subsidize certain elderly persons to live in private residential care homes or substantially increase the number of places brought, so that these residential care homes may carry out steady and sustained development. Otherwise, even if the Government is willing to buy places from residential care homes at \$7,000 to \$8,000 per month, certain residential care homes may still lack the capacity to improve their services.

Deputy President, we hope that apart from caring persons with disabilities, we will also take care of their family members. We hope that the Government will grant subsidies for carers of persons with disabilities. Actually, this proposal is supported by a majority of Members at the relevant panels of the Legislative Council and at the Legislative Council. I do not know why the Government is unwilling to take care of these carers of persons with disabilities even though it has huge fiscal surpluses. These carers have made great contribution and a monthly subsidy of \$1,000 to them is enough to alleviate the pressure they faced.

Deputy President, in the amendment I propose on behalf of the Democratic Party, we urge the Government to establish a medicines subsidy fund amounting to \$10 billion. I will not go into the details of this and will leave this to my comrade to explain later. The reason is obvious. When we talk about the safety net, we know that many patients need enormous medical expenses in order to maintain their lives. Since our Government has a lot of surpluses and resources, why does not it provide some support to these patients who need care and medical support? I hope the Government will consider this proposal.

The difficulties faced by the elderly are now a frequently discussed topic. One of the concerns is about the requirement for Hong Kong elderly persons residing on the Mainland to comply with the absence limit to be eligible for the Old Age Allowance. The Government has now relaxed the limit to 60 days. However, these elderly persons have to return and reside in Hong Kong for two months for no reason, and the amount they spend on rental may offset the "fruit grant" they receive for the whole year. This is not a caring arrangement to the elderly.

Deputy President, in my amendment, I request the Government to establish a universal retirement protection scheme with immediate effect and immediately adjust the CSSA rent allowance. We notice that the Government Property

Agency has increased the rent of government properties leased to voluntary organizations, but the support on rent provided by the Government to CSSA recipients is still lagging behind the prevailing situation. The Government quotes past figures to state that the present situation has not yet reached that level and thus the allowance will not be increased again. Members should bear in mind that the leases of many CSSA recipients will soon expire and upon the renewal of leases, they will face drastic rent increases. If the Government only examines the case slowly when such circumstances arise, many people may have to sleep on the street. Hence, I urge the Government to conduct a review in this respect immediately.

Deputy President, I would like to say something about youth unemployment in support of the requests made in the motion today. We hope that the Government will make vigorous efforts to support the employment and training of young people, so that they will be confident about their employment and future prospect when they graduate and when they do not want to further their studies. Therefore, I hope that the Government will (*The buzzer sounded*) work on this. Thank you, Deputy President.

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

MR IP WAI-MING (in Cantonese): Deputy President, first, I have to thank the Deputy President for moving this motion debate today. Ten Members, including myself, have proposed amendments to this motion, which is a new record. Secretary, it is evident that many people consider that the existing safety net is fraught with problems, failing to provide fundamental protection to many Hong Kong people.

According to the statistics of the Hong Kong Council of Social Services, 1.26 million people in Hong Kong are now living below the poverty line, which accounts for 18% of the Hong Kong population. In comparison with the 1.09 million people 10 years ago, there is an increase of more than 100 000. We think it is unimaginable and unacceptable.

Despite the various crises the economy of Hong Kong had undergone in the past decade, the Government said that there was actual growth. Regarding the

growth for this year, the Financial Secretary has adjusted his forecast, stating that the growth may exceed 6%. We have all along been asking this question: How come the grassroots cannot share the fruits of success despite the high economic growth? Where has all the money gone? Hence, we hope that the Government will review the situation, and we urge the Government to expand the coverage of the existing safety net as soon as possible.

Deputy President, the problem of disparity between the rich the poor is now found in various age groups in Hong Kong. The elderly have to face poverty problems related to old age, and young people also have to face their own poverty problems. I think the problem has now become a common problem affected people of all ages.

I will first talk about the housing problem. More than 100 000 low-income households in Hong Kong have to live in cage homes or cubicle apartments now. Dozen-odd households have to live in a flat of several hundred square feet, and in the case of a cage home, the living space of a person is only some 10 to 20 square feet. Their living environment is extremely cramped. However, there is one interesting point. Do not think that the rents of these cage homes or cubicle apartments are cheap for what they are worth. According to a survey, even though the living environment is so bad, the average rent of some of these places is \$20.9 per square foot, which is more expensive than certain small residential flats in the Kowloon district, and the average rent for cage homes is as high as \$93 per square foot.

Deputy President, the need of the grassroots is indeed simple. They just want to have a shelter and three meals, just like a dialogue in the film *Echoes of the Rainbow*, they just want to "have a roof over their head". But why such a basic request of the grassroots can hardly be met? More often than not, these people only earn several thousand dollars a month, but they have to spend half of their salary on housing. We think that the Government has to consider why the public has to scrimp and save to meet their housing expenses.

This reflects the unbalanced lives of the grassroots at present. As the housing problem they faced is worsening, we hope that the Government will consider ways to address their accommodation problems. Actually, they are not asking for luxury flats, they only want sufficient living space. Therefore, I consider that the existence of cage homes is, as certain critics said, a shame to

Hong Kong. We urge the Government to draw up a timetable to replace cage homes by means of legislation, and to provide adequate housing protection to these residents.

Deputy President, unemployment is another problem faced by workers in Hong Kong. Though the economy has recovered slightly, many workers are still unemployed. Hence, the Hong Kong Federation of Trade Unions (FTU) always advocates that the Government should set up a three-tier employment protection net. Under the three-tier employment protection net, minimum wage should be set. In addition to this, we think the Government should provide unemployment allowance and set up a minimum living standard security system. As for the protection provided at various tiers, we think it should be employment based and in line with the spirit of proactive poverty alleviation, so that people with employability will earn reasonable wages and be given the opportunity to take up employment again.

We hope that the Government should not let workers fall into the safety net of the Comprehensive Social Security Assistance once they become unemployed. We urge the Government to set up the unemployment assistance system to buy time for taking matching measures that can help unemployed workers find a job and rely on themselves.

As for the employment of young people, Deputy President, we request the Government to expand the modern apprenticeship system to more sectors, such as the hotel industry, so that more low-income young people with low academic qualification can join the labour market according to their interests and strengths. During the apprenticing period, they should be under the protection of the Employment Ordinance, and licences would be issued to them for recognition of their qualifications. With these arrangements, young people will not be shut out from certain trades because of prospect, salary and welfare, and other issues, and they may learn a skill to secure employment.

Deputy President, apart from employment protection, Hong Kong is also facing the worsening problem of an ageing population. According to the information provided by the Census and Statistics Department, in 2030, one fourth of the population in Hong Kong will be over 65 years of age. Therefore, we can brook no delay in addressing the problem of an ageing population, particularly the issue of providing retirement protection to the elderly. At

present, the Government attempts to offer retirement protection to the elderly through the so-called Mandatory Provident Fund (MPF) Scheme. However, we opine that the initial objective for setting up the MPF may not have been met. Thus, we have all along been urging the Government to overhaul the existing MPF Scheme, so that the Scheme can dovetail with the universal retirement protection scheme that we requested, in this way the elderly can get proper protection for their lives after retirement.

If the current MPF Scheme is to continue, we estimate that in five to 10 years time, more and more workers will query this Scheme. By then, I think it may be too late for the Government to reform the Scheme or introduce other retirement protection or welfare schemes.

Deputy President, regarding the welfare safety net of Hong Kong, if no review is conducted or no improvements are made, the net will fail to keep abreast with the times. If the Government insists on having its own way, relying solely on the existing CSSA to provide assistance to low-income earners, the public probably will not receive comprehensive protection, and many people in need will not be benefited.

The Government sets up the Community Care Fund (CCF) with the objective of helping those who fall out of the existing CSSA system. We welcome this proposal, but we think the paradox is that when the CCF grows in terms of coverage and the amount spent, it will only prove that the existing welfare system is fraught with problems and fail to protect the public.

We hope that as a responsible government, the SAR Government must maintain the stability and harmony in society. The Government should stop believing blindly that economic growth will solve the problem of wealth disparity in Hong Kong. It should no longer turn a blind eye to the problems and remain indifferent. I believe if the Government wants to foster genuine prosperity and stability in Hong Kong, there is no alternative but to provide Hong Kong people with basic protection for their livelihood. Otherwise, I am pessimistic about the establishment of a so-called prosperous, stable and harmonized society.

Thank you, Deputy President.

MR JAMES TO (in Cantonese): Deputy President, accommodation has been the greatest problem in Hong Kong. It is mainly due to the high property prices and high rental. In particular, when the United States keeps printing bank notes under the quantitative easing policy, inflation will follow and rental increase will be significant. The poorest class in society, who cannot afford renting the whole flat, will have to rent cage homes, cubicle apartments or en suite units, and most of these places will be less than 70 sq ft and some may even be less than 20 sq ft. Residents in these places have to put up with poor living environment each day, and they have to compete with other people in using the kitchen and toilet, disputes may very often occur.

However, do not think that the rent per square foot of these places is cheap. No, it is not. We know that a newly renovated en suite unit of 100 sq ft in Sham Shui Po is rented at \$3,000 per month, which is \$30 per square foot, and the rent per square foot for an un-renovated room range from \$25 to \$27. For a larger en suite unit of 150 sq ft, the monthly rent ranges from \$3,000 to \$3,800, that is, some \$20 per square foot.

This type of accommodation is popular, and now even old industrial buildings are converted into cubicle apartments for lease. Deputy President, in my speech at the motion debate last week, I mentioned that I was told by some social workers that some young people even lived in mini-storages. These mini-storages are unauthorized residential units, but people are forced to live there. Nonetheless, the Government remains indifferent to the problem. We hope that the Government will provide adequate public rental housing (PRH) units for the needy, so that they do not have to reside in places where the living environment is extremely poor.

The Society for Community Organization has once quoted the figures of the Census and Statistics Department, which states that around 100 000 people lived in cage homes, cubicle apartments and roof-top huts last year. According to the projection made by the Transport and Housing Bureau based on the findings of the General Household Survey 2008, there were around 26 000 households living in rooms, bedspaces or mezzanines of private non-permanent flats, and the rent ranged from \$1,500 to \$2,500. Deputy President, how many people are living in these types of accommodation. We have asked the Government about the number of PRH applicants, but we do not get an exact figure. Deputy President, I think the Housing Department (HD) should add a column in the application form, requesting applicants to declare the type of

accommodation they are living. This will provide the Government with some basic figures to make matching arrangements. For instance, increase the number of small PRH units to speed up the allocation of flats.

For low-income people living in cage homes, cubicle apartments or en suite units, the best option is to allocate a PRH unit to them as soon as possible, for this can improve their living environment and alleviate their burden on rent.

Surveys indicate that residents of such poor accommodation include families of new arrivals, elderly persons in retirement, CSSA recipients, singletons taking up part-time jobs, and those young people whom I mentioned earlier. For CSSA recipients, though they have rent allowance, they actually need to use other CSSA allowance to subsidize their rent. But if they are allocated PRH flats, the rent will be fully covered by the CSSA allowance.

According to the information of the Social Welfare Department, as at March 2007, among CSSA recipients living in private housing, 58.9% of them are paying an actual rent higher than the maximum rent allowance. In other words, they need subsidies. As at February 2008, the ratio increased to 60.3%, and as at January 2009, the ratio increased to 65.9%. It is evident that the rent allowance received by the majority of CSSA recipients is inadequate for paying rent. Hence, the Government should adjust the CSSA rent allowance more frequently according to the increase in rent, so that they do not need to subsidize their rent with other allowance.

The rent for a 100-odd sq ft PRH unit for one to two persons range from several hundred dollars to some thousand dollars, which is much more cheaper than the rent for cage homes, cubicle apartments or en suite units mentioned by me earlier.

Deputy President, I would like to talk about the application for PRH by singletons. At present, a family applying for PRH will have to wait for nearly three years before getting the first offer, and elderly persons can benefit from the privileged allocation policy. However, Deputy President, for singleton applicants who are not senior in age and have no family, they have to wait for a very long time to be allocated a flat due to the restriction of the Quota and Points System. In general, a 35-year old singleton applicant will have to wait for more than 10 years.

According to the information of the HD, in the two years 2007-2008 and 2008-2009, only 500 applicants in the 31 to 45 age group of the singleton were allocated a PRH unit. The figure indicated that the supply is significantly inadequate. Deputy President, I am not referring to the undergraduate applicants mentioned by colleagues or the public. I am not referring to the unemployed who want to be allocated a PRH unit once they graduate from universities. Deputy President, I am referring to people aged between 31 and 45 who are now working, but only some 500 applicants of this group of people are allocated a PRH unit each year.

Deputy President, for people living in poor living conditions, such as cage homes, cubicle apartments or en suite units, and particularly for non-elderly singletons aged over 30, their social mobility is relatively weak and they particularly need the public housing safety net. Hence, the HD should implement more generous measures and set up merit point system for them, so that they can be allocated PRH units expeditiously. The longer they live in cage homes, cubicle apartments or en suite units, the more points they will receive, and the earlier they will be allocated a PRH unit.

This is a proportional point system. But definitely, supply of PRH units has to be increased after all. If the supply is inadequate, no matter how the points are counted, the Government will only play with the figures or arguments. It may say that the increase of quota for singletons will result in the decrease in quota for household applicants. So I think the Government must construct more PRH units. Recently, the Chief Executive said that tens of thousands of units would be built each year, but this is far from adequate. I hope that the Government will conduct detailed analyses in this respect, particularly on this issue, to expand the safety net for non-elderly singletons or middle-aged singletons. When they have a place to stay, they will have the drive to work hard and they will live in peace and contentment. This will then enhance the stability of society as a whole.

MR TAM YIU-CHUNG (in Cantonese): Deputy President, the problem of disparity between the rich and the poor is serious in Hong Kong, and with the worsening inflation problem in recent days, the grassroots have to face a harder life with the spate of price hikes. The original motion of today proposes the expansion of the safety net and the strengthening of the support for the grassroots,

so that they can share the fruits of the economic prosperity. This is in line with the idea of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB). Though the SAR Government has persistently increased the expenditure on social security since its establishment, the increase is made mainly in response to the increase in cases and the amount of subsidy provided. In respect of the coverage and substance of social security, apart from introducing individual projects and some trial schemes, the Government has not made genuine expansion to the safety net. In providing assistance to the grassroots, the Government mainly based on the fiscal surpluses of the previous year to provide one-off relief measures, that is, what is commonly named as giving out "candies". The Government fails to conduct a comprehensive review on social security measures and has not expanded the safety net in various aspects. The recent implementation of the new Transport Subsidy Scheme, which has been strived for years, is a rare practice in recent years.

Yesterday, a renowned accounting firm projected that the budget surplus for this financial year may flood the Treasury with cash. Due to the substantial increase in revenue from stamp duty and land sales, it is estimated that the surplus may exceed \$70 billion. We hope that the estimate is accurate, and the more surplus, the better. However, looking back at the past decade or so, there were great discrepancies between the budgeted surplus and the actual surplus of the Government every year, ranging from \$8.9 billion to \$9.82 billion. It is evident that the Government has been extremely conservative in finance management. Since the Government strictly restricts public expenditures in various aspects, it has not made greater commitments on social security. In as early as 1997, the DAB had proposed to the Government the establishment of a sustainable funding source for social security measures. Back then in 1997, when the Land Fund was transferred to the SAR Government, we requested and proposed that the money from the Land Fund should be transferred to a livelihood fund to provide a stable funding source for new social security measures instead of transferring the money to the government general reserve account. This concept proposed back then is still applicable today. To expand the safety net, the Government should set up a separate and stable funding source, so as to ensure that the source will not be affected by economic cycles and conservative budget estimates.

A number of proposals on expanding the social security net have been proposed in the original motion, the DAB supports implementing these measures, but we consider that the Government should put in more effort on promoting

employment, enhancing education support, improving elderly care and medical care services, as well as helping the ethnic minorities. I thus emphasize these aspects in my amendments.

Employment is the greatest safety net in society. The employment situation of Hong Kong has been improving in recent years, and we learn from the announcement of the unemployment rate by the Secretary yesterday that the situation was relatively stable. However, the unemployment rates of certain industries, such as wholesaling, have gone up instead. If Hong Kong wants to maintain a high employment rate, it must prepare for the rainy days and enhance the development of industries with apparent advantages, establish a better foundation and maintain the economic growth in Hong Kong, so as to create more employment opportunities. In respect of the six major industries, the DAB hopes that the Government can set up an industrial steering committee headed by the Financial Secretary to step up the promotion work, including the setting up of a research department specialized in economic and industrial policies, so as to strengthen the development of the six major industries. The Chief Executive has mentioned the six industries in the past, but we think that words alone are inadequate. We think that too much have been said but there are inadequate actions. Hence, the Government has to increase the incentive to promote industrial development. It should consider measures like setting up loan funds and project funding, providing tax concessions and technical support, expanding the list of local products to be procured by the Government and setting up innovative invention awards. More importantly, we must nurture and recruit talents in the six major industries as early as possible, and allocate funds to provide more channels for continuous education. The DAB also hopes that the Government can vigorously examine the establishment of a development fund for the six major industries under the capital investment entrant scheme, requiring investors to invest a certain proportion of their assets in that fund, so as to support the development of the six major industries in Hong Kong.

To alleviate the problem of inter-generational poverty, the Government must greatly enhance the support in education. The DAB has earlier on urged the Government to lower the threshold for applying school textbook assistance. At present, under the School Textbook Assistance Scheme, 70% of the families applied are given half-grants, and less than 30% are awarded full grants. The Government should consider expanding the income group for full grants under the "adjusted family income" mechanism, so that more families can receive full

grants. Moreover, we propose that the Government should provide extra-curricular activities allowance for students from low-income families, so that these children can participate in various experiential learning activities without having any worries. As for the lowering of the interest rate of student loans, society has been aspiring this for a long time, for the high interest rate for student loans has increased the burden on tertiary students, which has indirectly reduced the opportunity of students from low-income families to pursue further studies. The DAB proposes the abolition of the 1.5% risk-adjusted factor included in the non-means tested loan scheme. The interest rate should be standardized at 2.5%, and changes should be made to the effect that interest will be charged after the student completed the course and get employed. At the same time, loans subject to means test should be changed to interest-free loans.

To enhance social security, the DAB considers that efforts should be focused on improving elderly care and medical care services. In my amendment, I propose providing an allowance for elderly persons returning to their hometowns to live, examining medical insurance scheme for Hong Kong people spending their twilight years on the Mainland, introducing "mortgage scheme for the elderly" and increasing community care and outreach services for the elderly, and so on. We have explained these measures in detail on various occasions in the past. Due to the time constraint today, I will not repeat these explanations. But I wish to urge the Government to capitalize on its current prosperous financial state to set up a five-year plan for elderly care services. It should set up performance pledges on the application for residential care services and community care services, so as to ensure that these essential services will be provided to the elderly within the specified period. This is the only way to improve the livelihood of the elderly.

Finally, I would talk about a topic that is not frequently discussed in society, that is, to strengthen the assistance for ethnic minorities in securing employment and resolving their livelihood difficulties. Recently, I have met with several groups of ethnic minorities, and they have raised their opinions and their major concerns to me. According to surveys, ethnic minorities account for 5% of the total population in Hong Kong, there are around 350 000 people. A relatively great proportion of this group belongs to the grassroots. They have encountered many difficulties in their daily lives due to their language constraint. The Government has set up four community support service centres for ethnic minorities in Kwun Tong, Wan Chai, Tuen Mun and Yuen Long. However,

since many ethnic minorities live in Yau Tsim Mong district, Sham Shui Po and Tung Chung, and so on, we hope that the Government can increase three service centres to provide better support to them. In respect of education, the Government must enhance the support for non-Chinese speaking students. It should increase the number of designated schools, so as to ensure that there are schools in various districts for students of ethnic minorities. Moreover, the number of Chinese Language Learning Support Centres should be increased from the existing 10 to 15, so as to facilitate the learning of non-Chinese speaking students. In respect of employment, we hope that the Government will review whether it can employ more ethnic minorities. For instance, the police have recently launched some pilot schemes (*The buzzer sounded*)

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

MR TAM YIU-CHUNG (in Cantonese): but we hope that these pilot schemes will be carried out in other aspects.

MR RONNY TONG (in Cantonese): Deputy President, last week, I pointed out in this Chamber that one in every nine families in Hong Kong was now living in poverty. The problem of the disparity between the rich and the poor keeps worsening. The Chief Executive and the Social Welfare Department (SWD) have more than once stated proudly in this Chamber and on other occasions that though Hong Kong is facing the poverty problem, a reliable safety net is in place.

Deputy President, how reliable this safety net is? We may get a brief idea from the amendments proposed by colleagues today on this subject. A total of 10 amendments have been proposed. I have made a count, there are 33 proposals in these amendments, but I believe these 33 amendments may still fail to rectify all the inadequacies. As regards how high is the safety factor of this safety net, which the Chief Executive and the SWD consider reliable and highly esteemed, I believe we have the answer at heart.

Under the Comprehensive Social Security System (CSSA) of Hong Kong, many people do not apply for CSSA because of the stigma attached, or they are driven by their conscience or self-esteem that, though eligible for assistance, they

do not apply for CSSA. On the other hand, the Government has set up various restrictions on the application for CSSA to prevent abuse of the system. Deputy President, I believe for every prosecution against a recipient for abusing CSSA, there are a hundred to a thousand persons in need of help but fail to receive CSSA.

Among all the restrictions, the most heart-rending and immoral restriction, which is against the core values of Chinese, is the so-called "bad son statement". If my memory has not failed me, the Secretary said in his reply to a question I put forth in July 2009 at the Legislative Council that there was no such thing as "bad son statement" in Hong Kong. He said that was only a requirement on the asset tests, a declaration that the applicant for CSSA had to complete. Deputy President, the Secretary provided a document in his answer to my reply on that day, and this document is the "bad son statement". Right, it is not written on the document that it is a "bad son statement", it is merely a declaration. Why is it called the "bad son statement" in the community then? The declaration required the children of CSSA applicant to answer four questions, they have to state that they have not provided any financial support to the applicant, or state clearly the monthly amount they give to the applicant, and how much had been provided in the past, or they have to fill in some other information. This declaration has to be signed in front of and witnessed by a social worker to become effective. In certain cases, the elderly persons and his or her children have to move out of the public rental housing unit before the application can be regarded as effective.

Deputy President, this form is called a declaration document, but the actual effect is to require children of the applicant to sign in front of a social worker to admit that they will not support their parents. May I ask how many people will be willing to do so? This is one of the important reasons leading to the break-up of so many poor families in Hong Kong. Why should such requirement be imposed? There is no such requirement before 1999. This requirement is only imposed after 1999. Does it mean that the system had not been abused before 1999 but had been abused after 1999? The Chief Executive always says that he attaches importance to and advocates family values held by Hong Kong people, but policy-wise, he has completely disrupted this family value, for he is asking children to leave their parents and not to live with them. Recently, it is announced in the Policy Address that elderly persons will receive more concessions if they return to the Mainland to spend their twilight years, and they only have to stay in Hong Kong for 90 days to be eligible for receiving

allowance. Does it imply that it is the best option to send all parents to live on the Mainland, so that we can turn a blind eye to the problem by putting them out of sight?

Deputy President, I propose the amendment today for I want to focus the discussion on this issue. We have been following up this issue for years, but the Secretary still turns a deaf ear to this, and even refuses to admit the existence of this problem. Deputy President, please allow me to tell some real stories about the "bad son statement". The Secretary may have heard that before, just that he hears without listening.

The first case is about the 80-year old Granny CHOI. She lives with her 90-year-old husband in a public rental housing unit. Over the past two decades or so, her children have not shouldered the responsibility of supporting them. They have to live on "fruit grant" and the money they earned from selling old clothes gathered from rubbish piles. Since no one is willing to employ them after they retired and their children are unwilling to give money to support them, they want to apply for CSSA, but her children refuse to sign the "bad son statement". As a result, they can only live on their "fruit grant", which is \$2,000 in total, of which \$1,000 is spent on rent. That leaves \$1,000 for the elderly couple to spend on their living every month. How can they live on such a meagre sum of money?

The second case should sound familiar to the Hong Kong Federation of Trade Unions (FTU), for this is one of their cases, but no one from the FTU is in the Chamber now. The 79-year-old Granny CHEUNG lives on the \$1,000 "fruit grant". She has to take up four hours of cleansing work every week for an income of \$100 each time. However, she has to spend several hundred dollars on rent and medical expenses every month, and she has to rely on the income from collecting cardboards to make ends meet. If she has the money to buy vegetables, she will buy the cheapest food. When she feels thirsty on the streets, she says she will go to public lavatories and drink water from the tap. This is the shame brought by the "bad son statement" on Hong Kong people.

Honestly, if one is concerned about social welfare issues, one can easily find these cases for there are many of them. Our Government is now very wealthy. Recently, I have asked how much money the Government has. I asked how much it has if all the surpluses were added together. The answer is

the Government has more than \$2,000 billion at present. I do not know how much this sum of money actually means. But still, some families are leading a miserable life, and the SWD refuses to admit this is a problem.

Deputy President, at present, some elderly parents are in dire straits because their children refuse to sign the "bad son statement". They have to discuss with their family members or children who should move out of the public rental housing units. Some elderly persons say in tears that they do not want to live in residential care homes for the elderly, but if they rent a bedspace, the rent is expensive, it is even higher than that of a luxury flat. The Alliance Concerning CSSA conducted a questionnaire survey last month. The findings show that respondents have to pay an average rent of \$21 per square foot, which is more expensive than the average rent of \$18.6 per square foot for a private flat below 400 sq ft in the Kowloon district. At present, the rent allowance for a singleton is \$1,260, and that for two persons is \$2,520, but the rent for a room amounts to \$3,000. That means they have to pay out of their own pockets. If so, how can we say that this safety net is reliable? How can we face the poor people in Hong Kong? Deputy President, we have been crying at the top of our voice about this, I hope the Secretary will lift (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Speaking time is up.

MR RONNY TONG (in Cantonese): the requirement on the "bad son statement".

MR CHEUNG KWOK-CHE (in Cantonese): Deputy President, I would like to thank you for moving this motion so that the Government would reflect again and reassess whether its safety net policy needs patching up.

Deputy President, the whole world may not necessarily join in jubilation in a flourishing age, and behind the scenes of prosperity, there can be endless sad stories. Deputy President, the words "Influential officials killing like wolves and tigers while common people bending forward while farming like horses and oxen" can well depict the polarization of our society at present. As we have seen, some consortia and large enterprises have monopolized social resources

while common people are working like oxen and horses day after day, and can hardly make ends meet. It is much to be regretted that the Government has been indifferent and unconcerned, that is why the grassroots' grievances have steadily increased.

Though the Government currently has a reserve of \$2,200 billion, it is very stingy and it regards common people as worthless. The grassroots' livelihood is not protected, and even the elderly and the disabled are not given due respect. Our welfare system is afflicted with all ills.

In respect of our economic development and cost of living index, the safety net should not be simply defined as to provide the grassroots with two meals and a place to stay. The Government should change its mindset and enhance the whole welfare system, so that the socially disadvantaged groups can lead dignified lives, the wealth gap can become narrower, and intergenerational poverty can be prevented.

The so-called safety net has quite a number of loopholes. Several Honourable colleagues have just made a number of proposals but the Government has failed to listen carefully or adopt them. Taking unemployment relief fund as example, I am not sure how many organizations and Members have asked the Government to provide such fund throughout the years, but the Government has frequently claimed that we now have the unemployment assistance as an excuse and refused to provide emergency unemployment relief fund.

Undeniably, unemployment assistance is now provided under the Comprehensive Social Security Assistance (CSSA), but has the Government considered how unemployment assistance can be applied? First, the application procedures for unemployment assistance are cumbersome, the financial condition of the family has to be checked and the assistance will not be granted within a short period of time. Also, some unemployed people just want to get financial assistance before they have found a new job so as to alleviate their desperate situation. They do not intend to rely on long-term government assistance. So, I think the assistance period for the transitional unemployment relief fund should be set at three to six months. Cases with excessively long assistance period can be handled under the CSSA Scheme.

Even if the grassroots in Hong Kong have a low-income job, they may not have a decent place to live in. As estimated by the Society for Community

Organization, about 100 000 people throughout the territory are living in cage homes or cubicle apartments, which are not suitable for human habitation. "All that glitters is not gold" is definitely a true portrayal of Hong Kong.

Regarding cage homes and cubicle apartments, although the rentals per square foot are comparable with that of luxury units at mid-levels, the hygiene conditions are extremely poor. These tiny places have poor ventilation and the conditions in summer are even worse. Therefore, I suggest that the Secretary and other officials may consider living in cage homes for a few days in summer to get a taste of the life there. Although the Bedspace Apartments Ordinance was enacted by the Government in 1998, only bedspace apartments with 12 or more bedspaces are regulated, and flats with less than 12 cubicle apartments are totally unregulated.

I hope the Government would expeditiously plug the loopholes of the Ordinance, with a view to safeguarding a reasonable living environment for the grassroots as soon as possible. The Government should also expedite the construction of public rental housing (PRH) units in the urban areas, but not just 15 000 PRH units. I trust that Honourable colleagues have expressed their views in this Council and the number of 30 000 units is deemed more reasonable. I would like to emphasize that these units should be constructed in the urban areas, for if the Government continues to arrange the grassroots to live in remote rural areas, intergenerational poverty will worsen because the travelling expenses will greatly increase. In the long run, I hope the Government would abolish cage homes and optimize cubicle apartments so that we can live up to the name of being a flourishing metropolis.

We need not mention again the reasons why we demand the introduction of a universal retirement protection system. As the scope of protection under the current Mandatory Provident Fund (MPF) Scheme is not comprehensive enough, the MPF receivable by low-income earners upon retirement is pitifully little, and as some investment returns are linked to the general economic environment, in the wake of an economic downturn, the MPF accrued by wage earners may vanish at any time. Family workers are not included within the scope of MPF protection; can we say that family workers have not contributed to our society at all?

In view of the high medical expenses of the chronically ill and the fragmented assistances provided by the Government which fail to suit the remedy

to the case, I hope that the Government would establish a chronic disease allowance as a supplement to needy chronic patients for purchasing medicine, medical supplies and auxiliary aids. Certainly, as some chronic patients need to employ care workers, the allowance should allow them employ home care workers to relieve their livelihood burdens.

Actually, the expenses on purchasing or renting of auxiliary healthcare aids are rather high. Take the rental of respiratory machine as an example, the monthly rental is generally around \$1,500, and electricity tariffs have not yet been counted. The burdens are not light for people having financial difficulties but are not eligible for CSSA payments.

Furthermore, I suggest that the Government should establish a long-term care allowance to provide assistance for elderly persons and people with disabilities requiring long-term care in purchasing residential care services and day care services, or providing subsidies to their carers. The allowance will help alleviate the financial burdens of the elderly, people with disabilities and their carers, and also provide flexibility so that they can choose the services to be purchased on their own. Hopefully, this can also alleviate the existing problem of an acute shortage of subsidized residential care places.

I have recently been appointed as a member of the Steering Committee on the Community Care Fund. Even though I do not agree in principle with the Government's approach in patching up the safety net, what is done cannot be undone, and I also want to try to ensure that the amount of \$10 billion would be properly used to help the grassroots in need. Finally, I hope that the safety net would be patched up and that the purpose of the Fund would be fulfilled.

The proposals in the original motion and other amendments are nothing new, and I believe most government officials should have heard of them, just that they are not ready to accept them. I hope this motion debate provides an opportunity for government officials to get a clear understanding of the true picture of our society, I also hope that they will show us their sincerity and determination to make our polarized society fairer.

Deputy President, I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): Deputy President, first of all, I would like to thank you for proposing this motion debate so that we can discuss this issue.

I have proposed a few amendments to the original motion. The first amendment is about the housing problem, and I would like to urge the Government to construct 3 000 public rental housing (PRH) units every year. I do not propose this number out of a sudden impulse, this is the number of PRH units constructed by the former government before 1997. Obviously, after the reunification — let us not ask for the reasons — polarization has become more serious. In other words, when inflation reappears while there is less and less protection for wages and jobs, the poor has a more earnest demand for housing. There is no reason why the Government should turn the clock back.

Mr Ronny TONG has just said that the Government led by Donald TSANG requires people to sign a "bad son statement"; our "specially bad government" is really "irredeemably bad", it states explicitly that it will not help the poor. If 35 000 PRH units are constructed, people whose wages have been eroded by inflation, layoff and wage reduction do not have to pay high rental or live in expensive cubicle apartments and cage homes; in other words, they will have more disposable income and their livelihood will be protected. The service sectors which mainly serve the grassroots or traders running small business will also be benefited financially. For this reason, I think that the construction of 35 000 PRH units is an essential measure for solving the difficulties and housing problems of low-income earners.

My second amendment asks for the establishment of an unemployment assistance fund as Mr CHEUNG Kwok-che has just discussed. The prerequisite for establishing an unemployment assistance fund is that the wages of ordinary workers must reach a certain level so that part of their wages can be used as contributions under an unemployment insurance scheme. This reform must be implemented. Yet, what has this "specially bad government" done? It sets the minimum wage rate at \$28. At such a wage level, how can ordinary workers have spare money to make contributions under an unemployment insurance scheme? The SAR Government argues that provision of unemployment insurance alone cannot support sustainable development, contributions are thus essential. If the minimum wage is set at such a low level, and capitalists are given free rein to exploit low-income workers, an unemployment insurance

scheme that is up to international standard will certainly not be established in Hong Kong. Setting the minimum wage rate at \$28 not only reflects that the SAR is bad, it is also cruel. The aspiration for unemployment assistance should be examined together with the setting of the minimum wage. Yet, we already know that the SAR Government has set the minimum wage at \$28 per hour; in that case, low-income workers will not have any spare money to make contributions so as to safeguard their livelihood in the future.

Another amendment I have proposed is about raising the rates of CSSA and "fruit grant", and establishing a universal old age pension. The request of raising the rates of CSSA and "fruit grant" started with Mr WONG Yuk-man's "banana throwing" action. The rates of "fruit grant" have been raised, but two years have swiftly passed, and more elderly persons have now fallen into the poverty net. Now, more elderly persons have to travel regularly between the Mainland and Hong Kong. Why are they doing so? They do so just because they want to receive the meagre "fruit grant". Since the rate of "fruit grant" is not enough for them to maintain the minimum living standard in Hong Kong, they are forced to lodge under other persons' roofs or travel a long way to the Mainland to have a low living standard. If actions are not taken to turn the Mandatory Provident Fund (MPF) Scheme into a universal old age pension scheme to provide universal retirement protection with part of the MPF contributions and the Government's capital injection, I have to tell you, firstly, all mothers in the world have been discriminated against because housewives do not receive wages, and they are not protected under the MPF Scheme. Everybody has a mother, and you will not be exceptional! Why can you not take care of your own aged parents and then extend similar care to elderly people in general? When you walk out of the Yung Kee Restaurant after a meal and see an elderly person picking up carton boxes, why can you not think that she is just like your mother, but this old woman may have no one to depend on? All of us have been striving for a long time for the establishment of a universal old age pension. I have already given a notice, if a universal old age pension has yet to be established, I will introduce a private bill and force the Government to state its position.

Another amendment is related to residential care services, and because of this issue, I had used vulgar language to accuse Secretary Matthew CHEUNG in this Chamber. For the past five years, more than 7 000 elderly persons died with regret because they did not live long enough to be allocated with residential care

places. The Government is still saying that the relevant policies are well-tested, has it treated these elderly persons fairly? Has it treated fairly those elderly persons who toiled so hard in the construction of the tall buildings we see today?

I also raise an amendment to request the Government cease all outsourcing exercises, the reasons are clear enough. We discussed this issue at the meeting of the Panel on Public Service held yesterday. A large amount of work previously undertaken by civil servants on permanent establishment has now been handed over to contract and outsourcing workers. In other words, the Government has paid less and the workers have received less, thus only the contractors have benefited. This is a tyranny under which those who do not have enough are serving those who are affluent. In fact, the employment of outsourcing or contract workers definitely cannot reduce the government establishment. More workers are employed at low wages, their terms of employment are poor and they lack protection, hence their service standards will not be high. The Government is fooling wage earners but putting money in the pockets of outsourcing service providers. The general public will not receive the best public services, and this is the fault of the "specially bad government".

I need not speak too much on my amendment concerning the buy-back of the Link Real Estate Investment Trust (The Link REIT). When I opposed the sale of assets to The Link REIT in this Chamber, I faced a thousand accusing fingers, and they almost wanted to kill me and cut off my "black hand". Now, we see what is right or wrong clearly. We can see from the case of The Link REIT that there is collusion between some officials and consortia in the sale of our assets at low prices. As a result, traders of small business, public housing tenants and employees have no luck. What kind of government do we have? We have an "specially bad government".

Another amendment of mine requests the Government to introduce progressive profit tax and capital gains tax, and increase stamp duty; this point is very simple. As I have just said, those who do not have enough are serving those who are affluent; now I demand that those who are affluent will serve those who do not have enough. In terms of Gini Coefficient, Hong Kong is among the best performing places in the world; there are people who are living under absolute poverty day after day, month after month, and year after year. If the Government does not introduce progressive profit tax and capital gains tax, and increase stamp duty, it has simply neglected its duty.

Last but not least, there is an amendment asking the Government to formulate a poverty line, which has something to do with Henry TANG. Buddy, TUNG Chee-hwa had leg pain because he had not formulated a poverty line; yet, Henry TANG has just followed the established rules and failed to formulate a poverty line. This is just like the case of a person consulting a doctor. The doctor does not ask him to have an X-ray, and has not conducted any examination before prescribing medicine to the patient, because the patient will die very soon. Deputy President, trying to relieve the poor without formulating a poverty line is the same as drawing a square and a circle without the proper tools. This is ridiculous and it is the anti-intellectual behaviour of an "specially bad government".

Thank you, Deputy President.

MR CHAN KIN-POR (in Cantonese): I would like to thank Deputy President for moving this motion today, and also other Honourable colleagues for proposing amendments. I earnestly support most of the proposals raised in the original motion and the amendments. Owing to the time constraint, I can only express my views on the following main points.

Mr LEE Cheuk-yan proposes that the Government should establish a system of Negative Income Tax in the long run, I think the Government should consider this proposal. Under a system of Negative Income Tax, when the income of a person or a household is below a certain level, the Government will give them subsidies by taxation means so as to support and encourage their self-reliance in a positive way.

This approach not only avoids having labelling effects, but also allows workers to live in a more dignified way; there is also a deeper significance in that the Government will convey to the public the message that it respects employment, and that it will support wage earners who make a living with their own hands.

In fact, the Government should more systematically provide subsidies to the working poor rather than subsidizing them in a piecemeal manner. Providing transport allowance to encourage employment is just the first step and a

measure to defer decision making. In the long run, the Government should consider establishing a system of Negative Income Tax.

Several Members have proposed creating more jobs suitable for grass-roots workers, and Mr TAM Yiu-chung has proposed that the Government should proactively attract Mainland enterprises to expand their business in Hong Kong, I sincerely agree with him. With our economic transformation, we have noticed the imbalanced development of industries; and given inappropriate employment supporting measures under our population policies, there has been a continuous emergence of low-skilled and low-knowledge workers; thus, there have been fewer jobs suitable for grass-roots workers and there are not enough jobs to go round.

The Government should create jobs for various classes in various directions. In order to create jobs for grass-roots workers, the Government should maintain the four economic pillars and develop the six major industries; it can also consider co-operating with Chinese and foreign enterprises in the development of industries requiring a large number of workers in densely populated areas such as Tin Shui Wai and Tung Chung; for example, logistic support services such as telephone service centres, so as to create more opportunities for employment and placement in these areas.

Concerning the number of jobs suitable for grass-roots workers to be created, this is closely related to our population policies. In my opinion, on the premise of not affecting family reunion, the Government should more systematically re-examine and assess the existing population policies, and make detailed analysis of the distribution of our population and labour force in the coming three to five years, thereby creating jobs for different classes. This is going to be a long-term plan.

The amendment I proposed today mainly urges the Government to expeditiously study the establishment of a universal retirement protection system, so as to make up for the inadequacies of the Mandatory Provident Fund (MPF) Scheme. The MPF Scheme has been implemented for more than 10 years, and the community has gradually found that there are quite a number of problems with the Scheme. The Government has already proposed ways to improve certain problems, for instance, the "quasi free-will" scheme has been introduced

and it has also studied such measures as adjusting the income limits for MPF contributions.

No matter how the Government revises the MPF Scheme, it cannot change some crucial structural problems. The MPF Scheme can only provide better protection to people of the middle class or who contribute to the Scheme, but the Scheme fails to benefit low-income earners, socially disadvantaged groups and those who will retire soon. People without the ability or opportunity to make contributions will basically not be protected.

According to the calculations done by the Census and Statistics Department (C&SD), our population is ageing. In 2039, our population will increase from the present 7 odd million to 8.9 million, and the proportion of elderly persons aged over 65 in the total population will increase from the present 13% to 28%, amounting to approximately 2.5 million. In other words, there will be one elderly person among every 1 000 persons. According to the projection of the C&SD, after 2039, every 1 000 workers will have to support 625 children and elderly person, nearly double the current number of dependent persons per 1 000 persons which stands at 337.

Moreover, as stated in a research report published by the Hong Kong Council of Social Service (HKCSS), in the first half of this year, the income of 1.26 million Hong Kong people are lower than the median household income in Hong Kong, and poor people account for 18% of the total population; that is the highest ratio throughout the years. The most serious problem is the poverty problem of the elderly, and one out of every three elderly persons is poor. The HKCSS also predicts that 1.66 million people among our population will be living in poverty 20 years later.

From these figures, it is rather sad to see that the general public will one day become poor elderly persons, and a large number of helpless elderly persons are going to live in poverty. They cannot benefit from the MPF Scheme and, finally the Government has to carry this heavy burden and cannot shirk its responsibilities. If at this moment the Government wants to take an easy way out and be indifferent to the situation, it will certainly have regrets in the future.

I think the Government should no longer evade the problem of an ageing population, and it should seize this opportunity to study the establishment of a

universal retirement protection system when the problem has not deteriorated further and there are adequate social resources, so as to make up for the inadequacies of the MPF Scheme and prepare well for the future.

I have recently attended a forum to discuss a universal retirement protection system, and two former senior government officials, Mr LAM Woon-kwong and Mr Joseph WONG, unanimously expressed support for the establishment of a universal retirement protection system. When they were government officials, they witnessed the birth of the MPF Scheme, and they had even handled work related to retirement protection. They knew government policies and the social situation well, and their support is really more convincing than that from others. I hope the existing policy makers within the Government will not wait until they have left the Government to regret that they have not properly established a universal retirement protection system for Hong Kong people.

Deputy President, I so submit.

MR FREDERICK FUNG (in Cantonese): Deputy President, if not due to the factor of election, and being stimulated by the proposed Community Care Fund in the Policy Address this year, I think for those organizations and Members with the interests of functional constituencies as their prime concern, and side with employers especially in respect of minimum wage, it is very seldom for them to move a motion about the well-being of the grassroots. Deputy President, it is nice of you to move this motion today; it reflects the great power of election. In the face of elections and the public, we really have to share people's aspirations. Unlike the small circle Chief Executive election, we cannot just say we care, yet in reality, we are stubborn and self-opinionated.

Deputy President, concerning the scope of protection of the safety net, we should take some figures into account. I believe figures are neutral and they can, more convincingly tell us the objective situation. First of all, the cases that have fallen into the Comprehensive Social Security Assistance (CSSA) net, there are over 285 000 cases of new application for CSSA; the estimated expenditure on CSSA in the year 2010-2011 is \$18.5 billion while the latest number of CSSA recipients is more than 470 000, accounting for 6.7% of the total population.

According to the calculations done by the Hong Kong Council of Social Service (HKCSS) on the basis of the statistics from the Census and Statistics Department (C&SD) for the first half of the year, there are 1.26 million low-income earners and poor people in the territory, the highest number recorded in 10 years. People living in poverty are defined as households with a monthly income lower than a half of the median household income. Deputy President, there were 1.21 million people living in poverty in 2008, the number increased to 1.23 million in 2009, and then to 1.26 million in 2010. In other words, the proportion of people living in poverty in our population has constantly increased, and the latest proportion is 18.1% of the total population, even worse than the United States which is now having economic difficulties. In the United States, the latest proportion of people living in poverty in the total population is only 14.3%. The tendency shows that poverty in Hong Kong keeps spreading and deteriorating, indicating once again that economic recovery cannot benefit the grassroots, and the so-called "trickling down effect" is ineffective.

Deputy President, there are currently 1.26 million Hong Kong people living in poverty, accounting for nearly 18.1% of the total population. There is a big difference when compared to 470 000 CSSA recipients, which account for 6.7% of the total population. In other words, around 790 000 people are in need of help but they are not CSSA recipients. These poor people need our support. The community is concerned about these people who have "falling through the safety net". I believe among these people, many of them are employees, and they would rather accept low-pay jobs than applying for CSSA; they insisted on self-reliance; and some of them, though eligible for CSSA, refuse to apply for fear of the stigma attached to CSSA recipients. According to the analysis of government data by Oxfam Hong Kong earlier on, 65% of working-poor households is living below the CSSA level, yet only 12.1% have applied for CSSA. Also, there are more marginal people who have not passed the stringent CSSA requirements or they have failed to meet the high threshold for CSSA application.

Deputy President, to help these people who have fallen through the safety net, I believe we cannot just appropriately extend the safety net as advocated in today's motion; and we cannot attain the expected result by simply proposing certain measures to be implemented in a piecemeal manner or through minor patching up. The Hong Kong Association for Democracy and People's Livelihood (ADPL) and I consider that the most effective approach is to

implement persistently the idea of a second safety net, so as to set up a support system which is sustainable, flexible and with simple application procedure to provide comprehensive and extensive assistance to the public. The second net will be a multi-layer support scheme on top of the CSSA Scheme to provide support to those who have slipped through the safety net in various aspects. This can prevent them from eventually falling into the lowest strata of the safety net, and by giving them support, they can have the opportunities for development and upward mobility, with the ultimate objective of getting out of poverty. For this purpose, the ADPL has all along urged the Government to relax the Transport Support Scheme, so as to help the working poor who cannot make ends meet but have not received CSSA in meeting high travelling expenses, and encourage them to stay in employment. Furthermore, with the implementation of other effective employment support and value-added measures, the living standards of the working poor can be improved. Of course, in other areas such as housing, employment, education and healthcare, the Government should also introduce similar subsidy schemes.

Deputy President, to help people who have fallen through the safety net, I trust that we cannot merely rely on the Community Care Fund (CCF) mentioned in the Policy Address. In introducing the CCF, the Chief Secretary for Administration said that the CCF can patch up the safety net, and the setting up of the CCF by no means implies that the Government will outsource its responsibilities. The CCF only serves to perfect the social protection scheme. These arguments reflect that the Government can find no words to convey its shaky logic. Moreover, the Government itself has revealed that the present social security scheme has various loopholes with adequate coverage, thus failing to achieve the objectives of supporting the poor and protecting the weak. The CCF is intended to be caring and patch up the inadequate net, yet the public query why the Government does not act in a proper way by institutionally improve the existing safety net; why it has made all the fuss to set up the second safety net scheme, in an attempt to whitewash the business sector, thinking that in this way, the community's general hostility towards the business sector can be alleviated.

Furthermore, the CCF to which the SAR Government and the business sector will each contribute \$5 billion, that is, a total of \$10 billion, will have an estimated return of 5% a year (\$500 million). Deputy President, \$500 million will be used to patch up the safety net. As compared with the expenditure of \$18.5 billion on the CSSA Scheme this year, this amount is just like a drop in the

bucket, how can it patch up the safety net? There are so many holes, which of them should we patch up?

Deputy President, if the Government really thinks that setting up the CCF can alleviate the aggravating class conflicts in society, I can say that the Government is naive, wishful and self-complacent. Deputy President, will the public, just because the business sector has donated some money, change their attitude, from not accepting the business sector to accepting them, from being hostile towards the business sector to being friendly; or from hate to love? Can the business sector improve its image just by donating some money? Should the business sector change its attitude in doing business, such as grabbing through deceit or by force, making maximum profits, doing whatever they like, and reaping huge profits under the backing of the Government? Should the business sector give the public more room for "breathing" and stop exploiting the public by all means?

I can say for sure that the public do not want almsgiving and they do not prefer one-off support that is timely but momentary. Most charitable organizations understand the public's sentiment long ago, does the Government not understand? I do not think so. What the public really wants is a fair and just environment for social development, so that people can improve their living standards with their own hands and venture into new horizons. The Government should rectify the privileged status enjoyed by the business sector in the past. They used to have free political lunches and benefit from skewed economic policies, which brought them fame and wealth. This injustice situation should be rectified and things should be set straight.

Deputy President, it is no longer effective to alleviate class conflicts in society merely by the usual methods of making donations and almsgiving. As regards the social responsibilities of enterprises, we can no longer engage in armchair strategy, and these responsibilities must be integrated with commercial operation. The Government should utilize corporate social responsibilities as a major tool, and encourage enterprises to integrate care for the community into the actual operation of the business sector. This is the right path for the business sector to take to contribute back to society.

Deputy President, in any case, to perfect the existing social security system and patch up the safety net, we must start at the source and think of ways to reduce the number of people living in poverty. We should also give them fair

and adequate opportunities for development and upward mobility so as to alleviate and eliminate the poverty problem. The essence of the amendment I proposed today is establishing the Commission on Poverty to formulate indicators on the population of the poor. The role of the Commission on Poverty is to review the biased element of the past policies from a macroscopic perspective, and formulate explicit and specific objectives and directions for poverty alleviation at different policy levels. The proportion of our population living in poverty is an important indicator and the success or failure of the policies and measures for poverty alleviation is exactly related to the number of people living in poverty. How many people can break away from living below the poverty line? This is a test for the Government and we are going to find out how well it performs. It is essential for the Government to proceed in improving the seriously skewed economic structure before it can plan a proactive role in resource allocation.

Thank you, Deputy President.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Deputy President, first of all, I would like to express my thanks to Ms Miriam LAU for raising a motion debate on reviewing the coverage of the safety net and to Honourable colleagues for proposing their amendments.

Taking care of the grassroots and the socially disadvantaged groups have always been the major tasks of the Government. We have a fairly sound social safety net for helping needy people meet the basic needs of life. We have a non-contributory Comprehensive Social Security Assistance Scheme, which provides direct financial assistance to people who cannot be financially self-reliant to ensure that they have enough for basic living. The Social Security Allowance Scheme also provides cash allowance to Hong Kong residents who are severely disabled or aged, to cater for their special needs. Besides, the grassroots and the socially disadvantaged groups benefit from many free and generously subsidized services provided by the Government in such areas as education, health, housing and social welfare.

In the 2010-2011 financial year, public expenditure on the four major policy areas, namely education, health, housing and social welfare, is estimated to reach \$139.2 billion, accounting for 57.2% of the total public expenditure.

Moreover, we are keen on helping those with ability to move from welfare to self-reliance. What they need is not continuous financial assistance within the safety net but opportunities for self-reliance and improving their standards of living. Apart from the basic work of promoting economic growth and creating job opportunities, the Government has made efforts to invest in education and manpower training, enhance the quality and competitiveness of our workforce, promote social mobility and reduce intergenerational poverty.

Deputy President, the Government has all along followed the principle of prudent fiscal management and keeping expenditure within the limits of revenues in line with the provisions of the Basic Law. Public expenditure should meet the requirement of "keeping the budget commensurate with the growth rate of its gross domestic product" and strives to achieve a fiscal balance. Regarding the strategies adopted, on the one hand, we prudently control government expenditure; on the other hand, our fiscal reserve can serve as a buffer for the fiscal deficit in individual years, so that we can still keep expenditure within the limits of revenues and achieve a fiscal balance within a certain period of time.

With the rapid ageing of our population, we will have a smaller workforce and a narrower tax base. These foreseeable changes will bring long-term financial pressure and challenges to our society. Hong Kong may suddenly have to face an economic downturn in light of an uncertain economic outlook. We must take precautions before it is too late to ensure that the Government would have a sufficient reserve in order to face up to future challenges. But, as always, we will continue to cater for the needs of our society and economic development, and weigh our financial position. We will take practical actions to respond to people's aspirations where possible, and invest our resources in measures for promoting the long-term economic and social development, with a view to allowing the public to share the fruits of economic development. After the financial tsunami in 2008, the Government had spent a total of \$110 billion on the implementation of many measures for stabilizing our economy and alleviating people's hardship, so as to help the public tide over economic difficulties. We have become more committed in various areas connected with people's livelihood such as education, health, housing and social welfare.

Deputy President, over 60 measures have been proposed in the motion and various amendments, covering a very extensive scope including welfare, employment, economic development, housing and healthcare. The target groups

include children, young people, the middle-aged, the elderly and people with disabilities. I will respond in greater detail after listening to the views expressed by Members.

Deputy President, I so submit.

MS LI FUNG-YING (in Cantonese): Deputy President, today we debate on the issue of reviewing the coverage of the safety net, and I notice that Members have proposed various measures in the original motion and the amendments. They have touched upon various areas, from child care service, youth education and employment, employees retraining, unemployment relief to elderly care and healthcare services; from formulating a poverty line, establishing a universal retirement protection scheme to providing assistance to the ethnic minorities. We can say that all aspects of our society have been covered and we have no time to take them all in.

After going over these proposals, I recall that, before the end of the last Session, the Panel on Welfare Services of this Council discussed the consultation document on long-term social welfare planning in Hong Kong. However, it is a great pity that the consultation paper was published as a mere formality, it was stalled with official jargons, without giving due consideration to the social reality and providing the vision to make plans for future development. Thus, it has failed to stimulate discussions in the community despite the importance of the issue. Today, we debate on the scope of protection of the safety net, and Honourable colleagues have raised many points of concern. Can we link up all these points of concern to form a picture of the future social welfare policy development that is identified by us all? I am afraid that we do not have the confidence. So, in our debate today, I have to ask the Government to show us its sincerity and commitment to launch anew a consultation on the long-term social welfare planning, and to take the initiative to publicize the work so as to trigger discussions in the community.

In light of a large number of proposals in the original motion and the amendments, I cannot express my views on each and every one of them. But, I must state my views on some of them. First, the proposal on establishing an unemployment assistance fund. Last week, the Government endorsed the Provisional Minimum Wage Commission's proposal to set the minimum wage at

\$28 per hour. As assessed in the report of the Provisional Minimum Wage Commission, more than 40 000 employees would be laid off after the implementation of the minimum wage set at such a low level of \$28. In order to take care of those who may be laid off after the implementation of the minimum wage, there is a pressing and essential need to provide some forms of unemployment assistance. I have been asking the Government to establish an unemployment loan fund, and I still think that such a fund can help employees ease their anxieties after they have been laid off. Moreover, the Government can strike a balance between helping the unemployed and the proper use of public funds. Some Honourable colleagues have also proposed in their amendments the establishment of an unemployment assistance fund, and I hope that the Government would consider these proposals expeditiously.

Although this Council already debated last week how travelling allowance would be provided, I opine that travelling allowance is still part and parcel in our debate about reviewing the coverage of the safety net. Once again, I ask the Government to provide travelling allowance without undergoing any assets tests to support low-income earners in their daily living.

Deputy President, after the dissolution of the Commission on Poverty, some members of the community think that the operation of the Commission on Poverty should be resumed. All along, I do not have strong views about whether the operation of the Commission on Poverty should be resumed. This is definitely not because the issue of poverty alleviation has been resolved, but because the Commission on Poverty has already completed a report on poverty alleviation, and its recommendations have been referred to the relevant government departments for implementation. Nonetheless, there have recently been substantial changes in the social situation, and the Government and the business sector have set up quite a few funds for supporting the socially disadvantaged groups. I opine that re-establishing the Commission on Poverty can effectively co-ordinate the work on poverty alleviation.

Last week, I was invited by the Government to be a member of the Steering Committee on the Community Care Fund, and I only accepted the invitation after thorough consideration. One of the reasons was that I had reservations about the mode of operation of the Community Care Fund. In fact, when I spoke during the Policy Address debate held last month, I proposed the re-establishment of the Commission on Poverty to deal with all resources for poverty alleviation,

including the Community Care Fund, in an integrated manner. We will have a related debate next week, and I believe we will be listening to more views.

In providing assistance to the grassroots, another pressing issue is the upsurge of rentals. This Council has had lengthy discussions about the property market and housing policies last week and in our earlier debate on the Policy Address, thus I will not repeat the points made. I suggest that the Government should provide rent allowance to potential public rental housing tenants still waiting for public housing allocation, and the amount of allowance should be the difference between the market rents and rentals of public housing units.

Another problem that Hong Kong cannot evade is retirement protection. Since the Mandatory Provident Fund Scheme has been implemented not long ago, elderly persons who have just retired will not be benefited and people not in employment have completely been neglected. The community has had discussions about universal retirement protection for quite a long time, and the Government should procrastinate no more.

Deputy President, our debate on this motion today is actually about the future social welfare development in Hong Kong. Many Honourable colleagues have made many specific proposals, which undoubtedly have positive significance; yet, the different proposals precisely reflect that we do not have a clear direction for the future development in social welfare. As I have just said, we need to discuss again long-term welfare policy plans. Thank you, Deputy President.

MR TOMMY CHEUNG (in Cantonese): Deputy President, I thank you for moving this motion on reviewing the coverage of the safety net today.

On the issue of reviewing the coverage of the safety net, I would like to focus on the Government's support to elderly persons. Quite a number of elderly persons have toiled throughout their life and have made significant contributions to our economic development. Regrettably, they have to face the plight that they cannot spend their twilight years in happiness. In some old districts such as To Kwa Wan, Sham Shui Po, Wong Tai Sin and Kwun Tong, we can easily find elderly persons pushing trolleys of various sizes, dashing across the road to carry

carton boxes to waste collectors, probably in exchange for just a very small amount of money.

I feel bad whenever I see such a situation, and I cannot help asking what has gone wrong with the government policies on the elderly? Why have so many elderly persons fallen out of the safety net? Is the existing safety net far from adequate?

According to a survey on social security safety net conducted by the Liberal Party from 8 to 12 November, among the 750 respondents who considered the safety net as inadequate, 35% thought that the protection given by the safety net to the elderly was most insufficient, and the Government's performance in this area was least satisfactory.

It is also found from the survey that people strongly supported helping the elderly spend their twilight years in a dignified manner.

For example, the Liberal Party proposes, for those poor elderly aged over 65 who fall through the Comprehensive Social Security Assistance (CSSA) net and live on the \$1,000 "fruit grant", an extra monthly living supplement of \$500 will be provided to them so as to improve their living standard. This proposal has the support of nearly 90% of the respondents.

When I look at the past information, I found that the Chief Executive Donald TSANG had stated at the very beginning of his policy address two years ago that there was a group of elderly persons who resorted to "fruit grant" as a maintenance subsidy, and that "we need a comprehensive strategy on the provision of financial support for the elderly". Two years have passed, apart from raising the "fruit grant" rate to \$1,000, the Government had not honoured its promises at all. Therefore, the Liberal Party urges the Government to expeditiously implement the relevant proposals and procrastinate no more, so as to avoid causing endless sufferings to the elderly persons.

Concerning the absence limit in respect of "fruit grant", after the outcry and enormous effort made by the Liberal Party and various sectors of the community, the Chief Executive finally promised in the Policy Address that an adjustment would be made. However, upon careful examination, we find that the new measure does not work at all. Elderly persons still need to stay in Hong Kong

for at least 60 days each year before they can be eligible for the Old Age Allowance. For those who want to return to their hometown to live, this requirement really gives them a hard time.

As explicitly indicated in an opinion poll conducted by the Liberal Party, more than 70% of the respondents agreed to further relaxing the absence limit in respect of "fruit grant" and the CSSA for the elderly. For example, they should be required to return to Hong Kong just once a year. Again, the Liberal Party urges the Government to cancel the absence limit as quickly as possible.

Certainly, the Liberal Party understands that the Government worries about the surge in the relevant expenditure each year, and it is therefore greatly reluctant to relax the absence limit. Nonetheless, if the absence limit is completely scrapped, more elderly persons will return to the Mainland, and this will in turn lower the demands for elderly housing, residential care and other public resources in Hong Kong, and by the end of the day, we may have more gains than loss. Furthermore, we hope that the Government would not delay in solving the problem on the pretext that it has difficulty in handling the many applications for this benefit made by elderly persons living overseas upon their return to Hong Kong.

Deputy President, there is a general consensus in our society that the amount of Elderly Healthcare Voucher should be increased to \$1,000 a year; it is a pity that the Government has paid no heed to this consensus. In fact, according to the Government's estimate, even if the amount of Elderly Healthcare Vouchers is increased to \$1,000 a year, the yearly expenditure concerned will only increase from the present \$170 million to \$680 million. The Liberal Party urges the Government to seize the opportunity of a mid-term review of the scheme to increase the amount, and bring good news to the elderly.

Lastly, the shortage of residential care places is a "fatal disease" that cannot be cured over a long period of time. Now, 26 000 elderly persons are waiting for residential care places and the longest waiting time exceeds three years. For this reason, in the past year, more than 4 500 elderly persons passed away before they had been allocated such places. Though the Government has promised to provide over 1 500 additional places in the next three years, distant water cannot put out a nearby fire, and the long waiting list still cannot be shortened.

For this reason, the Liberal Party thinks that the Government should take bold and resolute steps, and promise to provide at least 1 000 residential care places in each of the next three years. In addition, focusing on the needy elderly persons on the waiting list, a \$5,000 voucher should be issued to each elderly person on a monthly basis for the purchase of suitable care services until they have been allocated a place. The Liberal Party deeply believes that, in such an affluent society of Hong Kong, we should not allow elderly persons to be in agony or to face the threat of death while they are waiting for residential care places.

Deputy President, it is frequently mentioned in the Announcement of Public Interest that "there are always more solutions than problems". The problem lies not in a lack of solutions, but whether the Government is ready to change its excessively conservative practice and treat the elderly well.

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

MR LEUNG YIU-CHUNG (in Cantonese): Deputy President, today's motion debate is unique in the sense that it is moved by Deputy President, not on issues related to the trade as usual, but on a general issue concerning the livelihood of the Grassroots; also 10 Honourable colleagues have proposed amendments, which seldom happened in the past. As the Secretary has just said, the scope covered by this motion debate is extensive, and it involves more than 60 items covering the elderly, the middle-aged, the youth, the able-bodied and people with disabilities. Therefore, this motion on people's livelihood is really all-encompassing and very comprehensive.

What problems have been reflected? These livelihood issues have always been in existence since the establishment of the SAR Government some 10 years ago, and many of these problems have basically not been resolved. Thus, there are still so many problems today, which is really disappointing.

Deputy President, the Chief Executive's Policy Address this year is entitled "Sharing Prosperity for a Caring Society". Before delivering the Policy Address, he stated that the theme of this Policy Address would be solving livelihood issues. It is too bad that so many issues have to be discussed during this motion debate, which exactly reflects that the Policy Address has basically

failed to address a large number of livelihood issues. For this reason, Honourable colleagues have raised one issue after another, just like putting ornaments on a Christmas tree. These issues also reflect that we are quite disappointed with the SAR Government. Now that the constitutional reform issue has been resolved, the Government should spare no effort to solve the livelihood issues. Nevertheless, it has not come up with a satisfactory solution after all. I think that the great number of amendments today precisely reflect that we are quite disappointed with the Government's performance.

The Government may say that it has already addressed many livelihood issues. For example, the Secretary has announced today how a minimum wage will be implemented. Although we have always strived for legislating a minimum wage, we understand that a minimum wage is not a panacea. Setting a minimum wage does not mean that the plight of the grassroots can be resolved. If we enact a minimum wage legislation to treat the symptoms in a piecemeal manner without implementing complementary measures in other areas, many workers may think that the minimum wage cannot help them and do them more harm instead.

Deputy President, why do I say so? Let me cite an example. Some elderly workers have recently complaint to me that they are employed as caretakers by Owners' Corporations. According to them, they originally worked two shifts of 12 hours each, but because some Owners' Corporations want to cut cost, only day shift caretakers but not night shift caretakers will be employed in the future. For this reason, some workers have been forced to become unemployed. Quite a number of these workers are senior in age, and it is quite difficult for them to find other jobs after they have become unemployed. Yet, the Government has not given them any assistance. It just tells them that they need not worry for the Mandatory Provident Fund (MPF) Scheme can help them. Even so, all of us know that the MPF Scheme provides limited assistance, especially to elderly workers with extremely low wages. The MPF benefits accrued can only support their living for one or two, or two to three years, and by then, they would have used up all their savings. The Government does not bother about their livelihood in the future, and it has failed to address this issue.

Though we have discussed such issues for many years, the Government has just been hedging or "burying itself in the sand", and pretending not to see the problems. It has procrastinated in addressing these problems and paid no heed

to the public. The way the Government deals with livelihood issues is questionable.

As I mentioned a while ago, today's motion debate on safety net covers a wide scope, but I believe the Government will not give us a satisfactory response today. I agree that these issues cannot be resolved overnight, and we need to solve these issues slowly and in an orderly manner. Nevertheless, I think that an accountable and democratic government is of paramount importance to solving these livelihood issues. These issues can hardly be resolved without an accountable and democratic government. We all know that the Government frequently fails to meet the livelihood needs of the grassroots because it has to cater for the interests of the upper class in society or the consortia. I believe these issues can only be resolved by an accountable and democratic government.

Nonetheless, as the Government considers that a decision has been made on the constitutional reform arrangements, further discussion will not be held, what should we do then? I agree with Ms LI Fung-ying that the Commission on Poverty should be re-established to handle this issue. We had the Commission on Poverty in the past, what is the special meaning of re-establishing the Commission this time? If the Commission on Poverty is re-established, we should redefine its functions, roles and composition. Firstly, members of the Commission on Poverty must mainly be members of non-government organizations. Concerning its roles, the Commission on Poverty should not just be responsible for conducting studies and submitting reports, it should have substantive power. It should prioritize the problems and proposed solutions for the follow-up actions of the Government. The Government cannot just read the relevant reports and takes no action. Otherwise, the Commission will, once again, be manipulated by the Government as a shield. Base on what I have just said, I opine that the re-establish of the Commission on Poverty is vital, and I suggest that the Commission on Poverty should be re-established to deal with livelihood issues.

Deputy President, I so submit.

MR IP KWOK-HIM (in Cantonese): Deputy President, a lot of Honourable colleagues have just spoken about the difficulties of low-income households. In fact, ethnic minorities account for more than 10% of low-income households throughout the territory, which is a very high percentage. Recently, a voluntary

agency collected old shoes, and after cleaning them, these shoes were given to ethnic minority households in Hong Kong. Although these shoes had been worn by other people, the ethnic minorities were overjoyed when they received them. Evidently, they seriously lack the necessities of life. They regard Hong Kong as their home and they are members of the community, thus the SAR Government is duty-bound to help them.

In the Policy Address released last month, it is stated in a few words that more resources should be provided to help ethnic minorities integrate into our society and alleviate the difficulties faced by ethnic minorities in daily life. However, nothing has been mentioned about the concrete arrangements. At present, there are around 350 000 ethnic minorities in Hong Kong, accounting for 5% of our population, and quite a number of them, especially the middle-aged and the elderly, have low academic qualification and cannot speak Cantonese, it is thus very difficult for them to find jobs. Even if they just want to work as messengers, the employers still refuse to employ them for they cannot read Chinese addresses. For this reason, they can just take up jobs requiring physical labour and the income is meager.

As regards ethnic minority youth born and grew up in the local community, though some of them have received education in mainstream schools, they are not given enough support by the schools; hence, most of them can just speak in Cantonese but they cannot write in Chinese. It is still very difficult for them to find jobs even though they have completed the Hong Kong Certificate of Education Examination courses. An ethnic minority young person who applied for a job in the disciplined service was rejected by the examiner because of his poor Chinese; he subsequently became a van driver's assistant.

In light of these issues, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) suggests that the Government should set up more support service centres for ethnic minorities to enhance support in various aspects such as employment, training, further studies of their children, housing, Comprehensive Social Security Assistance, healthcare and legal services. Actually, the Government has already set up four support service centres for ethnic minorities in Kwun Tong, Wan Chai, Tuen Mun and Yuen Long. Yet, quite a few ethnic minorities are still living in such areas as Yau Tsim Mong, Sham Shui Po and Tung Chung, and the Government should set up more service centres in these three areas to enhance the related services.

We all know that "knowledge changes fate"; to attain a long-term solution of the poverty problem of ethnic minorities in Hong Kong, it is crucial to start with education for the younger generation, with a view to giving them more opportunities of upward social mobility through education. The DAB suggests increasing the number of "designated schools" so that various districts will have schools for ethnic minority school children. Currently, there are not any designated schools in Tsuen Wan, Tai Po and Sha Tin, and the DAB suggests providing three more designated schools in these districts. We also suggest increasing the number of Chinese Language Learning Support Centres from 10 at present to 15 to facilitate Chinese language learning by non-Chinese speaking students in various districts.

Owing to the language problem, most ethnic minorities do not understand the labour legislation well, and some employers have taken advantage of their lack of understanding of the legislation to treat them unfairly. In this connection, the DAB suggests setting up an employment consultation hotline for ethnic minorities to help them understand and know more about the labour legislation, so that they can understand the legislation and their own interests through official channels lest they should be exploited by unscrupulous employers. Furthermore, the Government should take the lead to employ ethnic minorities. About the language requirement restrictions, Chinese language can be replaced by ethnic minority languages so that they can meet the Civil Service entry requirements.

Mr TSANG Tak-sing, Secretary for Home Affairs, has once drawn an analogy between cooking traditional Chinese deep-boil soup and our diversified ethnic culture. To preparing the soup, apart from the ingredients, we also have to put our heart in the cooking. So long as the SAR Government has the heart to do so, it can certainly help ethnic minorities in Hong Kong improve their standard of living and realize the vision of everybody regarding Hong Kong as their home.

Deputy President, I so submit.

DR RAYMOND HO (in Cantonese): Deputy President, our society has been perplexed by the problem of wealth gap for many years. According to the data released by the United Nations Development Programme in 2009, Hong Kong has the worst wealth gap problem among the developed economies in the world.

In recent years, the controversies over public issues have often turned into struggles between the rich businessmen and the grassroots. Under this atmosphere, the current problems cannot be solved and the arguments in the community have been intensified.

In order to alleviate the wealth disparity problem, we cannot just narrow the gap between the incomes of different classes. The original motion and the 10 amendments have set out more than 30 proposals for assisting the grassroots, and the measures conceptualized by the Government and social welfare agencies throughout the years for helping the grassroots in different aspects. Obviously, the poverty problem cannot be solved merely by the Government's "handing out candies". Instead, the whole community should understand the difficulties faced by the grassroots in daily life, thereby assisting them in enhancing their standards of living, and enjoying the fruits of social development.

The Ma Tau Wai building collapse incident that happened early this year aroused the concern of various sectors about the problem of serious dilapidation of old buildings, and the incident also revealed the very poor living environment of the socially disadvantaged group in Hong Kong. The poverty problem cannot be personally experienced by ordinary people every day. We occasionally come across old ladies on the street picking up carton boxes to help make ends meet, or unemployed people stealing bread to fill their empty stomach. In order to get to know more about the seriousness of our poverty problem, we must take a look at the dark side of Hong Kong behind the prosperity: cage homes and cubicle apartments. People living in cage homes and cubicle apartments have different background; most of them are elderly persons, some are low-income singletons and there are some single-parent families. The rentals per square foot of these low cost units are almost on a par with those of luxury flats, but the abominable living environment is beyond our imagination. These people have to put up with the crowded living environment day after day, and their basic livelihood needs have been ignored by society. If the Government can construct more public rental housing units, and make arrangements for tens of thousands of low-income earners to move into these units, so that they can have a satisfactory and stable living environment, it will more effectively help the grassroots get out of poverty.

Poor people have all along been labelled by the community as relying excessively on society's care. In fact, many grass-roots people in the community are living in a very dignified manner. Some single mothers sweat and toil for a

few thousand dollars a month to raise their children. Their contributions to our economy are even greater than those whose monthly salaries are a few times and even dozens of times higher than theirs. The Exchange Fund has a profit of \$74.1 billion in the third quarter this year, and the accumulated surplus in the first nine months has increased by \$42 billion. In spite of our satisfactory economic performance, some grass-roots people still fail to enjoy the fruits of economic development. The Government should allocate a certain portion of its gains for poverty alleviation purpose. Moreover, the Chief Executive has decided to set up a Community Care Fund to encourage the business sector to participate in poverty alleviation. The Government should work even harder to alleviate poverty together with the sector.

Poverty is a common problem all over the world, and tackling this problem takes a very long time and requires determination and perseverance. I hope that the Government, the public and the business sector would co-operate in alleviating this social problem and creating a sound, prosperous and harmonious community.

With these remarks, Deputy President, I support the motion. Thank you.

MR ALBERT HO (in Cantonese): Deputy President, according to the ranking of the world's richest countries and regions published by the *Global Finance* magazine in the United States several days ago, Hong Kong ranked seventh in the world. However, I believe we also know that the disparity between the rich and the poor in Hong Kong has become increasingly serious, and our Gini Coefficient has reached 0.533, which is higher than the alert level. As estimated by the social welfare sector, more than 1.2 million people are living below the poverty line.

We hope that the Government would look squarely at the wealth gap problem and re-establish the Commission on Poverty. We have always been urging the Government to form an inter-departmental working group for the formulation of poverty elimination policies. The former Commission on Poverty made quite a few proposals for narrowing the wealth gap in connection with different sectors and scopes, including the unemployed, the working poor, children and the youth, and the elderly, as well as district-based poverty alleviation. The poverty problem cannot just be solved by one or two Policy

Bureaux. The Government has handed over the follow-up tasks of the former Commission on Poverty to the Labour and Welfare Bureau and the Home Affairs Bureau. I think the relevant arrangements can hardly attain the goal. As we all know, the Labour and Welfare Bureau is responsible for monitoring the progress of poverty alleviation work while the Home Affairs Bureau is responsible for promoting the development of social enterprises. We really think that the Government has underestimated the seriousness of the problem of poverty, and that poverty alleviation work should be co-ordinated by a single department. I emphasize again that the Democratic Party strongly requests the Government to re-establish the Commission on Poverty for the formulation of comprehensive policies for poverty elimination and alleviation.

Too many items require elaboration insofar as poverty is concerned. I am going to discuss two problems currently faced by Hong Kong people: the working poor and lack of retirement protection for the elderly.

According to the definition provided by the International Labour Organization, working poor are those who work but their incomes are not enough to permit them to lift themselves and their families above the poverty threshold. Although we do not have an official poverty line or poverty threshold, it is recognized in a lot of studies (for instance, the monthly study conducted by the Hong Kong Council of Social Service (HKCSS) on A Statistical Profile of Low-income Households in Hong Kong) that, families are defined to be in poverty or low-income households when their monthly household incomes are less than half of the median monthly household incomes of families of identical household size. Now, there are nearly 200 000 households with working members, involving around 700 000 people living below the poverty line, and over 60% of these households comprise children or elderly persons. As adult members shoulder responsibilities for taking care of the families, we have noticed that their employment rate is relatively low. Since each working member supports two family members on average, the pressure of the working-poor member in supporting his family is far heavier than a working member in ordinary families who only needs to support 0.8 people.

The Caritas Hong Kong Youth and Community Service interviewed not long ago 93 households with working members from grass-roots communities such as Kowloon City and Tuen Mun, but Comprehensive Social Security Assistance (CSSA) Households are not included. It is found that 68% of the

grass-roots households interviewed have monthly income below \$10,000, the income of 80% of them have not increased since last year, and 40% of these households cannot make ends meet.

How can the Government be indifferent to these figures? The Democratic Party urges the Government to provide subsidies to low-income earners, and to immediately adjust the CSSA rent allowance to alleviate the financial burden of recipients. According to the information given by the Government in reply to questions concerning the Budget this year, the rent allowance is not enough for renting private flats. According to the data for the year 2009-2010, the actual rents of 55.65% of the recipients are higher than the maximum rent allowance.

Retirement protection for the elderly is also an issue of concern to us. This Sunday, an organization has initiated a procession urging the Government to take the issues of an ageing population and elderly poverty seriously.

For many years, the Democratic Party has asked the Government to establish a universal retirement protection scheme with immediate effect so that all people who are aged 60 or above are eligible for receiving an old age pension; as such, the elderly will be able to maintain a reasonable standard of living. We are very much concerned about the livelihood of the elderly after retirement, and we hope that the Government would establish a universal retirement protection scheme with immediate effect so that all people who are aged 60 or above are eligible for receiving an old age pension, so as to ensure that the elderly will be able to maintain a dignified and humanitarian standard of living.

Regarding the absence limit for elderly recipients of "fruit grant", even though the Government is ready to take the first step to shorten the period of stay in Hong Kong to 60 days, the requirement still causes great inconvenience to some elderly persons who are living on the Mainland over a long period of time, and this problem can still not be solved. So, we urge the Government to relax the absence limit in respect of "fruit grant" by allowing elderly persons to return to Hong Kong only once a year for "reporting".

Lastly, the Democratic Party asks the Government to provide allowances to carers of elderly persons to alleviate the financial burdens of families comprising people with disabilities. It is a pity that the Government has taken no heed of this and has failed to take into account the toiling and financial burdens of carers.

As revealed by a person who has approached the staff of our regional office, his family has a very heavy financial burden because his parents are disabled and chronically ill. We suggest that each family member who needs to take care of disabled family members over a long period of time should receive \$1,000 allowance as a carer to alleviate his financial burdens.

We hope that the original motion of Ms Miriam LAU and the amendments of other Honourable colleagues would make the Government aware that it needs to look squarely at the problem of a disparity between the rich and the poor, and understand the pressing need to provide the public with a safety net.

I so submit.

MR WONG KWOK-HING (in Cantonese): We support the original motion and most of the amendments today. The amendments proposed by Mr IP Wai-ming of the Hong Kong Federation of Trade Unions (FTU) are fairly comprehensive, and do not need further elaboration. I would like to tell the Secretary that I just want to seize this opportunity to spend a few minutes talking about a review of the Comprehensive Social Security Assistance (CSSA) Scheme.

After the Policy Address has been announced, I have held residents' meetings in many districts in New Territories West. Everybody knows that these are remote districts in poverty, and a lot of residents have expressed their views on the current CSSA Scheme; they also urged me to reflect their views to the Government. I am really thankful to Deputy President for moving this motion and I will take this opportunity to reflect to the Secretary these residents' opinions.

The first point concerns the support given to people with disabilities under the CSSA Scheme. There is a Community Living Supplement of \$115 per month under the CSSA Scheme, and people with disabilities must be certified by a medical doctor as being 100% disabled and in serious conditions requiring constant care. Moreover, there is a monthly Transport Supplement of \$200 that is provided to people with disabilities aged between 12 and 64, but they must be certified by a medical doctor as being 100% disabled and in serious conditions requiring constant care. These allowances involve very small amounts, so what is the problem? The problem is that the applicants must be certified by a

medical doctor as being 100% disabled. Is this requirement too stringent? If they are just 95% disabled, they will not be given any allowances. Similarly, they will not be given any allowances if they are 99% disabled. Can the Government consider providing these nominal transport allowances according to the percentage of disability? I think that we would then be able to give them timely assistance.

Second, the Social Security Assistance Index of Prices, being reviewed only once every five years, has very often lost track of the community life and people's conditions. We have noticed that the economic cycles have become shorter — once every five years is really just take a look at the situation five years ago, and we will find that the world has become completely different. I have some government information on the year 1999-2000 and the year 2004-2005 at hand — because a review is conducted once every five years — let us make a comparison and I am going to cite an example. In the aforesaid information, the expenditure weight of the percentage of eating out has reduced, and the percentage has also dropped. In fact, nowadays when you look for a job or visit your relatives, eating out is not cheap at all. Can the Secretary consider shortening the review period? Can it be shortened to two years? Or, can we take the middle course and conduct a review once every two and a half years or three years? If the review period is shortened, the Social Security Assistance Index of Prices or expenditure weight index will not be divorced so much from the actual conditions of people's living. Can in-depth community surveys be conducted before the review, especially on some CSSA households, to find out more about their actual expenditures? Deputy President, I hope the Secretary can hear me and would conduct a review on the latest situation in view of the fact that the last review was conducted in the year 2004-2005.

Third, I also want to urge the Secretary through the Deputy President to consider reviewing the contents of the special allowances under the CSSA Scheme. I am not referring to all the items, I just want to talk about children and students in CSSA households. Why do I focus on this area? It is because of the intergenerational poverty problem. When I attended a residents' meeting, some residents told me that their children received special allowance, but that did not cover the expenses on extra-curricular activities. Even though they could apply for special allowance once a year, that was a one-off allowance. However, as schools frequently organized extra-curricular activities, they could not afford to let their children join these activities even though other children had

signed up, and their children felt miserable. Another example was that some children really wanted to join the scout activities at school, but just the uniform alone was unaffordable by the parents, and their children felt inferior and unhappy. Should the Government take these points into consideration? The Government has recently been promoting liberal education, and very often students have to borrow books from places outside school and go to libraries; yet they cannot even afford the travelling expenses. I hope the Secretary would think of this point. If we do not support the next generation of CSSA households in light of their circumstances, the children will be affected by the intergenerational poverty problem since childhood.

Last but not least, I hope that the Secretary would consider how to attract and encourage CSSA households to join the workforce. At present, their CSSA payments will be deducted when they have received meagre wages for their work. Hence, they might as well receive CSSA and stop working. Can the Secretary consider giving them more incentives and imposing less punishment? I really hope that what I have said within these few minutes can reflect to the Secretary the views of CSSA households, and I hope that the Government would take their views into account. *(The buzzer sounded)*

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

MR WONG KWOK-HING (in Cantonese): Thank you, Deputy President.

MR CHAN HAK-KAN (in Cantonese): Deputy President, the problem of wealth disparity has aggravated, and with the re-emergence of inflation, the financial burdens of people have become increasingly heavy, the grassroots and the disadvantaged groups are especially hard hit. Although there are currently quite a number of protection and safety net schemes in Hong Kong, they are still very inadequate. We would like to thank Deputy President for proposing this debate today so that we can review the present safety net schemes and find out in what areas we can help the Government "fill up the holes" and implement remedial measures. I am going to discuss two issues: the first one is about youth unemployment and the second one is about healthcare.

Deputy President, the Government announced the latest unemployment rate yesterday. As expected, the unemployment rate of young people aged between 15 and 24 remains high and nearly reaches 14%; around 10% higher than the overall unemployment rate. Those unemployed are mainly young people with lower academic qualifications. Very often, they have difficulties in getting a job, and over time, they may become the group of long-term unemployed. Even though some young people are more fortunate to secure a job, their wages are very low, and they can only earn a few thousand dollars working day and night.

I believe their conditions will improve a little after the implementation of the minimum wage, even though the increase in their wages may only be a few hundred dollars. As we all know, even a lunch box is not cheap, and a mere increase of a few hundred dollars each month is basically not enough to meet their expenses on travelling, meals and even going to the cinema. All these are regarded as extravagant activities. It is really difficult for them to improve their living standards, not to mention giving money to their family for support. Years ago when Hong Kong was faced with an economic downturn, young people might sigh that "graduation means unemployment". Nowadays, although our economic environment has slightly improved, young people still sigh that they are taking up low-pay jobs or they are the working poor.

Deputy President, I would like to cite a figure to reflect that more working youth are living in poverty. This figure was announced by the Housing Authority in late September this year. There are over 20 000 applications on the Waiting List for public rental housing (PRH) filed by single persons aged below 30, accounting for 18% of all applications. Some members of the community opine that young people should not apply for PRH so soon, but we are really concerned about why so many people have applied for PRH. Of course, these young people meet the minimum requirements for PRH, which indirectly reflects that some of them have relatively low incomes, so they cannot find suitable flats in the private market, and buying their own homes seems out of the question. We can see from this figure that more and more single persons have applied for PRH, which has indirectly proven that the incomes of young people are getting lower and lower.

Deputy President, on the issue of property prices, the Government may have a few strategies for dealing with this issue; for example, reducing the mortgage percentage, increasing stamp duty, and lifting the ceiling of investments

by business migrants. But, in respect of the youth unemployment problem, we fail to see what the Government can do. We hear from the Government most often that we should wait until our economy recovers as more jobs will then be available. Yet, facts have proven that this strategy is ineffective; as we all know, the economy has recovered but the unemployment rate of young people is still very high. How much longer do they have to wait before they can find employment, Deputy President?

One of the reasons why employers do not employ young people is that they lack working experience. I strongly agree to the proposal in one of the amendments asking the Government to create more jobs suitable for young workers. I recall that a few years ago, around the time of the outbreak of SARS, the Government offered some short-term temporary jobs, but these jobs were soon deleted. If the Government is willing to take one step further and offer similar jobs again, it can specifically solve the employment problem of young people. Apart from giving them the impetus to work again, this would also help them accumulate experience and rejoin the labour market as soon as possible.

Deputy President, I would like to address another issue, that is, the present healthcare protection system. Honourable colleagues have just touched upon the problems concerning the grassroots being excluded from the safety net. As we have noticed, some middle-class people have also been excluded from this healthcare protection safety net. I have recently talked with some middle-class people and they have complained to me very strongly. According to them, if unfortunately they become ill and have to undergo major operations in hospitals, they will have to spend tens of thousands of dollars. They do not want to undergo operations in private hospitals and they would rather receive treatment in public hospitals in order to save money. Just because the Government knows that the middle-class have the money, it has not given them any subsidies for the purchase of drugs and medical equipment. These people frequently ask if the Government will only help them when they have used up their money and do not even have a cent in their pockets.

Deputy President, even though some needy persons can apply for assistance from the Samaritan Fund, they still have to bear part of the expenses even if their applications are successful as only partial subsidy will be provided. Hence, I hope that the Government would suitably expand the scope of the Fund, for example, lifting the asset ceiling of an applicant, increasing the proportion

subsidized, and covering more drugs. The Hospital Authority has refused to include some drugs within the scope of subsidy of the Fund for various reasons, but this is actually depriving patients of their options.

Deputy President, I so submit.

MR VINCENT FANG (in Cantonese): Deputy President, craftsmen must first sharpen their tools before they can do a good job, and fishermen must first repair their nets before they can catch any fish. If we were to provide security for the group of unfortunate people in our community, we must make sure that the safety net does not have too many holes; otherwise it would be virtually impossible to give full play to its role of providing active assistance.

(THE PRESIDENT resumed the Chair)

However, if some people say that we should only concentrate our efforts on improving people's livelihoods and welfare, and need not pay any heed to economic developments, then I would think that those who put forward such ideas are putting the cart before the horse.

This is because economic developments will not only provide the safety net with "maintenance fees", but more importantly, also create more employment opportunities for the grassroots and allow them to climb up the social ladder, so that they do not have to rely on the protection of the safety net year after year.

As such, the Liberal Party proposes to increase the distribution of "fish ponds" by stimulating the development of local community economy for the benefit of residents in all districts. In particular, many back offices of the Government are all currently located in central business districts like Central and Wan Chai. The Liberal Party proposes that the Government should dispersedly relocate its back offices to new development areas like Yuen Long, Tuen Mun, North District, Tseung Kwan O and Tung Chung. By stationing a substantial number of civil servants at such districts, and thereby increasing expenditure on shopping and dining within the districts, more suitable job opportunities can be created for the grassroots and low-skilled workers.

Furthermore, we think that the authorities should also focus on the development of tourism projects with local characteristics, such as leisure resorts like bazaars with special features, cooked food stall centres and spas according to the characteristics of different districts, in particular remote areas like Tin Shui Wai, Yuen Long and the outlying islands, so as to create more job opportunities for local residents.

In regard to the six industries with competitive edge, though the Chief Executive has already put forward the idea for more than two years, the development plan of many industries is still at the stage of "much said but little done", and the Government has even failed to "support enterprises", not to mention create job opportunities.

Take the recycling sector in the environmental protection industry as an example; it has actually created many job opportunities for the grassroots. Unfortunately, the Government has not attached adequate importance to the industry. The only thing it has bothered to do is window dressing work, like getting non-government organizations to station at EcoPark Phase II and thought that it has already done its job, while details of specific operations and actual needs of the industry are ignored.

For example, sometime ago, 12 waste paper recycling operators operating in Kwun Tong had once planned to go on a half-month strike for failing to reach an agreement with the Government over the issue of relocation. As a result, not only members of the industry were worried about their means of livelihood, but scavengers who scrape a living out of collecting waste papers on the streets also complained bitterly for they were worried about their daily meals. Let us take a look at the EcoPark in Tuen Mun. Nine whole years have passed since the idea was launched in 2001, and it was only until this year that the project was gradually put into operation. The Legislative Council Public Accounts Committee has criticized the Environmental Protection Bureau and the Environmental Protection Department earlier for causing serious delays to the project due to failure in making their best efforts and lack of commitment. This shows that the Government has neither the initiative nor the ability to support the industry.

The Liberal Party urges the authorities to change their ambitious attitudes with regard to the development of industries, and to adopt a more down-to-earth

approach by first doing a proper job to support the industries so as to lay down a solid foundation for gradual development. This is true for the six major industries and four pillar traditional industries. I would further state my views on this aspect at the motion debate on promoting the waste recycling industries next week.

As regards whether it is necessary to levy additional taxes for strengthening support for the disadvantaged groups, I think Ms Miriam LAU has already made it very clear earlier on, as the SAR Government has a surplus of more than \$40 billion in each of the past few years, and its fiscal reserve amounts to hundreds of millions of dollars, it has no difficulties in meeting the additional recurrent expenditures.

Finally, in regard to the issue of buying back The Link REIT, I believe that everyone is aware that the Liberal Party does not agree to the way in which The LINK has "killed the goose that lays golden eggs" when dealing with small business operators in the vicinity of public housing malls, but as The Link REIT has been listed, we are afraid it is unrealistic and impractical to ask the Government to buy back The Link REIT. In other words, we will not support any similar proposals.

President, I so submit.

MR JEFFREY LAM (in Cantonese): President, 60 year-old Mr LEE Shing-leung lost his right leg and the ability to work in an industrial accident, but the Social Welfare Department (SWD) turned down his application for Disability Allowance on five occasions on grounds that he does not suffer a 100% loss of earning capacity. On account of the legal point of view, the Court had no alternative but ruled in his disfavor, but the Judge was sympathetic towards Mr LEE and pointed out that the existing mechanism of the Disability Allowance was defective since the relevant standard was established 30 years ago from a purely medical perspective and was out of touch with the real world and virtually untimely.

This example is only a tip of the iceberg and there was a case in the past in which a nearly 80 year-old elderly man, suffering from cold and hunger, was forced to commit an act of robbery, in the hope of enjoying a "government-paid

meal" in prison because the SWD stopped his CSSA payments. All these examples show that the social security system has loopholes, and the Government should review the existing safety net system.

Furthermore, according to the findings of a survey published by Oxfam in September, there are now more than 190 000 working-poor household in the whole territory, an increase of 12%, as compared to that of 2005. The findings of another survey showed that over half of the CSSA recipients failed to cover their rents by the rent allowance they received, for rental per square foot of their cubicle apartments are even higher than that of small private housing units.

President, the above figures show that the problem of working poor in Hong Kong has become more and more serious, and the current continuous inflation has made the situation of working-poor households even worse. Some food banks indicated that the number of food aid applications has been on the increase, and some people are so poor that they have to eat "cat food". In view of its fiscal condition, Hong Kong definitely has the financial resources to extend the coverage of our safety net to share the fruit of economic development with the grassroots. However, I do not agree that we should use the Exchange Fund for its usage is restricted.

First of all, the SWD should review the outdated approval procedures of the existing schemes on various allowances. Like I have said earlier about the Disability Allowance, it has never been reviewed for over 30 years and was even criticized by the Ombudsman last year. Though the SWD has undertaken to review the Disability Allowance Scheme, no result has yet been attained. This is also true for the absence limit of "fruit grant" and CSSA. Though the Chief Executive has already relaxed the absence limit of "fruit grant", only an additional number of 2 000 elderly, which is less than one twentieth of the total number of elderly people living on the Mainland on a long-term basis, are benefited. As the living index of Hong Kong is really too high, many elderly people and CSSA recipients are forced to live on the Mainland. I hope that the Government would review the relevant restriction and lower the threshold of application, so that more needy people can be assisted.

In addition, as I have pointed out earlier, even the rent of cubicle apartments are not cheap and many CSSA recipients actually have to pay the outstanding amount out of their own pockets, thus causing indigent persons to

tighten their belts even further. As such, the Government should adjust the rent allowance of CSSA recipients upwards in accordance with the market rent. There are also the working poor. The Government should find ways to provide low-income persons with subsidies for improving their frugal livelihoods. Moreover, as a result of the implementation of minimum wages, the income of some low-income families may exceed the upper limit for applying for public housing, books and transportation allowances, thus leading to an actual decrease in their income as a result of the increase. I hope that the Government can relax its policy on the criteria for relevant applications, so that poor people can receive more help in their daily lives.

President, nowadays there are all sorts of urban diseases in Hong Kong and a greater tendency for people to suffer from chronic or serious illness at a younger age. However, since a lot of drugs have not yet been listed on the drug formulary, patients often have to pay for them out of their own pockets. There are also many drugs which are not even covered by Samaritan Fund and are subjected to lots of restrictions. Since a great number of poor patients are actually living from hand to mouth, how could they possibly afford to buy medicines? Thus, they have to resort to asking for help from newspapers, in the hope of raising funds for treatment. However, honestly speaking, who would be willing to make public their sufferings and wounds unless it is absolutely necessary? If a society is healthy, it will be active and full of power. As such, it is really necessary for the Government to extend the coverage of the existing Drug Formulary and Samaritan Fund, so as to allow needy persons to receive appropriate and timely treatment.

President, employment-based policies are indispensable to solving the problem of poverty. The Government should expand its elderly and child care services, as well as the coverage of transport subsidy, so as to encourage more people to join the workforce. As it has been reported that the Government has plans to amend the eligibility criteria for transport subsidy from treating individuals as an unit to treating households as an unit, I hope that the Government can clarify on this point. I do not wish to see more people being excluded from the Transport Subsidy Scheme. Furthermore, the Government should promote the development of special-featured local culture in various districts and inject more resources into environmental protection and green city projects so as to create more suitable job opportunities for the grassroots. Of course, the Government should also strengthen in-service training for the

middle-aged and increase the amount of subsidies for continuing education, so as to help poor people move to other trades and employment.

What is taken from the people should be given back to the people, and this is perfectly justified. Thus, the Government should endeavour to share the fruits of economic prosperity with its people for the well-being of the community.

President, I so submit.

MR ALAN LEONG (in Cantonese): President, it seems that we have held discussions on a welfare issue every Wednesday ever since the Council resumed its meetings this year. For example, we shall have a motion debate moved by Mr Frederick FUNG on "Alleviating the disparity between the rich and the poor" next Wednesday. Proposed policies put forward in the original motion and amendments to today's motion "Reviewing the coverage of the safety net" are actually policies which Members of various parties, independent Members and civil organizations outside the Council have been advocating for many years.

Actually, there have not been many controversies over such issues in society and it can be said that the direction of everyone is fairly consistent. As such, President, it is not that we, Members, are "long-winded", but rather no matter how many times we have raised the issues, the Government is still indifferent. In fact, the Government is in possession of hundreds of millions of surpluses, and the annual profits of the Exchange Fund also amounted to tens of billion dollars. As such, all parties and groupings are concentric in supporting the Government to establish a long-term and effective safety net. President, what people fails to understand is why the Government has still chosen a difficult path over an easy one in face of the consensus and asked the Secretaries to come to this Council every week and listen to our criticisms, words which even we ourselves are tired of saying; and at the same time, in the face of the rising poverty figure, the Government is even willing to bear the repeated accusations of "failure of governance", but still shies away from establishing a proper safety net. President, I really find this difficult to understand.

The Civic Party has always advocated the idea that the Government must have a long-term social welfare plan, and I have also mentioned many times in this Council that poverty alleviation targets should be established, the

Commission on Poverty should be re-established and suggestions made by the Legislative Council Panel on Alleviation of Poverty should be implemented. I do not wish to repeat myself now.

President, Hong Kong is now faced with a very serious problem and an even more serious one in the future. According to the latest figures provided by the Council of Social Service, 290 000 elderly people, comprising one third of the total elderly population in Hong Kong, lived in poor households during the first half of 2010, and the number has increased by 15% as compared to the 250 000 in 2001. It is really very sad and this group of elderly people is solid proof that we have got loopholes in the safety net. In addition to relaxing the criteria for applying for CSSA, and abolishing the system of the so-called "bad son statement", there is actually also a very loud voice in society asking the Government to review the basket of factors, including the Consumer Price Index, which are used as a basis for determining the amount of CSSA, so as to ensure that it can match the rate of inflation, and the basket of factors will be valued and dealt with in pace with social changes.

As regards to the amendments moved by several Members, the Civic Party fully supports the Government to immediately study the establishment of a universal retirement protection system, so as to provide instant benefits to all elderly persons in Hong Kong. Apart from the existing problem of the elderly poor, the future problem of ageing population should also not be ignored. The existing Mandatory Provident Fund (MPF) Scheme is only a saving system with extremely high administration fees. Like distant water cannot put out a close fire, it also will not help low-income and unemployed persons. However, a universal retirement protection system established under the co-operation of the Government, employer and employees can allow elderly persons to immediately share the fruit of the social security system, and housewives and persons with disabilities can also be included under its coverage.

It was pointed out in a study that by injecting part of the employers and employees' contributions, the Government's expenditure on CSSA and Old Age Allowance for people over the age of 65 and the \$50 billion seed fund into the universal retirement protection scheme, Hong Kong could steadily get through the peak of ageing population and the scheme will have surpluses afterwards. What we definitely cannot deny is that many actuaries have pointed out that in light of the rapidly ageing population of Hong Kong and due to decrease in the

number of contributors and expansion in the number of beneficiaries, we might as well forget about the universal retirement protection system if it fails to be implemented within the next five years.

President, as the problem of disparity between the rich and the poor in Hong Kong becomes more and more serious; in order to help Hong Kong solve the problem, the Government should carefully study the successful poverty alleviation measures of foreign countries and learn from their experiences. Policy measures such as the Negative Income Tax system proposed by Mr LEE Cheuk-yan or the Reverse Mortgage system proposed by Mr TAM Yiu-chung are all worthy of follow-up studies.

President, the existing CSSA system of Hong Kong has already become outdated as a result of changes in our objective social environment. The safety net has become full of holes and failed to offer the necessary care and commitment, which Hong Kong, as a caring society should provide for the disadvantaged members of our society.

President, recently, we often heard that after the introduction of the second phase of the United States' quantitative easing policy, unprecedented inflation will occur in Hong Kong, and thus add to the already heavy burden of the grassroots and make their livelihoods even more difficult. Here, I hope that the Government will take immediate actions on making preparations to repair the safety net, and make sure that no more people will fall out because it is unsafe and get seriously hurt again after today's motion and amendments to the motion are passed. That is all I would wish for. I so submit.

DR PAN PEY-CHYOU (in Cantonese): President, today, I would like to talk about two issues. The first of which is the poverty problem of people with disabilities. People with disabilities in Hong Kong can apply for two types of Disability Allowance if they do not get any compensation from insurance. Applicants applying for these two types of allowances are not subjected to any means test. The first type is the Normal Disability Allowance of \$1,280 per month, the requirement of which is, a disabled person should suffer from a 100% loss of earning capacity. The other is the Higher Disability Allowance of \$2,560 per month, where a disabled person suffers from a 100% loss of earning capacity and needs constant care of others in their daily lives.

Today, I would like to ask the Secretary whether people with disabilities could live on the Allowance. Can they afford to employ someone in the community to take care of them and provide them with appropriate care with the Allowance? In regard to the Higher Disability Allowance of \$2,560, how can a person with disabilities rely on the Allowance and employ someone to provide them with constant care? In general, a family needs to spend about more than \$3,000 a month on employing a live-in domestic helper. People with disabilities are unfortunate enough to be suffering from disabilities and if they cannot receive appropriate care, then the heavy burden of caring for them will naturally fall on family members.

In the course of our work at hospitals, we have heard countless sad stories from people who accompanied their disabled family members to seek treatment at hospitals. In order to take care of family members with disabilities, they are forced to quit their jobs. Giving up their jobs means that they do not have any income. Many people would like to go out and work, for working itself does not only bring income. Through working, we can get in touch with society and build up confidences but carers stand to lose everything. Consequently, many carers gradually lose touch with society and society also suffers the loss of capable workers.

As such, I hereby put forward my first proposal, and that is, the Government should face up squarely to the financial needs of people with disabilities. Some colleagues proposed that carers should be given an allowance, but I think it will be more flexible for the allowance to be given directly to people with disabilities, for if they have an additional allowance, then they can have other alternatives apart from relying on the care of family members. I hope that the Government can consider my proposal. If the Government wish to promote the idea of providing people with disabilities with care and treatment in the community, then it must ensure that they are financially capable of employing other people to take care of them.

The other issue I would like to talk about is exorbitant treatment cost. Currently, in Hong Kong if a patient cannot afford expensive treatment, then the only help they can get is from Samaritan Fund. However, the coverage of Samaritan Fund is very narrow in only covering 14 kinds of drugs, limited medical accessories (such as accessories used in surgeries) and certain expensive

and complex surgeries. As such, the number of people who can get help from Samaritan Fund each year is very small.

Here, the Hong Kong Federation of Trade Unions (FTU) would like to introduce a system of Singapore. Singapore currently implements a savings-based health insurance system. Like Hong Kong, the public hospitals of Singapore cannot reject any patient. In order to make up for the shortage in medical savings and national insurance, and to help some poor people afford essential treatment, Singapore spent SGD 1.6 billion in 1993 to set up the Medifund. This was a seed fund. From that year onwards, whenever the Singapore Government has any surplus, it would inject funds into Medifund each year and allow it to continue to grow. Tens of thousands of patients in Singapore have benefited from Medifund each year. The operation of the Fund is such that a Medifund Committee is set up in each public hospital. Needy patients can apply for assistance through the referral of and on the recommendation of hospital medical social workers and their applications will be examined and approved by the Medifund Committee. In the past, middle-class people could not benefit from Medifund, but starting from January this year, Singapore decided to include some cancer drugs and other extremely expensive drugs under the coverage of Medifund for the benefit of middle-class people.

The FTU thinks that the Medifund of Singapore is particularly worth recommending on the following grounds: firstly, the Singapore Government allows Medifund to continue to grow by injecting funds into the Fund according to its means and depending on its financial condition; secondly, flexibility is allowed in the examination and approval of the applications in that each application will be scrutinized and decided by the Medifund Committee independently; and thirdly, the coverage of Medifund is very extensive, far more than that of Hong Kong's Samaritan Fund. As such, we hope that the Government will consider accepting this proposal.

President, I so submit.

MR ABRAHAM SHEK: President, unusual as it might seem for Ms Miriam LAU, a business sector representative in this Council, to move today's motion; it is even more unusual that 10 others Members have moved amendments to the motion. The vociferous echoes in this Council on the subject clearly indicate

that the Government's existing efforts in protecting the poorest and the most vulnerable members of society are wholly inadequate. Secretary, you had better urge the Government to pull up its socks.

What has made the Government behave like a miser towards the poor and the socially disadvantaged? Funding is not a concern. According to the Hong Kong Monetary Authority, our official foreign currency reserve assets amounted to US\$267 billion as at the end of October 2010, which makes us the world's ninth largest holder of foreign currency reserves. In recent years, the Government has had surpluses at the end of each financial year. It is the Administration's, or more precisely, the Financial Secretary's duty to define what an appropriate level of fiscal reserve should be, and how to make the most of the reserve to achieve social-economic objectives. This is what we call a caring society.

Nevertheless, over the decade, after the return of Hong Kong to China, the Government has provided only temporary or one-off measures, it has never touched on the long-term policies to help the poorest members of society, no matter whether the economy was in trough or in boom. If money is not the concern here, is the Administration simply indifferent to the needs of the poor? Whatever the answer, the Government is already paying the price for its neglect: an inability to assess social discontent, and social discontent is looming large due to intensifying poverty. It is high time for the Government to take concrete action to deal with the situation.

President, the concept of a social safety net is different from socialism. A social safety net is aimed primarily at protecting the most vulnerable in our society. Using this interpretation, Ms Miriam LAU's recommendations on appropriately extending the safety net to cover more grassroots of different types need to be clarified, as the meaning of "appropriately" must be clearly delineated. If it is too broad, it will create excessive dependency on the Government. On the other hand, it is also not advisable for the Government to turn the social security system into a mechanism for transferring wealth to the poor. That would be nothing but charity. Charity is not what we need, but social responsibility.

I agree that regular reviews of the Comprehensive Social Security Assistance are necessary to ensure that it meets changing economic situations.

The absence limit concerning the Old Age Allowance (生果金) should also be waived as a sign of respect to the elderly. That is what a caring society should be. To make our social safety net sustainable, it is even more important to review the current social policy by adopting more effective means to assist low-income households, especially in enhancing their work skills, so that they can re-enter the labour market and get themselves out of poverty. To this end, I support strengthening on-the-job training and retraining for the middle-aged. These measures should be taken in tandem with developing the six industries with competitive edge and promoting the development of social enterprises to build up the local community economy, with a view to matching the skills with the newly created jobs and to benefit grass-roots workers.

In addition, the statutory minimum wage rate, which we all have been waiting for, will come into force on 1 May 2011. However, the Provisional Minimum Wage Commission has expected that some 45 000 workers could be sacked at the hourly rate of \$28. I hope it is wrong. Youngsters, middle-aged people and people with disabilities will be the most vulnerable under such practice, due to their lack of experience and capacity. The Government must strengthen its employment services for these groups of people. There is no reason of not doing it.

President, the role of education in eradicating inter-generational poverty cannot be stressed enough. The Government has already extended compulsory education from nine to 12 years. Yet, due to poverty, ethnicity, or physical or mental disabilities, not all children are on a level playing field. There are haves and have-nots in terms of learning materials and learning opportunities. This is an issue to which the Government should direct particular attention to in order to make it a level playing field for our future leaders.

Our social safety nets should not fail to cover low-income families with children with special education needs, including autism, the physically impaired and the intellectually-challenged. It is a double misfortune for their parents, who must work all hours to make ends meet, and then have little time to take care of their vulnerable children.

Due to time, President, I would like to touch on the subject of ethnic minorities in Hong Kong. They constitute about 5% of the population. The majority of them lead a difficult life. Their ethnicity and their non-Chinese

speaking background prevent them from climbing the social ladder. For instance, most of the South Asian immigrants in Hong Kong have been stereotyped as only being suitable for jobs such as security guards, janitors and construction workers. They also have a chance like our children. This deep-seated prejudice still prevails as a hidden rule in our society, despite the Race Discrimination Ordinance which came into force in July 2009. As a result, many ethnic minority students have no incentive to learn the Chinese language and proactively participate in the community. *(The buzzer sounded)*

PRESIDENT (in Cantonese): Mr Abraham SHEK. Your time is up.

MR ABRAHAM SHEK: Thank you.

MR ALBERT CHAN (in Cantonese): President, the safety net needs to be reviewed because it is no longer safe. Just like a defective condom, a defective safety net will also bring about serious problems. President, if a condom cannot offer the safety it claims, it will subject the person using it to many family problems, it may lead to casualties, or someone may have contracted venereal diseases. Hence, it is very important for both the safety net and condom to be safe. Why is the safety net of Hong Kong no longer safe? We can see that Hong Kong is facing countless problems.

I thank Ms Miriam LAU for proposing this motion debate. Perhaps the Liberal Party plans to mobilize its members to participate in the district direct election, which requires public support, and thus it has to support policies on improving livelihood. I welcome the Liberal Party as well as Ms Miriam LAU to join the direct election, which can facilitate making progress in the livelihood policies.

President, why do I say that the safety net of Hong Kong is no longer safe? One of the important policy directives behind the safety net is that it should lift people out of poverty or prevent them from living below the poverty line. The meaning of "safety" is that the basic needs of the people are looked after. This is one of the principles. When a safety net cannot even provide this basic security, it is full of flaws and holes, or can even be said as problem-plagued.

The League of Social Democrats have conducted a study on Hong Kong poverty demography for several years in a row. People living in poverty has risen from 1.23 million the year before last to 1.27 million last year. In other words, over 1.2 million people among the 7 million people of Hong Kong are living below the poverty line. This clearly indicates that the Government is seriously inadequate in formulating policies to help the public, particularly the vulnerable groups, the impoverished, the elderly and the disabled.

President, over the years since the 1990s, this subject has been discussed in this Chamber for almost 100 times. We have repeatedly asked the Government to tell us how it defines "a relatively humane living standard" in formulating public policies and it has all along used the Comprehensive Social Security Assistance (CSSA) as an answer. Moreover, we have repeatedly asked the Government in the past 10-odd years to show us by statistics how, after taking into account the expenses on clothing, food, housing and transport, the monthly CSSA payment of \$1,500 per person can afford the recipient to maintain "a relatively humane living standard". To date, the Government still refuses and is unable to provide us with any statistics to explain how it has set this CSSA payment.

This has clearly shown the perfunctory attitude of the Government in formulating this kind of policies. Of course, the Government which Secretary Matthew CHEUNG now serves is not the only Government which adopts such an attitude. This perfunctory attitude is one of the problems left behind by the Governments over the years, including the then colonial government. The British Hong Kong colonial government treated the people of Hong Kong, particularly those Hong Kong Chinese like dirt or second-class citizens, and handled this issue in an inhumane manner. This is a wrongdoing of the British Hong Kong colonial government.

However, as a Chinese-led government, should the Hong Kong SAR Government not adopt a more humane attitude in treating the Hong Kong Chinese and at least let them live in a dignified manner? Unfortunately, I do not know whether the SAR Government has inherited the attitude of the British Hong Kong Government, such that it has completely disregarded the general Hong Kong public, particularly their dignity of maintaining a basic living standard.

President, over the years, the League of Social Democrats have repeatedly voiced out in the policy address debates and the proposals to the budget that the

Government should, by means of public administration and governance, let the people of Hong Kong live with the dignity of maintaining a basic living standard, and to this end, establish a sound safety net. This safety net must be able to cover the basic needs of the public, including clothing, food, housing, transport, healthcare, and so on.

President, as far as public rental housing (PRH) is concerned, we request that 35 000 PRH units be constructed every year. This has been clearly stated in Mr LEUNG Kwok-hung's amendment. We have looked over the statistics on PRH units constructed during the governance of TUNG Chee-hwa as well as those constructed before the TUNG Chee-hwa era. Let me read out some simple statistics which young people may not know. If Home Ownership Scheme (HOS) units are also taken as public housing, 33 000 PRH units and 16 000 HOS units were constructed in 1990 and 1991, totalling 49 000 units; and 32 000 PRH units (I am referring to the newly constructed units) and 17 000 HOS units were constructed in 1999 and 2000, totalling 49 000 units. The figures for 2001 was even bigger. For PRH alone, there were 55 000 units and HOS had 35 000 units, totalling 90 000 units.

President, please look at the statistics of Hong Kong now. A few years ago, the situation was even more ridiculous. After the launch of the nine-measure package by Secretary Michael SUEN, in 2006 and 2007, only 7 000 PRH units were constructed

(A Member said "What a shame" in his seat)

MR ALBERT CHAN (in Cantonese): What a shame! This was said by "Brother Long Hair" just now. Stand up, "Brother Long Hair" and help chant "What a shame". From the above statistics, we can see that whenever the subject of basic needs or housing needs of the public is in question, government policies are tilted in favour of large property developers.

Hence, property prices have all along been going up, particularly in recent years, because of the drop in newly-constructed private housing units as well as the PRH units. The vulnerable groups, the general public and low-income earners are thus forced to look for housing in the private property market. This in turn has substantially buoyed up the rents of cubicle apartments, bedspaces and

small flats. Ridiculously enough, some of the rents have risen by 60% within the past two years.

Hence, if we wish to perfect the safety net, not only should efforts be made to improve public policies (particularly to comprehensively review the CSSA and formulate a "humane living standard"), but also to ensure that the construction of PRH units, reform of taxation system and provision of healthcare services are in line with the basic needs of the people.

President, we will certainly pledge our full support to mend the holes and flaws of the safety net.

MR WONG YUK-MAN (in Cantonese): President, the statistics provided by the Hong Kong Council of Social Service enables us to understand the real poverty problem from a macro perspective. The population living in poverty rose from 1.18 million in 2001 in Hong Kong to 1.26 million in the first half of 2010, which further surpassed the record high of 1.23 million last year by 30 000 people. Among these poor people, the number of households living in poverty rose by 13.3% from 420 000 households in 2001 to 470 000 households in 2010; and the elderly population living in poverty rose by 16% from 250 000 people in 2001 to 290 000 people in 2010.

Certainly, the SAR Government will not accept these statistics. I remember at the Chief Executive's Question and Answer Session on 15 October 2009, I quoted these statistics on poverty and asked the Chief Executive whether he could undertake to reduce the poverty population within the remaining two-odd years of his term. Over the 10-odd years after the reunification, the per capita GDP has been on the increase, so has the GNP, but the number of poor people is also on the increase and people are getting poorer. As the Chief Executive, does he feel ashamed of himself? Since he became the Chief Executive in 2005, has he ever felt disgrace? He certainly did not commit himself to my question and then we were again expelled from the Chamber. However, in reply to a similar question on the poverty population by Mr IP Wai-ming, he made a very meaningful remark. He said, "There are many definitions of poverty. I (Donald TSANG) believe that the best definition is that any household with an income less than the Comprehensive Social Security Assistance (CSSA) payment is a household living in poverty." To say this in

Putonghua: this is really "bu gai"¹. This is really "bu gai". Do you not find him "bu gai" for make such a remark? Having thousands of billions of dollars in reserve Now we all know that there are over US\$200 billion in foreign exchange, right? And over \$500 billion in fiscal reserve. If we count on such a Chief Executive, will we not be hopeless?

In Ms Miriam LAU's motion on the review of the safety net, she has mentioned how much money we now have. She thinks along the same line as we do. Why does he have to guard the money like a miser? Look at Fernando CHUI Sai-on, he is giving out money again. "CUI Shian" (*in Putonghua*) is giving out money again. This has been done for a number of times in Macao. Edmund HO Hau-wah has given out money twice, so has Fernando CHUI. What is wrong with giving out money?

I remember in 2009 when the Financial Secretary met with the three of us, we urged him to give out money directly without hesitation because he had decided to inject \$6,000 to the Mandatory Provident Fund accounts of the low-income earners. But these people have to wait until they are 65 before they can get hold of the money. If a person is now only 25, he will have to wait until he is 65 before he can receive the \$6,000. I suggested to him that he should give out the money directly without hesitation, and everyone should get \$5,000. No sooner had I voiced out this proposal than I learnt that the Macao SAR Government would give out money. This is obviously an act to outshine Hong Kong. We have more money than Macao. Why money can be given out in Macao but not in Hong Kong?

At a recent luncheon meeting on the policy address co-organized by the four major chambers of commerce, Donald TSANG made a remark which is subject to interpretation. He said, "The present prosperity brought by the business sector has not trickled down to the grassroots and some people feel that they are being exploited." He truly lives out the essence of "saying different things to different people". When he met with the businessmen, he pressurized them. Yet, the financial philosophy of the SAR Government is exactly the trickle-down theory. It first lets the rich generate wealth, so that a tiny portion of their wealth can be trickled down to the poor. It then considers its mission accomplished. Hence, creating a good business environment is a must;

¹ "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".

favouring large property developers is a must; letting the rich get richer is a must, and supporting monopoly is a must. Only by so doing can wealth be trickled down. But when he met with the business sector, he said that the sector had not trickled down any wealth to the poor. Was he making a deathbed confession? I mean, is it because he will soon be out of a job and his term will soon expire, he has told the truth at last?

The SAR Government which advocates the principle of "big market, small government" has adopted the residual model to establish the CSSA system, a system which seeks to realize the concept of providing a safety net to the people who cannot help themselves. This has, however, resulted in a labelling effect. Moreover, as my party member has mentioned just now, the level of CSSA payment has been reduced by 11.1% since 2003 by TUNG Chee-hwa. To date, is the money given back to the recipients? I have already counted out the factor of inflation. I have asked almost a hundred times to restore the CSSA payment to the level at 2003, but the Government has turned a deaf ear to my request. It often consciously or unconsciously, intentionally or unintentionally smear the CSSA recipients. We now ask for a review of the safety net, and of course, we would certainly ask for giving out more money, that is, to mend the broken net. There is a Taiwan folk song called "bu po wang"², have Members ever heard of this folk song? There is a hole in the net.

We have no other solution. To us, the so-called leftists, wealth should be reasonably distributed. So, please buy out The Link REIT; assets should not be further privatized; take back the ownership of some public institutions and put them under government management, so that we can pay less transport fares and electricity fees. Buddies, the CLP Power Hong Kong Limited and the Hong Kong Electric Company Limited have reaped staggering profits; what is more, there was the Daya Bay incident which scared the nerve out of you, that is utterly irresponsible. It is a franchised operation for profiteering. Our wealth has been concentrated in a small number of people and the poor are "dead" for sure. It is that simple. What is the point of having a prosperous society? The poor cannot enjoy the fruits of prosperity. Some people would say, serve them right to be poor, study hard to get out of poverty. President, nowadays studying hard will not lead you anywhere. Do you think that one can make money by studying hard? Can you tell me how much does an university graduate earn? A father

² Meaning to mend the holes of the net

has to raise his son's son, right? For those earning \$10,000-odd a month, they have to pay \$3,000 for the rent, and then another \$2,000-odd for transport. Now a lunch box cost you \$30. In the name of minimum wage, teahouses, restaurants, Hong Kong style cafes will have to increase their price or they will close down. Hence, under the present situation, if the economic structure is not improved and if the concept of wealth distribution is not adjusted, the poverty problem will only aggravate, society will be more divided, and when the poor barely have enough to eat, they will eventually revolt.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Ms Miriam LAU, you may speak on the amendments.

MS MIRIAM LAU (in Cantonese): President, first of all, I wish to thank Members of different parties and groupings for proposing as many as 10 amendments on my motion. These amendments enable me to make a record with this motion. To date, this motion should be the one with the largest number of amendments. The numerous proposals contained in the amendments not only refine my original motion, but also send a strong and clear message to the Government: the public are of the view that the Government has not done enough to safeguard their livelihood, particularly the safety net on social security. The Government must address people's pressing needs and increase recurrent expenditure to improve the problem-plagued safety net, such that more assistance can be provided to the grassroots with genuine needs.

In fact, the proposals voiced out by most of the Members today are in line with the fundamental vision and ideas which the Liberal Party propounds. Other than a small difference in the approach, our proposals and theirs basically seek to serve the same purpose.

Take Mr LEE Cheuk-yan's proposal of establishing a Negative Income Tax as an example. It is generally in line with Liberal Party's proposal of

implementing a work incentive programme. Both proposals seek to help the working-poor households. The only difference is in their approach. As regards his proposal to set up a separate saving accounts for individual CSSA recipients with low income and deposit into such accounts their incomes which are now required to hand over to the Social Welfare Department, so that the money can be returned to them when they get out of the CSSA net in the future, the Liberal Party adopts an open attitude to this proposal and thinks that it merits further study.

A number of Members have proposed the establishment of a universal retirement protection system. We echo that the Mandatory Provident Fund (MPF) Scheme provides some protection to the working population upon their retirement. However, the coverage of the Scheme is limited, without offering any protection to non-income earners such as housewives, while the contributions of people from the lower echelon are so little that the money can only offer minimal protection to them. This is particularly true for workers earning less than \$5,000 a month. If they rely only on their employers' contribution, which is equivalent to 5% of their salary, the money accumulated after a few years may only be enough to cover their daily expenses for a few years and cannot serve the purpose of providing protection for their retirement. For those who reach the contribution ceiling, that is, the middle class whose monthly salary reaches \$20,000, they are not better protected for their retirement either, not to mention that much of their contributions are eaten up by the funds as management fees. Thus, the retirement protection provided by the MPF Scheme should be reviewed.

As Mr CHAN Kin-por mentioned in his speech earlier, two former senior public officers Mr LAM Woon-kwong and Mr Joseph WONG both concurred that the Government should not adopt the ostrich policy anymore and it must seriously look into other retirement protection options. As mentioned in the Hong Kong 2020: The Big Picture, a report released last year by the Business and Professionals Federation of Hong Kong chaired by the former Chief Secretary Sir David AKERS-JONES, Hong Kong can possibly be the only place among the developed economies which does not have a comprehensive retirement protection system. Given the present financial status of the Government and the aspirations of different sectors of the community, I believe it is high time to review this issue.

President, a number of Members have made proposals on strengthening the support for the grassroots. For instance, Mr WONG Sing-chi has proposed the

establishment of a residential care homes development fund and a medicines subsidy fund; Mr TAM Yiu-chung has suggested a series of ideas on strengthening support for young people, new arrivals and ethnic minorities. All these proposals are constructive.

Mr Ronny TONG has urged that elderly persons should be allowed to apply for CSSA independently. The Liberal Party appreciates his point of concern and do not object this proposal because there are indeed many criticisms on the system of signing "bad son statement". However, caution should be exercised to ensure that the abolition of using household as the unit for making CSSA application will not create abuse or encourage the trend of children not providing financial support to their parents.

As regards Mr LEUNG Kwok-hung's amendment, Mr Vicent FANG has already expressed just now in his speech our views on behalf of the Liberal Party. As regards why we think that economic development is so important to the safety net on social security, I will not repeat myself here.

President, I so submit.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Ms Miriam LAU again for proposing this motion debate on "Reviewing the coverage of the safety net", and 24 Members who have just expressed their precious views and made a lot of substantive suggestions.

There are 60 proposals raised in the motion and amendments for discussion today, related to the work and policy areas of seven Policy Bureaux. On behalf of the Government and other Policy Bureaux, I am now going to respond to all the views in a focused manner. However, owing to the excessively extensive scope covered, I am sorry that I may need to take some time responding to each and every area covered. President, I beg your pardon.

First of all, I will discuss the Comprehensive Social Security Assistance (CSSA) Scheme and the Social Security Allowance (SSA) Scheme. The CSSA Scheme is the ultimate safety net provided by the Government to people who fail to be financially self-reliant. We absolutely will not discriminate against CSSA recipients and we hope that the community will not attach negative labels to

them. Currently, about 70% of CSSA recipients are the elderly, the infirmed and the disabled, and most of them lack working capability. If their families cannot support them because of financial difficulties, our society has the responsibility to take care of them. For other CSSA recipients with working capability, we have a range of support schemes to help them rejoin the job market and move towards self-reliance.

Mr LEE Cheuk-yan proposes depositing the disregarded income of CSSA recipients into their specific saving account so as to allow them to save money and leave the CSSA net. We have reservations about this proposal. The CSSA Scheme should encourage CSSA recipients with working capability to move from welfare to self-reliant, and get out of the CSSA net as soon as possible. Setting up savings accounts for CSSA recipients may encourage households with such capability to remain in the CSSA net longer than necessary, causing some adverse effects. We all understand that limited public resources should definitely be used for those most in need of help in order to be fair to low-income earners who have not applied for CSSA. Using public money to subsidize savings is not the original intent of social security. We believe that the existing disregarded earnings arrangement can provide sufficient financial incentives to CSSA recipients to find jobs and remain employed, without dampening the desire of CSSA recipients to get out of the CSSA net.

As regards the so-called "bad son statement" mentioned by Mr Ronny TONG, I have said many times in this Chamber that this common term of "bad son statement" is incorrect and misleading. Under the CSSA Scheme, all applicants must pass a means test, and there is no exception even for elderly persons applying for CSSA on an individual basis. They need to submit a simple statement about their financial position to facilitate verification by the Social Welfare Department whether they have other income sources. In special cases such as cases where elderly persons have poor or unharmonious relations with family members, their children cannot support them for special reasons, or cases similar to that of Granny CHOI and Uncle CHOI as Mr Ronny TONG has mentioned, the Director of Social Welfare can exercise discretion and allow an elderly person to apply for CSSA on an individual basis.

At present, if CSSA recipients who have reached the age of 60 years or who are disabled leave Hong Kong for not more than 180 days within a payment year, they can still be given CSSA payments for the whole year. This

arrangement is rather lax as compared to the provisions applicable to ordinary CSSA recipients.

The Portable Comprehensive Social Security Assistance (PCSSA) Scheme is part and parcel of the CSSA Scheme, and it enables elderly CSSA recipients who meet the prescribed criteria to continue to receive cash assistance under the CSSA Scheme if they choose to retire permanently in Guangdong or Fujian.

As we all know, to allow the elderly to have more time to leave Hong Kong for travel or visit their relatives, without affecting their eligibility for the receipt of Old Age Allowance, we propose relaxing the absence limit in respect of Old Age Allowance from 240 days to 305 days a year; in other words, elderly persons only need to stay in Hong Kong for 60 days but they can receive allowance for a full year. Early this month, we have briefly introduced our proposal to the Panel on Welfare Services, and we will submit a funding proposal to the Finance Committee in the following month. It is estimated that the proposal can be implemented in February next year to benefit the elderly and people with disabilities as quickly as possible.

Quite a number of Members have remarked that we should completely abolish the absence limits before and after the applications for Old Age Allowance have been filed. We all know that the relevant policy is now facing the challenge of a judicial review, and as we have said, we will only consider the matter further when the whole process has been concluded and the situation has become clearer.

As to whether elderly persons should be allowed to receive Disability Allowance and Old Age Allowance at the same time, I would like to stress that the SSA Scheme is a non-contributory social security scheme. To avoid cases where people receive double benefits and ensure the sustainable development of the scheme, if an applicant is eligible for the receipt of Disability Allowance and Old Age Allowance at the same time, he can only choose to receive either of the allowances.

Quite a few Members have suggested raising the rates of CSSA and Old Age Allowance. Currently, the standard rates of CSSA and the rates of Old Age Allowance and Disability Allowance under the SSA Scheme are adjusted annually according to the changes in the Social Security Assistance Index of

Prices (SSAIP). This is a well-tested mechanism and we have already briefed the Panel on Welfare Services last week on the latest situation concerning the SSAIP, and that various rates might be adjusted correspondingly from February 2011 onwards. After making reference to the latest SSAIP figures, we will submit the proposal to the Finance Committee for approval without delay.

Mr IP Wai-ming proposes increasing the amount of Disability Allowance received by indigent persons with disabilities. When the Government established the Disability Allowance, it had taken into consideration the special needs of people with disabilities. The Disability Allowance is not the only welfare support for people with disabilities, and if these people have financial difficulties, just like other needy persons, they can apply for CSSA to meet their basic living expenses. The CSSA provides them with higher standard rates and a number of special allowances and supplements to cater for the special needs of these people.

Mr WONG Sing-chi proposes immediately adjusting the CSSA rent allowance. I would like to say that there is an established mechanism for adjusting the maximum rent allowance and adjustments are made each year on the basis of the changes in the Private Housing Rent Index under the Consumer Price Index (A). We will pay close attention to the changes in the index and adjust the relevant rates under the mechanism where necessary.

A Member has proposed reinstating the mode of formulating long-term social welfare planning every five years. With rapid social and economic changes nowadays, we can say that it is incompatible with present needs to set the objectives of social services and monitor the services provided using the mode of formulating long-term social welfare planning every five years. For this reason, the Government has stopped adopting this mechanism for welfare planning since 1999.

We are now studying long-term social welfare planning through the Social Welfare Advisory Committee (SWAC). In April this year, the SWAC published a consultation paper to consult the welfare sector and stakeholders about the major issues and factors affecting the provision of welfare services, the mission and belief of social welfare, and the guiding principles for planning, as well as the strategies and policies for the provision of welfare services. The consultation period has concluded in late July this year, and the SWAC is now studying and

analysing the views collected; it will prepare a report for the Government's consideration. After we have carefully analysed the recommendations of the SWAC, we will certainly consult the Legislative Council in due course.

I would like to talk about employment support. We are highly concerned about the employment of the middle-aged, and we have introduced a number of measures and schemes to help them. For example, the Labour Department (LD) has implemented the Employment Programme for the Middle-aged to encourage employers to engage middle-aged job seekers who are aged 40 or above and to provide job seekers with on-the-job training. The Programme has been implemented since May 2003; up to late last month, the LD has successfully helped more than 50 000 middle-aged job seekers secure employment.

Middle-aged job seekers can also enrol for courses offered by the Employees Retraining Board (ERB) and participate in the Skills Upgrading Scheme Plus (SUS Plus) so as to adapt to the changes in the economic environment and enhance their abilities and competitiveness. The ERB offers free full-time courses, it also provides employment follow-up services and retraining allowances. The ERB offers 123 000 retraining places in the year 2010-2011, and 20 000 places under the SUS Plus for the training of our labour force.

Concerning new arrivals, so long as they meet the course requirements, they can enrol in all the relevant courses of the ERB. The ERB has also designed special courses for new arrivals to assist them in adapting and joining our labour market. The full-time "foundation skills for employment purposes" certificate course provides new arrivals with comprehensive training in foundation skills. The ERB also co-operates with the Social Welfare Department in providing trainees with child care support during class using the platform of the Neighbourhood Support Child Care Project, so that new arrival trainees can set their mind at rest while receiving training as their children will be taken care of in the same centre.

Ms Miriam LAU proposes raising the subsidies provided by the Continuing Education Fund. At present, Hong Kong residents aged between 18 and 65, irrespective of education level, employment situation and financial position, can apply for 80% course fee subsidy upon completion of the accredited continuing education courses, and the maximum subsidy is \$10,000 for each applicant.

Ever since the establishment of the Fund, a total of 530 000 applications have been approved and the subsidies given amounted to more than \$2.8 billion. Since we find the existing level of subsidy provided by the Fund and the maximum subsidy received by each applicant appropriate, we do not have any plan to make any changes at the moment. If individual students are financially in need, they can apply to the Student Financial Assistance Agency for non-means tested loans for course fee payment.

Mr CHAN Hak-kan is very much concerned about the youth employment problem and I would also like to briefly respond in this connection. The Government is extremely concerned about this problem, and the LD integrated the Labour Department Youth Pre-employment Training Programme (YPTP) with the Youth Work Experience and Training Scheme (YWETS) in September 2009, so we now have the Youth Pre-employment Training Programme and Youth Work Experience and Training Scheme (YPTP&YWETS). The YPTP&YWETS provides a comprehensive platform with pre-employment and on-the-job training. This new programme is for young school leavers aged 15 to 24 with educational attainment at sub-degree or below level. Enrolment is accepted year round without preset quota. I have always emphasized that "all comers are welcome and education for everyone, irrespective of background", and courses are designed on the basis of the trainees' needs. We received more than 16 500 applications for the YPTP&YWETS last year, and the latest courses are open for enrolment since August 2010. Also, the LD has two Youth Employment Resource Centres to provide individualized and all-encompassing services on career planning and development self-employment to young people. The two centres served a total of nearly 72 000 young people in 2009.

Mr IP Wai-ming especially proposes putting in place a modern apprenticeship system to assist the youth in securing employment. All along, the Vocational Training Council (VTC) has implemented apprenticeship schemes covering 140 different industries including automobile, electrical, construction and jewellery industries, which allow apprentices to receive systematic vocational training. The relevant posts include craftsmen, technicians, engineering assistants and designers. In recent years, the VTC has put in place a pilot modern apprenticeship system to equip the youth and enhance their employability through training and workplace attachment, so that they can join the service sector and provide beauty care, hairdressing, tourism, retail and customer

services. From 2009 to 2010, 3 500 people received training under the apprenticeship schemes and modern apprenticeship system. The Government would continue to implement these schemes with a view to providing the youth with different channels for on-the-job training.

There are Members proposing that the Government should establish an unemployment relief fund, but we do not consider this as essential because the current CSSA Scheme already provides substantive financial assistance to households facing financial difficulties because of unemployment or other reasons, to help them meet their basic living expenses. Besides, people who left their jobs because of layoffs or other involuntary reasons may ask for severance pay or long service payment according to the statutory provisions. This can help them face up to the financial difficulties arising from unemployment.

Members have also expressed concern about promoting economic development, and we agree totally with them. As the Chief Executive has stated in the Policy Address, the most fundamental way to ease social tension in Hong Kong stemming from the wealth gap is to enable the community to benefit from economic development and share the fruits of prosperity. The Government will seize the opportunities for development on the Mainland, open up new markets, proactively strengthen the four pillar industries and develop the six industries, to give new impetus to economic growth, provide more job opportunities, increase people's income and promote upward mobility.

The Government has always encouraged the establishment and development of social enterprises in Hong Kong. We understand that, similar to other enterprises, social enterprises encounter financial difficulties during initial operation. For this reason, the Home Affairs Department (HAD) has implemented since June 2006 the Enhancing Self-reliance through District Partnership Programme to subsidize the establishment of social enterprises and their initial operation. Ever since the implementation of this programme, \$110 million has been allocated for the establishment of nearly 100 social enterprises, and around 1 700 job opportunities have been for the socially disadvantaged groups.

The HAD implemented the Social Enterprises Partnership Programme in 2008 to enhance and facilitate partnership among different sectors of the community through a matching forum and the Social Enterprises Mentorship

Scheme. The programme has elicited very good response and has the support of quite a number of entrepreneurs and professionals.

The Government is well aware that the persistent and long-term development of social enterprises is reliant upon co-ordination and support by various stakeholders, thus the HAD set up the Social Enterprise Advisory Committee in January this year to foster co-operation amongst relevant sectors and departments and the joint formulation of strategies for the support of social enterprises.

The District Offices in various districts have all along supported the District Councils in organizing events related to the local community economy. For example, the Tai Kok Tsui temple fair, Wan Chai book fair, and the FARM — the Sunday Market of Cultural and Career Development for the Youth in the Eastern District. These events can promote the characteristics of the districts, increase district vitality and the cohesive force in the community. They can also create employment opportunities and create economic viability. District Officers will continue to make efforts in this regard.

Mr TAM Yiu-chung proposes that we should proactively attract Mainland enterprises to expand their business in Hong Kong. Invest Hong Kong has stepped up promotions to Mainland enterprises about the advantages and favourable factors related to business operation in Hong Kong. It has also jointly organized some investment promotion events with Mainland provinces and cities, introducing Hong Kong as an important platform for entry by Mainland enterprises to the international market and providing "tailor-made" support services for enterprises interested in development in Hong Kong. Invest Hong Kong will continue to give priority to encouraging and assisting Mainland enterprises in business development in Hong Kong.

President, perhaps I should respond to Members' views on healthcare services because many Members have expressed concern about this area. The Government has provided various substantially subsidized healthcare services. For primary healthcare services, we have general out-patient clinics. Regular follow-up can be arranged for the chronically ill in stable conditions and advance appointment is not required. Patients suffering from episodic diseases with less serious symptoms can make use of the 24-hour booking appointments by telephone services of the Hospital Authority. This system interconnects all

out-patient clinic places in the same district to make it easier for the elderly to use the system as far as possible. Clinic staffs are ready to provide the public with assistance where necessary. Through such arrangements, the places at various out-patient clinics can be effectively and sufficiently used, the average usage is almost 95%.

Furthermore, to take care of the chronically ill, the Hospital Authority has introduced a range of primary healthcare schemes, including health assessment, targeted care and increasing patients' self-care abilities. The Hospital Authority is now recruiting more staff, increasing consultation quotas and replacing facilities, so as to improve the services for patients suffering from episodic diseases. On the whole, these measures have catered for the needs of patients, the Hospital Authority thus considers that there is no pressing need at the moment to provide overnight out-patient services.

The Hospital Authority will continue to spare no effort in shortening the waiting time for some specialist services, including cataract extraction, joint replacement, mental health assessment and treatment services for children and adolescents, magnetic resonance imaging and computerized tomography scan. Besides, the Hospital Authority has been taking measures to improve the waiting time at specialist out-patient clinics. These measures include setting up 24 family medicine specialist clinics to follow up patients separated as routine cases, transferring patients in stable conditions to primary healthcare services for follow-up, and co-operating with private medical practitioners and non-governmental organizations in implementing joint care programmes.

In recent years, we have devoted ourselves to enhancing the support services provided at the community level and helped in the rehabilitation of the mentally ill and their reintegration into the community through cross-professional organizations. The Policy Address this year contains a lot of measures for further enhancing the support services for the mentally ill. For the mentally ill in serious conditions, the Hospital Authority undertakes the pilot implementation of a case management system in three districts this year, under which case managers provide in-depth, continuous and individualized support to the patients. The relevant services will gradually be extended to various districts across the territory; and the system will be implemented in five other districts next year. The case managers will closely co-operate with other services units, especially

the Integrated Community Centre for Mental Wellness in providing comprehensive community support to the patients.

As regards social rehabilitation services, the services provided by the Integrated Community Centre for Mental Wellness (ICCMW) have been extended to 18 districts across the territory in October this year, to provide integrated mental health community support services to people with mental health problems, their families and local residents through the new one-stop and integrated service mode. The ICCMW provides services ranging from early prevention to risk management; and the ICCMW will directly contact the Hospital Authority and arrange for emergency diagnostic assessment where necessary. We will increase the manpower of the ICCMW and provide needy persons with comprehensive and more convenient services. We will match up with the case management system implemented by the Hospital Authority and provide appropriate support to the mentally ill in serious conditions living in the community.

The Hospital Authority will continue to closely attend to the needs of various districts for medical services and the situation of service users, so as to facilitate planning for future facilities and services and meet the appeals and needs of residents as far as possible.

Moreover, the Hospital Authority has set up well-equipped public hospitals and clinics in Hong Kong to provide high quality medical services to local residents. If local residents living on the Mainland need such services, they may return to Hong Kong at any time and use the services provided by the Hospital Authority.

Given the rapid development of medical technologies, quite a number of new drugs have been introduced into the market each year. At present, there is a wide variety of new drugs in the market, but there are substantial differences in their clinical effectiveness, curative effects and aftereffects. As a fully public funded medical institution, the Hospital Authority must ensure that public resources are appropriately utilized to tally with the interests of the general public. In recent years, the scope of the Hospital Authority Drug Formulary has constantly been expanded through established review mechanisms. The Government has also allocated more funding to the Hospital Authority to cope with the increase in drug expenses. The drug expenses of the Hospital Authority

have increased from \$2.15 billion in the year 2006-2007 to \$2.68 billion in the year 2009-2010.

Furthermore, the Hospital Authority will review the scope of coverage of the Samaritan Fund on a regular basis — a lot of Members have just expressed concern about this area — and many self-financed items proven to have significant curative effects have been included in the scope of subsidy of the Samaritan Fund in recent years. Patients with financial difficulties and whose clinical conditions are suitable to use the self-financed items will be provided with subsidies. Currently, 14 self-financed items have been included in the scope of subsidy of the Samaritan Fund; five of them have been newly included this year, and the scope of application of another item already included in the scope of the Samaritan Fund has been further expanded this year. In the year 2008-2009, the Government injected \$1 billion into the Samaritan Fund for helping more patients.

The Government is greatly concerned about the needs of the chronically ill and their families, and it will make the best efforts to help them in various ways. The consistent principle of the Government is to ensure that no one should be deprived of healthcare services because of a lack of financial means. Therefore, the patients who are CSSA recipients can be exempted from the charges for public healthcare services. Non-CSSA recipients can also apply for fee waiver if they cannot afford to pay for healthcare services because of financial difficulties.

In addition, the Hospital Authority has implemented a range of pilot projects on primary care services for the support of the chronically ill. For instance, the provision of comprehensive health risk assessment and follow-up care programmes for patients suffering from high blood pressure and diabetes. The provision of cross-professional care clinics for high-risk chronically ill patients, and the implementation of the Shared Care Programme through a public-private partnership model.

I am now going to respond to the problems of the youth, especially children. To assist households who cannot look after their young children because of work or other reasons, the Social Welfare Department has subsidized non-governmental organizations (NGOs) to provide diversified child care services, and households with financial needs can also apply for exemption or waiver of fees.

Apart from the continued provision of conventional, occasional or extended care services through independent child care centres and kindergarten-cum-child care centres, the Social Welfare Department has proactively introduced more flexible child care services with service hours including the evenings and even weekends and holidays, to further respond to the demands for services. The Neighbourhood Support Child Care Project (that is, the Home Based Child Care Scheme) with pilot implementation since October 2008 through NGOs and district bodies is given positive evaluation by the users. For this reason, we have decided to conventionalize this project and expand the scope of services to 18 districts across the territory to benefit more needy households. Upon expansion of the scope of services, there will be additional places under the project and needy households can receive better services.

The Government also assists the community in establishing neighbourhood mutual help networks through the Community Investment and Inclusion Fund. Since the establishment of the Fund in 2002, more than \$210 million has been allocated to subsidize over 200 projects. 40% of these projects included the elements of providing child care or after-school care services in the form of neighbourhood mutual help.

All of us know that, commencing from the year 2005-2006, the Education Bureau has implemented the After-school Learning and Support Programmes under which schools and NGOs organize school-based or district-based after-school services for poor students, so as to increase the learning effectiveness of poor students, broaden their learning experiences outside class, and boost their understanding of and sense of belonging to our society, thus helping in their personal growth and balanced development. Starting from the 2010-2011 academic year, the annual provision for these programmes will substantially increase from \$100 million to \$175 million, with a view to further increasing the depth and breadth of these programmes.

Now, primary and secondary students of government and grant-in-aid or direct subsidy scheme schools will be granted textbook assistance if they have passed the income vetting by the Student Financial Assistance Agency. In the 2009-2010 academic year, more than 80 000 students were granted full assistance while more than 200 000 students were granted half assistance, and the total assistance amount exceeded \$430 million. The Government plans to substantially increase the fixed assistance amount under the School Textbook

Assistance Scheme to \$1,000 beginning from the 2011-2012 academic year, and also make corresponding upward adjustments to the Selected Items of School-related Expenses for full-time primary and secondary students from CSSA households. The Student Financial Assistance Agency (SFAA) will also streamline the approval process so that most applicants can be granted textbook assistance before the beginning of the new academic term. We believe the relevant measures will be able to benefit more low-income households.

In the academic year 2009-2010, the various means-tested student financial assistance schemes provided under the SFAA incur an actual expense of up to \$3 billion, benefiting 360 000 students. Any proposal involving the relaxation of the existing means test mechanism applicable to various schemes may incur an additional expense of hundreds of millions dollars a year. Hence, we must give careful deliberation to the resources incurred and the priorities of various policies and measures before further considering the proposal.

At present, students of full-time subsidized tertiary courses, and students below 25 studying locally-accredited self-financed post-secondary courses, may apply for Tertiary Student Finance Scheme — Publicly-funded Programmes and means-tested financial assistance under the Finance Assistance Scheme for Post-secondary. The annual interest for the loan is 2.5% and no interest is charged during the school term, which is a very important point. We consider that the existing interest rate is at a reasonable level, and we see no pressing need to change this. However, as proposed by the Audit Commission earlier, the SFAA will assess the repayment capability of existing borrowers to confirm whether an adjustment of rate is required.

Students may also apply for non-means test loans. The SFAA has put in place certain mechanisms to assist borrowers failing to repay the loan temporarily due to financial problems, further studies or suffering from serious disease to apply for deferred repayment.

In March this year, the Government commenced the review of the Non-means Test Loan Scheme to ensure that the Scheme would continue providing reasonable financial support to students, and that proper measures would be put in place to reduce loan default rate, so as to ensure that public resource is used properly. Phase one of the review has completed, and 600 written proposals have been received. The SFAA is now considering the views

collected and will draw up proposals, it plans to commence the phase two public consultation by the end of this year.

I would like to respond to the issue about the need of people living in bedspaces or cubicle apartments. At present, people living in bedspaces or cubicle apartments may apply to the Hong Kong Housing Authority (HA) for public rental housing (PRH) to improve their living environment. I think Members know this point clearly. The objective of the Government and the HA is to provide subsidized public rental housing for low-income families that cannot afford private rental housing, and endeavour to maintain the average waiting time for ordinary PRH applicants at around three years. As at the end of September this year, the average waiting time for ordinary applicants, excluding one-person non-elderly applicants, on the waiting list is around two years, and that for one-person elderly applicants is around 1.1 years. The HA forecasts that in the five years starting from 2010-2011, around 75 000 PRH units will be constructed, together with the estimated PRH units returned every year, the supply of PRH units will be adequate to keep the target waiting time of around three years. The Transport and Housing Bureau will continue to work hard on the close co-ordination of relevant Policy Bureaux and government departments in identifying suitable sites for constructing PRH units.

President, I will now respond to the issue on elderly care that Members have grave concern. I will first talk about residential care places.

We understand that there is great demand for subsidized residential care places for the elderly. At present, the Government has provided 26 000 subsidized residential care places for the elderly, and the number of elderly persons benefited from the service provided accounted for approximately 44% of all the elderly in residential care homes.

We are now implementing a series of measures to increase the supply of subsidized residential care places. In the next four years starting from this financial year, that is by 2013-2014, in view of the long waiting time of frail elderly persons for nursing home places, the number of such places will increase by 1 095, from the existing 2 191 to 3 286, that is, an increase of 50%. At the same time, 621 additional nursing care places will be provided. Moreover, in the Policy Address this year, the Chief Executive has explained to Members that we will increase the supply of high-quality places, places at EA1 level, through the Enhanced Bought Place Scheme. We will, in increasing the supply of

subsidized residential care places, take the opportunity to enhance the overall quality of private residential care homes for the elderly.

Mr WONG Sing-chi proposes the establishment of a "residential care homes development fund". Actually, the Government has, through the Lotteries Fund, provided subsidies to NGOs which provide subsidized welfare service to meet their various non-recurrent expenses, including the construction cost for residential care homes, renovation costs and furniture for service centres, and so on. If these organizations intend to convert or expand their existing residential care homes, we are more than welcome. They may apply to the SWD for using the allocation from the Lotteries Fund to subsidize the cost of construction. I encourage residential care homes to submit applications in this respect, so that more expansion projects will be carried out to provide more residential care places.

In 2009, the Elderly Commission commissioned the University of Hong Kong to conduct a consultancy study on the residential care services for the elderly. The consultant examined in depth the feasibility and impact of the concept of "money-following-the-user" and "residential care vouchers", and the results had been reported in full to the Panel on Welfare Services of the Legislative Council in January this year. The consultant noticed that though many overseas places use "subsidy vouchers" as a means to provide long-term nursing services to the elderly, particularly on the provision of community care service, this is rarely used as a means to subsidize elderly persons to live in residential care homes. The reason is that it is now a global trend to encourage "ageing in place" and shorten the stay of elderly persons at residential care home as far as possible.

In Hong Kong, "ageing in place" is a key principle under the elderly care policies of the Government, which is also the wish of most elderly persons. Hence, we will provide subsidized community care services for the elderly in need of long-term nursing care, including day care services and home care services. We will put in more efforts to enhance the capability of elderly carers and alleviate their pressure.

Members know clearly that in respect of community care services for the elderly, the Government is now providing a series of care services for elderly people to age in place, including day-care services and home-based service, which serve 25 000 elderly persons. We will commence the Pilot Scheme on

Home Care Services for Frail Elders in Kowloon district early next year to provide tailor-made home care services for elderly persons on the waiting list for subsidized nursing home places, which is expected to serve up to 510 elderly persons in three years. In the next few years, we will continue to increase the service quota of the Enhanced Home and Community Care Services. The Integrated Discharge Support Trial Programme for Elderly Patients, which is commonly known as "one-stop service for discharged patients", will be included as a standard service. The coverage of the service will increase from three districts at present to 18 districts, where the number of elderly persons served will increase from the existing 8 000 to 33 000 in future.

Some Members propose that outreaching teams be set up. There are 41 District Elderly Community Centres (DECCs) in the territory, and they all have Support Teams for the Elderly. Members of the Support Team will contact elderly persons living alone and hidden elderly persons proactively. In 2008, the Government approved funding for all DECCs in the territory to reinforce their outreaching services. All DECCs in the territory are now providing services to 7 000 hidden elderly persons.

Mr IP Wai-ming and Mr CHEUNG Kwok-che propose the provision of allowances to carers of elderly persons in the community. In our view, elderly persons required care services in various aspects, which professional knowledge and skills are required in large measure, and family members or individuals may not necessarily be able to cater for their needs for care comprehensively. In comparison with the provision of cash allowance to carers of elderly persons direct, subsidies provided by the Government direct to DECCs or service providers will offer more suitable choices of services to elderly persons and cater for their actual needs more effectively.

The Government has implemented the District-based Scheme on Carer Training since 2007 to subsidize DECCs to run carer training courses and provide elderly care services in collaboration with community organizations. By now, 2 400 persons have received training under the Scheme and 4 000 are now under training.

In meeting the medical needs of elderly persons, the three-year Elderly Healthcare Voucher Pilot Scheme (the Pilot Scheme) has been implemented for nearly two years by now. To date, over 280 000 eligible elderly persons have used 1.91 million medical vouchers, which account for more than 40% of eligible

elderly persons and the subsidized amount reaches \$96 million. The authorities is now conducting an interim review to examine the operation and assess the effectiveness, scope of application and subsidized amount of the Pilot Scheme. We expect that the interim review will be completed by the end of this year. The Food and Health Bureau will consider extending or enhancing the Pilot Scheme having regard to the findings of the interim review. In the Policy Address this year, the Government has earmarked \$1 billion as a matching measure.

Some Members propose providing a living supplement for elderly persons. At present, the asset limits for elderly applicants of CSSA are more lenient than ordinary able-bodied adults and the standard rates they received are higher than able-bodied adults. As for elderly persons ineligible for CSSA because their assets exceed the specified limit or due to other reasons, the Government has all along provided assistance to them under the Social Security Allowance Scheme, that is, the "fruit grant" and disability allowance, to help them meet with their special needs arising from ageing or severe disabilities. This mechanism ensures that limited public resource is used properly to help elderly persons with different needs, which has been working effectively. Hence, we do not intend to introduce a separate system on providing living allowance to elderly persons at this stage.

However, in view of the closer ties between Guangdong and Hong Kong, and from the point of view of regional integration, we have to examine ways to assist elderly persons intending to spend their twilight years in Guangdong. I have to stress that we will "assist elderly persons intending" to do so, and we do not intend to encourage elderly persons to return to the Mainland. We are only helping them and making it more convenient for them. Mr TAM Yiu-chung proposes providing living allowance for elderly persons returning to their homeland. Since this proposal involves legal, financial and technical issues, we must examine its feasibility cautiously. We have started working on this, and we consider the proposal worthy of examination. The Steering Committee on Population Policy led by the Chief Secretary for Administration will examine and focus on the facilitation arrangements and supporting facilities, including medical services, required to assist elderly persons choosing to return to their homeland to spend their twilight years. Actually, medical care is the greatest challenge and the most important issue faced by elderly persons living on the Mainland.

At present, the Department of Health provides comprehensive primary healthcare services through the Elderly Health Centres (EHC) to elderly persons aged 65 or above, including health assessment, physical check-up, health education, and even individual counselling and treatment services. Moreover, visiting health teams provide health promotion programmes for elderly in the communities and in residential care homes to increase their health awareness and self-care ability.

In the long run, in the face of an ageing population, primary healthcare services provided by EHCs alone cannot satisfy the healthcare needs of all elderly persons. To enhance primary healthcare service, the Food and Health Bureau has implemented pilot schemes and the pilot scheme on public-private partnership to offer more choices of services to elderly persons.

Some Members mention the mortgage scheme for elderly persons. The mortgage scheme for elderly persons is a relatively complicated finance product. According to my understanding, the Hong Kong Mortgage Corporation Limited is now examining cautiously the feasibility of introducing mortgage scheme for elderly persons in Hong Kong. An opinion poll is now underway and is expected to be completed by the end of this year.

Many Members proposed in their speeches earlier that the Government should consider establishing a universal retirement protection system. Members may recall that after prolonged discussions by various sector in society, Hong Kong had, in the 1990s, decided to adopt the existing retirement protection system supported by three pillars, namely, a social security protection system that requires no contribution, the Mandatory Provident Fund Scheme and individual voluntary savings and family support. We are now examining the sustainability of the three-pillar model, and considering findings of relevant studies and other factors, and will then decide how to follow up. We must consider prudently various important factors, including the upholding of conventional family values, maintaining the competitiveness of the overall economy, maintaining the simple tax regime of Hong Kong, and ensuring sustainable development of the existing social security system.

Many Members are very concerned about the welfare of persons with disabilities, and the Government is extremely concerned about this issue. In respect of financial resources, persons with disabilities may apply for CSSA or

disability allowances subject to no financial assessment. At present, the CSSA Scheme provides higher standard rates for persons with disabilities together with a range of supplements and special grants. These include "Grant to cover fees for Home Help Service/Integrated Home Care Service", "Grant to cover costs of Enhanced Home and Community Care Services" and "Grant to cover costs of Community-based Support Projects for People with Disabilities and Their Families", which are granted for those requiring special caring needs. Members can imagine that we are quite concerned about the support for persons with disabilities in this respect. For those medically certified to be in need of constant attendance, a "Care and Attention Allowance" may also be provided to cover the costs of care and attention services at home (including the cost of hiring a carer) on social worker's recommendation.

Moreover, under the existing mechanism, persons with disabilities in need may apply for subsidies for the purchase of rehabilitation and medical items from the relevant charity fund through medical social workers, social workers in Integrated Family Services and NGOs, temporary subsidies will be provided to help persons with disabilities and their families encountering family crises and short term financial difficulties.

In respect of community support, we have put in a lot of efforts, for the Government wants to provide tailor-made services. For instance, the SWD consolidated the community support service and set up 16 District Support Centres in various districts in the territory last year to provide one-stop support and training for persons with disabilities and their carers, to enable persons with disabilities to receive required services in the same centre in the district. Moreover, to provide more care and support to the severely physical handicapped and the severely mentally handicapped, we will launch a three-year Pilot Scheme on Home Care Service for Persons with Severe Disabilities in March next year, to provide a package of home-based support services to the severely physical handicapped and persons with severe disabilities who are waiting for subvented residential care services. Comprehensive services are provided under the scheme, including personal care and escort service, occupational therapist/physiotherapist rehabilitation training service and nursing care service. The pilot scheme will be tried out in Tuen Mun and Kwun Tong districts which have the largest number of persons with severe disabilities, it is expected that 540 persons with disabilities will receive the service.

The Government provides various types of community care and support services to carers of persons with disabilities, and the objectives of these services are to support these carers in fulfilling their family obligation and alleviate their burden. We consider that the existing support services can reflect our social values, which can meet the condition and needs of society better than providing allowance to family carers direct.

I have to thank a number of Members for showing concerns about the rights and well-beings of ethnic minorities. I would like to make a few points here. First, the Government has spared no effort in promoting racial equality and harmony, and providing the necessary support services to ethnic minorities to help them integrate into Hong Kong society. For this reason, the Government has provided subsidies to NGOs for the establishment of four support service centres for ethnic minorities to provide various learning classes, counselling services and integration programmes. Moreover, subsidies have been provided to 10 NGOs for the provision of specified support services, such as language classes and community support groups. Such services are provided in various districts at present. We will make continual service enhancement according to the needs. Government departments will introduce various measures to assist ethnic minorities in using social services. For instance, various promotion publications and leaflets will be printed in ethnic minority languages, and interpretation services will be provided where necessary. Special counters have also been set up at all the Job Centres of the LD to provide ethnic minorities with readily accessible services, and employment briefings tailor-made for ethnic minorities are organized from time to time.

To strengthen and consolidate the support services provided to ethnic minorities, the Home Affairs Department will set up a task force to keep a close watch on the difficulties encountered by ethnic minorities, and ensure that services provided can cater for their needs. For districts with greater demand for services, additional resources will be allocated. We will co-operate with community organizations to organize more suitable activities and contact ethnic minorities proactively to introduce to them the support services available.

The Government, being an employer who provides equal opportunities, appoints the best person for the job on the basis of merit. Appointment to the civil service is based on open and fair competition. In order to maintain a

biliterate and tri-lingual Civil Service, the Government needs to specify the appropriate Chinese and English language proficiency requirements as part of the entry requirements for appointment to each grade, having regard to the job requirements of the concerned grade. The existing arrangement is in accordance with the guidance of the Equal Opportunities Commission as set out in its Code of Practice on Employment under the Race Discrimination Ordinance, namely that an employer must ensure that any language requirement for a job is relevant to and should be commensurate with the satisfactory performance of a job. The Civil Service Bureau is now conducting a review in collaboration with Heads of Department/Grade on the stipulated language proficiency requirement for each of the grades under them, to ensure that these requirements meet with the operational needs of the relevant grades.

Some Members propose that the Government should formulate a poverty line and re-establish the Commission on Poverty (CoP). We have explained the views and stances of the Government to the Legislative Council a number of times, and allow me to reiterate again. The former CoP is of the view that basically, Hong Kong is an affluent society and if the problem of poverty is to be examined in a holistic and objective manner, we cannot just use concepts like absolute poverty or the ability to maintain a basic living; likewise, we cannot just look at household income. Instead, we must consider the practical situation and the needs of the poor and their families, such as whether they are able to get the services essential to their living and whether they have a chance to get them. These services include housing, healthcare, education and employment.

We agree with such a view and so the Government has all along adopted a set of 24 multi-dimensional indicators as recommended by the former CoP to examine the problem of poverty in Hong Kong, understand the needs of various groups of people in society, including children and adolescents, people at work, the elderly as well as people in various districts.

After the former CoP concluded its work in 2007, the Government set up the inter-departmental Task Force on Poverty, headed by me in the capacity of the Secretary for Labour and Welfare to follow up on all the recommendations of the former CoP and co-ordinate the Government's efforts on alleviating poverty. Among the 53 recommendations made by the former CoP, most of them have been or are being implemented. Many recommendations of the former CoP,

including the setting up of the Child Development Fund and the cross-district transport allowance, and so on, have been implemented, and Members know these clearly. The Task Force on Poverty will closely monitor the poverty situation in Hong Kong, and continue to work hard on co-ordinating the poverty alleviation work under various government departments, and explore initiatives and measures which can help the disadvantaged and people in need.

Some Members proposed that the Government should introduce Negative Income Tax, and some Members proposed introducing progressive profit tax and capital gains tax, and increase stamp duty to cover the additional welfare expenditure. I would like to point out that Hong Kong is a small and open economy. If significant adjustment is made to the current tax rate and tax regime, including increase tax rate and impose other tax, it will increase the tax burden of individuals and enterprises. This proposal can hardly win broad consensus, but will damage the low tax rate and simple tax regime that Hong Kong has all along be proud of. This will seriously undermine the competitiveness of the small open economy of Hong Kong. In the long run, there will be negative impact.

Mr LEUNG Kwok-hung proposes that the Government should buy back the Link Real Estate Investment Trust (The Link REIT). I would like to explain that the policy objective of the Government is to focus resources on the provision of public rental housing to low-income families that cannot afford private rental housing. Hence, the HA divest its commercial and carpark facilities, so that it can fulfil its functions in a focused manner. In our view, the buying back of The Link REIT goes against the abovementioned objective, and the proposal is thus impracticable.

Though The Link REIT is an organization operating on commercial principles, the fact that its shopping centres are located in public housing estates and its clientele are mainly public housing tenants, they must cater for their needs and affordability. The authorities will continue reflecting the views of the public, residents of public housing and retail tenants to The Link REIT, and will encourage The Link REIT to take proactive actions to maintain continuous communication with various stakeholders.

Earlier on, certain Members mentioned motivating transport operators to offer comprehensive fare concessions to elderly persons and persons with

disabilities, I would like to respond to this briefly. It has always been a grave concern to the Government that public transport operators must maintain their fares at a reasonable level, and they should have the operating and financial capacity to offer suitable and efficient public transport services. At the same time, the Government encourages public transport operators to offer fare concessions to passengers according to their capacity and various relevant factors. At present, major public transport operators have offered fare concessions to the elderly and persons with disabilities. Moreover, various major public transport operators have shown their support to the annual Senior Citizen's Day and the International Day of Disabled Persons by offering one free-travel day for the elderly and persons with disabilities respectively. The Government will continue encouraging public transport operators to respond proactively to the aspirations of society.

Earlier on, certain Members have put forth proposals relating to the outsourcing exercises of the Government. I would like to explain two points. The implementation of outsourcing arrangement allows the Government to make use of the free market to provide better services, and focus its resources on handling policy issues which must be performed by civil servants. The LD has maintained close co-operation with government departments adopting outsourcing practices, monitored contractors employing non-skilled workers and examined whether contractors have complied with the labour legislation on a yearly basis to protect the rights of workers.

Members all know that the Government will set up the Community Care Fund (CCF), which will be led by the Chief Secretary for Administration. On the one hand, it is hoped that the CCF may cover areas beyond the coverage of existing social services and support. On the other hand, the actual experience accumulated from cases will facilitate the Government to make improvement to the relevant services and support. We are confident that the CCF will provide more flexible and tailor-made support to people in needs.

President, the Government is obliged to take care of the grassroots and the disadvantaged groups. A very comprehensive social security net has been put in place in Hong Kong, and the needy are offered support in various aspects. However, poverty alleviation and improvement of people's livelihood are long-term and ongoing work, we will continue to do our level best to address the

poverty problem in a comprehensive and pragmatic manner, striving to establish a harmonious and caring society.

President, I so submit.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, you can move the amendment to the motion.

MR LEE CHEUK-YAN (in Cantonese): President, I move that Ms Miriam LAU's motion be amended.

Mr LEE Cheuk-yan moved the following amendment: (Translation)

"To delete "as" after "That," and substitute with "this Council opines that 'rich Government but poor people' is one of the deep-rooted conflicts in Hong Kong, and as"; to add "in the long run, the Government should establish a system of 'Negative Income Tax', so as to benefit a greater number of working-poor households; (b) to set up savings accounts for CSSA recipients with job income, and deposit into such accounts the whole or part of the amounts deducted from their CSSA for reasons of 'assessable income', so that when such recipients get out of the CSSA net due to income improvements or as a result of their accounts having accumulated a prescribed amount, they can have a substantial amount of savings, so as to increase their sense of financial security and reduce their chances of falling back into the CSSA net;" after "conditions of poverty;" to delete the original "(b)" and substitute with "(c)"; to delete the original "(c)" and substitute with "(d)"; to delete the original "(d)" and substitute with "(e)"; to delete the original "(e)" and substitute with "(f)"; to delete the original "(f)" and substitute with "(g)"; to delete the original "(g)" and substitute with "(h)"; to delete "and" after "twilight years;" and substitute with "(i) to immediately study the establishment of a universal retirement protection system, so as to provide instant benefits to all elderly persons in Hong Kong; and"; and to delete the original "(h)" and substitute with "(j)"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LEE Cheuk-yan to Ms Miriam LAU'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 Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Dr PAN Pey-chyou and Dr Samson TAM voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr IP Kwok-him and Mr Paul TSE voted against the amendment.

Mr LAU Wong-fat, Mr Timothy FOK, Mr CHIM Pui-chung and Dr LAM Tai-fai abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

Mr LAU Kong-wah, Mr TAM Yiu-chung, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mrs Regina IP voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 13 were in favour of the amendment, eight against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 20 were in favour of the amendment and six against it. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Reviewing the coverage of the safety net" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

MR LEE CHEUK-YAN (in Cantonese): Although we have never changed the ringing time of the division bell to 15 seconds, in view of the fact that we have 10 amendments and we are all in the Chamber, if Members agree, can we provisionally change the ringing time of the division bell?*(Some Members said no)* Can we not do so?

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan has spoken. Does any other Member wish to speak?

PRESIDENT (in Cantonese): If not, I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Reviewing the coverage of the safety net" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Members have already been informed, as Mr LEE Cheuk-yan's amendment has been passed, Mr TAM Yiu-chung and Mr LEUNG Kwok-hung have withdrawn their amendments.

PRESIDENT (in Cantonese): Mr WONG Sing-chi, as Mr LEE Cheuk-yan's amendment has been passed, you may now move your revised amendment.

MR WONG SING-CHI (in Cantonese): President, I move that Ms Miriam LAU's motion as amended by Mr LEE Cheuk-yan be further amended by my revised amendment.

President, in his amendment, Mr LEE Cheuk-yan has proposed to establish a system of "Negative Income Tax" and set up savings accounts for Comprehensive Social Security Assistance (CSSA) recipients to deposit their assessable income. President, these are actually proposals which the Democratic Party has put forth to the Government for the Policy Address this year. We hold that these are feasible arrangements to offer the CSSA recipients a chance to get out of the CSSA net. Thus, we will pledge our full support to these proposals.

However, President, I wish to say a few more words. Today, the Secretary has again used over 50 minutes to repeat what he has already said in the past. He might as well just give us his script. The Secretary very often has not responded specifically to some of the contents of the motion.

Mr WONG Sing-chi moved the following further amendment to the motion as amended by Mr LEE Cheuk-yan: (Translation)

"To add "; (k) to allocate \$10 billion for establishing a 'residential care homes development fund' to provide interest-free loans to non-governmental organizations for constructing self-financed residential care homes for the elderly and persons with disabilities; (l) to establish a 'subsidy system for carers of persons with disabilities' to offer a monthly grant of \$1,000 to persons who need to look after their family members with disabilities on a long-term basis, so as to relieve their financial needs; (m) to allocate \$10 billion for establishing a 'medicines subsidy fund'; (n) to relax the absence limit in respect of Old Age Allowance by allowing elderly persons to return to Hong Kong only once a year for 'reporting',

and to study allowing elderly persons to receive Disability Allowance and Old Age Allowance at the same time; and (o) to immediately adjust the CSSA rent allowance to alleviate the financial burden of recipients" immediately before the full stop."

PRESIDENT (in Cantonese): You should only explain your revised wordings.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr WONG Sing-chi's amendment to Ms Miriam LAU's motion as amended by Mr LEE Cheuk-yan be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr IP Wai-ming and Dr PAN Pey-chyou voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Mr LAU Wong-fat, Mr Timothy FOK, Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr LAM Tai-fai, Mr CHAN Kin-por and Dr Samson TAM voted against the amendment.

Mr WONG Ting-kwong, Mr CHIM Pui-chung, Mr IP Kwok-him and Mr Paul TSE abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

Dr Priscilla LEUNG and Mrs Regina IP voted against the amendment.

Mr LAU Kong-wah, Mr TAM Yiu-chung, Ms Starry LEE and Mr CHAN Hak-kan abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 11 were in favour of the amendment, 10 against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 20 were in favour of the amendment, two against it and four abstained. Since the question was not

agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr IP Wai-ming, as the amendment by Mr LEE Cheuk-yan has been passed, you may now move your revised amendment.

MR IP WAI-MING (in Cantonese): President, I move that Ms Miriam LAU's motion as amended by Mr LEE Cheuk-yan be further amended by my revised amendment.

Mr IP Wai-ming moved the following further amendment to the motion as amended by Mr LEE Cheuk-yan: (Translation)

"To add ", and provide allowances to carers of elderly persons in the communities; (k) focusing on the unemployed and poor people, the Government should formulate a poverty line, so as to get a grasp of the poverty situation in Hong Kong, and provide the unemployed with unemployment assistance, with a view to assisting them in coping with their financial difficulties; (l) through promoting the local cultural economy, to maintain the competitive edge of the four existing major economic pillars; (m) to formulate a timetable for completely abolishing cage homes; (n) to put in place a modern apprenticeship system; (o) to increase the amount of Disability Allowance received by indigent persons with disabilities, so that persons with disabilities living in the community can afford appropriate care and assistance; and (p) to expand the coverage of Samaritan Fund, and follow the example of 'Medifund' in Singapore to offer ultimate support to persons who are unable to pay medical charges, so that they can receive timely and necessary treatment" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr IP Wai-ming's amendment to Ms Miriam LAU's motion as amended by Mr LEE Cheuk-yan be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mr IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Dr LAM Tai-fai, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Mr LAU Wong-fat, Mr Timothy FOK, Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung and Mr IP Kwok-him abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mrs Regina IP, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

Mr LAU Kong-wah, Mr TAM Yiu-chung, Ms Starry LEE, Mr CHAN Hak-kan and Dr Priscilla LEUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 15 were in favour of the amendment and 10 abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 21 were in favour of the amendment and five abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

PRESIDENT (in Cantonese): Mr James TO, as the amendments by Mr LEE Cheuk-yan and Mr IP Wai-ming have been passed, you may now move your revised amendment.

MR JAMES TO (in Cantonese): President, I move that Ms Miriam LAU's motion as amended by Mr LEE Cheuk-yan and Mr IP Wai-ming be further amended by my revised amendment.

Mr James TO moved the following further amendment to the motion as amended by Mr LEE Cheuk-yan and Mr IP Wai-ming: (Translation)

"To add "; and (q) to introduce more generous measures for persons living in cage homes, cubicle apartments or en suite units to assist them in

securing public rental housing allocation more expeditiously" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr James TO's amendment to Ms Miriam LAU's motion as amended by Mr LEE Cheuk-yan and Mr IP Wai-ming be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mr IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Dr Margaret NG, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI

Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr LAM Tai-fai, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Mr Abraham SHEK, Mr WONG Ting-kwong, Mr CHIM Pui-chung and Mr IP Kwok-him abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mrs Regina IP, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

Mr LAU Kong-wah, Mr TAM Yiu-chung, Ms Starry LEE and Mr CHAN Hak-kan abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 21 were in favour of the amendment and four abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 23 were in favour of the amendment and four abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

PRESIDENT (in Cantonese): Mr Ronny TONG, as the amendments by Mr LEE Cheuk-yan, Mr IP Wai-ming and Mr James TO have been passed, you may now move your revised amendment.

MR RONNY TONG (in Cantonese): President, I move that Ms Miriam LAU's motion as amended by Mr LEE Cheuk-yan, Mr IP Wai-ming and Mr James TO be further amended by my revised amendment. President, my amendment has no conflict with the original motion and the other amendments. This is a system which has long been criticized and is against core Chinese values. I thus hope that Members will support my amendment.

Mr Ronny TONG moved the following further amendment to the motion as amended by Mr LEE Cheuk-yan, Mr IP Wai-ming and Mr James TO:
(Translation)

"To add "; (r) to abolish the system of requiring children to sign a 'declaration of not providing support to parents' (commonly known as a 'bad son statement'), so that elderly persons with financial difficulties who live with their children may also apply for CSSA independently and have support and security in their twilight years; and (s) to reinstate the mode of formulating long-term social welfare planning every five years, so that social welfare services can be effectively delivered to really benefit needy persons" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Ronny TONG's amendment to Ms Miriam LAU's motion as amended by Mr LEE Cheuk-yan, Mr IP Wai-ming and Mr James TO be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mrs Sophie LEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mrs Sophie LEUNG has claimed a division. The division bell will ring for one minute.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Dr Margaret NG, Mr CHEUNG Man-kwong, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Dr LAM Tai-fai, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Mrs Sophie LEUNG, Mr LAU Wong-fat, Mr Timothy FOK, Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung and Mr IP Kwok-him abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mrs Regina IP, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

Mr TAM Yiu-chung, Ms Starry LEE and Mr CHAN Hak-kan abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 16 were in favour of the amendment and nine abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 23 were in favour of the amendment and three abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

PRESIDENT (in Cantonese): Mr CHEUNG Kwok-che, as the amendments by Mr LEE Cheuk-yan, Mr IP Wai-ming, Mr James TO and Mr Ronny TONG have been passed, you may now move your revised amendment.

MR CHEUNG KWOK-CHE (in Cantonese): President, I move that Ms Miriam LAU's motion as amended by Mr LEE Cheuk-yan, Mr IP Wai-ming, Mr James TO and Mr Ronny TONG be further amended by my revised amendment.

Mr CHEUNG Kwok-che moved the following further amendment to the motion as amended by Mr LEE Cheuk-yan, Mr IP Wai-ming, Mr James TO and Mr Ronny TONG: (Translation)

"To add "; (t) to establish an emergency unemployment relief fund to provide the unemployed with transitional financial assistance; (u) to expedite the construction of public rental housing units; (v) to establish a chronic disease allowance as a supplement to needy chronic patients for purchasing medicine, medical supplies and auxiliary aids and employing home care workers, etc.; and (w) to establish a long-term care allowance to provide assistance for elderly persons requiring long-term care in purchasing residential care and day care services, or providing subsidies to their carers" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr CHEUNG Kwok-che's amendment to Ms Miriam LAU's motion as amended by Mr LEE Cheuk-yan, Mr IP Wai-ming, Mr James TO and Mr Ronny TONG be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr CHAN Kin-por, as the amendments by Mr LEE Cheuk-yan, Mr IP Wai-ming, Mr James TO, Mr Ronny TONG and Mr CHEUNG Kwok-che have been passed, you may now move your revised amendment.

MR CHAN KIN-POR (in Cantonese): President, I move that Ms Miriam LAU's motion as amended by Mr LEE Cheuk-yan, Mr IP Wai-ming, Mr James TO, Mr Ronny TONG and Mr CHEUNG Kwok-che be further amended by my revised amendment.

Mr CHAN Kin-por moved the following further amendment to the motion as amended by Mr LEE Cheuk-yan, Mr IP Wai-ming, Mr James TO, Mr Ronny TONG and Mr CHEUNG Kwok-che: (Translation)

"To add "; and (x) when establishing a universal retirement protection system, to also set making up for the inadequacies of the Mandatory Provident Fund Scheme as an objective" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr CHAN Kin-por's amendment to Ms Miriam LAU's motion as amended by Mr LEE Cheuk-yan, Mr IP Wai-ming, Mr James TO, Mr Ronny TONG and Mr CHEUNG Kwok-che be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr Frederick FUNG, as the amendments by Mr LEE Cheuk-yan, Mr IP Wai-ming, Mr James TO, Mr Ronny TONG, Mr CHEUNG Kwok-che and Mr CHAN Kin-por have been passed, you may now move your revised amendment.

MR FREDERICK FUNG (in Cantonese): President, I hope that I will not miss out any Members when reading the script.

President, I move that Ms Miriam LAU's motion as amended by Mr LEE Cheuk-yan, Mr IP Wai-ming, Mr James TO, Mr Ronny TONG, Mr CHEUNG Kwok-che and Mr CHAN Kin-por be further amended by my revised amendment.

Mr Frederick FUNG moved the following further amendment to the motion as amended by Mr LEE Cheuk-yan, Mr IP Wai-ming, Mr James TO, Mr Ronny TONG, Mr CHEUNG Kwok-che and Mr CHAN Kin-por: (Translation)

"To add "; and (y) to re-establish the Commission on Poverty to formulate indicators on the population of the poor" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Frederick FUNG's amendment to Ms Miriam LAU's motion as amended by Mr LEE Cheuk-yan, Mr IP Wai-ming, Mr James TO, Mr Ronny TONG, Mr CHEUNG Kwok-che and Mr CHAN Kin-por be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Ms Miriam LAU, you may now reply and you have two minutes 10 seconds.

MS MIRIAM LAU (in Cantonese): President, just now the Secretary has used almost an hour to describe in great detail the existing government measures and welfare services for the grassroots. I thank the Secretary for speaking at great length to explain in detail the relevant measures and services. Speaking at great length however does not mean that the services concerned are adequate. If the services and policy measures were adequate, I believe there would not be so many grievances in society. If our social security safety net was so secure without any holes, I believe today there would not be as many as 10 Members proposing more than 30 proposals in their revised amendments. Admittedly, not all amendments have been passed (I was not quick enough to count the amendments passed just now), but I believe most or over half of the amendments have been passed, and these amendments contain many proposals.

Let me summarize the points contained in the amendments proposed by a number of Members today. The proposals mainly fall into two groups. The first group of proposals are straightforward and the community has forged a consensus. For instance, the abolition of the absence limit of the Old Age Allowance and the provision of subsidies for school children's extracurricular activities. I hope the Government can expedite the implementation of these proposals. Some proposals require more research. I hope the Government can conduct such researches as soon as possible. If more resources are required We all say that the Treasury is "flooded by cash", I thus hope that the Government can go back and assess how much money the Treasury can use on implementing these policy measures, so that the grassroots can, as soon as possible, live a better life and get out of poverty as the economy rolls forward. This can in turn facilitate social harmony. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Miriam LAU, as amended by Mr LEE Cheuk-yan, Mr IP Wai-ming, Mr James TO, Mr Ronny TONG, Mr CHEUNG Kwok-che, Mr CHAN Kin-por and Mr Frederick FUNG, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(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 as amended passed.

PRESIDENT (in Cantonese): Motion for adjournment.

I have given permission under Rule 16(2) of the Rules of Procedure for Mr Frederick FUNG to move, at today's Council meeting, a motion for adjournment for the purpose of debating the following issue: ZHAO Lianhai, who founded "Kidney Stone Babies" to help those Mainland children who are victims of tainted formula milk and their parents to defend their rights, was sentenced to two-and-a-half-years' imprisonment by a Beijing court earlier, causing people both inside and outside the country to express serious concern and question whether the sentence is a contravention of the people's rights enshrined in the Constitution.

The mover of the motion and other Members each may speak for up to 15 minutes.

Members who wish to speak will please press the "Request to speak" button to indicate their wish.

I now call upon Mr Frederick FUNG to speak and move the motion.

MOTION FOR THE ADJOURNMENT OF THE COUNCIL

MR FREDERICK FUNG (in Cantonese): First of all, I would like to thank the President for granting me permission to move this *ad hoc* motion within such a short time.

President, I move that this Council do now adjourn. We demand the immediate release of ZHAO Lianhai, and seek justice for all those affected by tainted formula milk in China, and provide them with reasonable compensation.

President, I think this is the wish of the great majority of people of Hong Kong. Living in a civilized society under the rule of law, we cannot, I stress, we absolutely cannot tolerate a situation where the plaintiff is made the defendant and the defendant is now put behind bars. The civil rights of an individual should be no less than that of the state. How ridiculous it is to turn the plaintiff into the defendant?

President, let me briefly recap the ZHAO Lianhai incident. ZHAO, aged 38, is a Beijingers. On 20 September 2008, his son, ZHAO Pengrui, was diagnosed having a two-millimetre stone in his left kidney as a result of prolonged consumption of Sanlu milk powder adulterated with melamine. Thereafter, ZHAO Lianhai has been fighting for his son's compensation. In the course of his fight, ZHAO founded a civil website called the "Kidney Stone Babies" to publish news and information about the 2008 tainted milk powder incident in China and rally parents of victims suffering from kidney stones as a result of the melamine-laced milk powder to jointly institute lawful rights proceedings. Immediately following an annual meeting he organized for parents of tainted-milk victims on 11 September 2009, the police opened a file for his investigation. On 13 September 2009, he was detained for "picking quarrels and provoking trouble". The first trial was held in late March 2010 but no verdict was handed down. On 10 November 2010, the case of ZHAO Lianhai was tried behind closed door by the Beijing Municipal Daxing District People's Court and ZHAO's family members were only given four passes to observe the trial. ZHAO's mother, his wife as well as his third-eldest and fourth-eldest sisters went into the court to observe the trial. The trial commenced at 8 am with the presiding Judge immediately handing down his verdict and the whole process only took 40 minutes. Having been detained for one year and put under trial for eight months, ZHAO Lianhai was sentenced to a two-and-a-half-years' imprisonment.

President, at this point, I would like to talk about two provisions of the Constitution of the People's Republic of China, which are of relevance to this incident. Article 35 states that, "Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession

and of demonstration." Article 41 states that, "Citizens of the People's Republic of China have the right to criticize and make suggestions to any state organ or functionary. Citizens have the right to make to relevant state organs complaints and charges against, or exposures of, violation of the law or dereliction of duty by any state organ or functionary; but fabrication or distortion of facts with the intention of libel or frame-up is prohibited. In case of complaints, charges or exposures made by citizens, the state organ concerned must deal with them in a responsible manner after ascertaining the facts. No one may suppress such complaints, charges and exposures, or retaliate against the citizens making them. Citizens who have suffered losses through infringement of their civil rights by any state organ or functionary have the right to compensation in accordance with the law."

President, the Constitution of the People's Republic of China, being the ultimate constitutional law of the country, should be abided by every citizen, every state organ and, even more so, every state functionary.

President, you have your own children and I also have a son. Parents love their children unconditionally and give them painstaking care. From the day our child is born, we wish to see him grow up day by day. When the baby is small, we like to see him chubby and healthy; when he is older, we teach him how to read and write. As the child grows up, we hope that he would understand the culture, ideology and values of society.

President, I believe you also share the view that parents have a life-long commitment for their children. I also firmly believe that we expect the country is like our parents, treating us the same way as we treat our children, and I also believe that country's inheritance hinges on our next generation and without which, our country will perish.

As parents, when we see our children suffering from illness, we feel our hearts torn with agonizing pain. We are willing to stake all our energy and time to do whatever we can for the suffering children. We are even willing to give up our lives. ZHAO Lianhai is such a person who spends all his time and efforts doing whatever he can for his son without regret. He uses every means to seek justice for his child. President, do you not think it is just human and normal? Even for fierce animals like wolves, tigers or lions, they will fight desperately to save their offsprings and sometimes even risk their own lives.

It is just human, normal and natural for a father to care for his son, especially the health of his son. This is human nature. I think we can all share ZHAO's pain as the father of a suffering child. As the victim's father, he seeks justice for his son, his next generation. I think he is totally convinced about the course of action he takes.

President, I must stress that the purpose of holding this motion debate today is to respond to the urgent demands made by various sectors of the community about the ZHAO Lianhai incident. In the past few days, members of the public, political groupings and even Hong Kong deputies to the National People's Congress have been voicing out their strong dissatisfaction about ZHAO's verdict through various channels, including protests, signature campaigns and petitions through open letters and joint letters. They demand the Mainland authorities to make a timely turn by releasing ZHAO immediately and serving justice to the victims of the tainted milk powder incident as well as their family members. The continuous voices heard in the community are testimony of the grave concern felt by the public about this incident. The adjournment debate held today gives Members an opportunity to discuss, reflect and rally the opinions and demands expressed by members of the public on this incident, in the hope that such demands can be timely heard and considered by the relevant Mainland authorities before the deadline for filing an appeal this week (that is, Friday, 19 November), so that ZHAO's request for appeal would be granted. Of course, we are still uncertain as to whether the request for appeal would indeed be made or granted. Nonetheless, we hope the matter would be dealt with under the legal system of the Mainland in a reasonable, fair and lawful manner.

President, I hope that through today's discussion, Members of the Legislative Council can, as representatives of public opinion and irrespective of whether they are returned by geographical or functional constituencies, stand united in our call on the Mainland authorities to allow ZHAO Lianhai and his lawyer to make the necessary appeal arrangements and to actually file the appeal before the deadline. According to recent news, we gather that ZHAO's lawyer has still not met him. There are even some news today saying that ZHAO's lawyer was told by the prison wardens that ZHAO did not want to meet him. Should we believe that? Is that what has happened? Is that the truth? In response, ZHAO's lawyer said squarely and soundly that, "I need a letter signed by ZHAO Lianhai personally before I believe he does not want to see me." That is because no appeal can be filed without ZHAO Lianhai's signature.

President, in the past few days, this incident may just be a minor case, a family matter, or even a personal affair in the eyes of the Chinese Authorities; but for Hong Kong, you can hardly image that so many citizens have, in such a short period of time, have a direct understanding of the matter. This is because the incident is really too simple, too direct, too clear-cut and too undisputed. Why has the plaintiff become the defendant? Why is a father seeking reasonable compensation for his son being sentenced to imprisonment? How come a person can be charged for stirring up social disorder, riots and chaos when these incidents had never happened and how come the heavy sentence of two-and-a-half-years' imprisonment is imposed? So many questions are left unanswered. So many questions are given *prima facie* answers that are beyond reason and acceptability, and the case must be refuted.

President, I only came to you on Monday, requesting for holding this adjournment debate today. In the meantime, I have also organized a signature campaign hoping that while Members of the Legislative Council can speak on the motion on their personal capacity As today's motion will not be voted upon, there is no way to indicate the stand of this Council as a whole on the matter, I therefore hope that through Members' signatures, the stance of the majority of Members on releasing ZHAO Lianhai will be clearly indicated. Up to this moment, I have only secured the signatures of 23 Members who belong to the pan-democratic camp and two other Members who do not belong to the pan-democratic camp. Some Members, either individuals or belonging to other parties, told me that they had expressed their views through their parties. Some Members also told me that they had sent letters to the Central Government or the court individually.

I must say I am slightly disappointed by such a reaction because as I see it, the matter is — like I just said — a direct, simple and clear-cut livelihood issue that involves no political boundary, political differentiation or political divergence, hence everyone should be united in taking action. Although I only have the signatures of 25 Members, I very much hope that other Members who told me earlier that they would send letters individually, or jointly, or through their organizations or political parties to the Central Government (either addressed to the National People's Congress or the Supreme People's Court) are putting forth the same request as today's motion — the request for the relevant Mainland authorities to release ZHAO Lianhai.

President, I think there is nothing much we, as Hong Kong's legislature, can do about the case right now. But as Hong Kong's legislature, we can reflect the opinion of the people of Hong Kong. I hope this adjournment debate will give Members of this Council an opportunity to voice their views on this matter. I also hope that the views expressed are not only heard by fellow Members and the President, but the Central Government as well. Of course, there is another disappointment, that is, not a single official from the SAR Government has attended today's debate. I am disappointed because they can also serve as a channel for reflecting the consolidated views of this Council to the Central Government or the National People's Congress. This is my second disappointment about this debate.

Mr Frederick FUNG moved the following motion: (Translation)

"That this Council do now adjourn for the purpose of debating the following issue: ZHAO Lianhai, who founded 'Kidney Stone Babies' to help those Mainland children who are victims of tainted formula milk and their parents to defend their rights, was sentenced to two-and-a-half-years' imprisonment by a Beijing court earlier, causing people both inside and outside the country to express serious concern and question whether the sentence is a contravention of the people's rights enshrined in the Constitution."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That this Council do now adjourn.

MR CHEUNG KWOK-CHE (in Cantonese): President, as the harmful effects of tainted milk powder on the innocent children will last for a long time, what guilt is there for a father in acting out of love for his child? As parents, we all wish to see our children growing up happily and healthily. I think this sentiment is shared by each and every human being across time and space. However, on 10 November, the Beijing Municipal Daxing District People's Court has professed to the world that it is an offence for a man to love his own flesh and blood, and to seek justice on behalf of his beloved child.

As a result of consuming Sanlu milk powder, ZHAO Lianhai's son became a "kidney stone baby". In order to demand justice from the Government and the

manufacturers of tainted formula milk, ZHAO Lianhai has been organizing parents of other victims — the "kidney stone babies" — all over the country to voice out their grievances. However, such actions, which merely intended to seek justice, have got on the nerve of the persons in power in Beijing. In order to maintain social stability, the Government arrested the good father ZHAO Lianhai on groundless charges such as "picking quarrels and provoking trouble" and "disrupting social order", and sentenced him to a two-and-a-half-years' imprisonment.

From this incident, we can see that the more vulnerable a despotic and totalitarian government becomes, the harder effort it will put on suppressing cases perceived to be disrupting social stability and harmony. The award of this year's Nobel Peace Prize to dissident LIU Xiaobo has already made the world realize China's inward weakness behind its strong appearance. However, we really do not expect that the Communist Party of China cannot even tolerate ZHAO Lianhai — a loving father and a good citizen who has helped other desperate and helpless victims.

Regarding the unjust sentence of ZHAO Lianhai, anyone with a conscience will feel upset by its unfairness and injustice. Recently, a number of Hong Kong deputies to the National People's Congress and members of the National Committee of the Chinese People's Political Consultative Conference have respectively petitioned to the Supreme People's Court for leniency in handling this unjust case. Someone has even described this verdict as using "the laws unlawfully to return a guilty verdict for an innocent" .

Some of the above actions have brought me certain comfort, as I realise that most people of Hong Kong do have some conscience, they will not be unsympathetic and confuse right and wrong. Moreover, I am quite glad to see that Hong Kong is still a place where free speech prevails so that we can speak out against injustices in the Mainland and for democracy and freedom in China. However, I may be over-worried, while the Basic Law guarantees that the previous way of life in Hong Kong shall remain unchanged for 50 years, I am worried what the situation will be after 50 years? Will Hong Kong become what it is like in China today where human rights are not respected and the rule of law not enshrined?

Recently, Premier WEN Jiabao made a visit to Macao where his affinity with the people again came into full play. This invariably reminds me of the

words of WEN Jiaobao when he responded on the Internet this February to 1.3 billion Chinese people about the tainted formula milk incident. He strongly condemned that some Chinese enterprises have forgotten moral obligation when making money and that they have sacrificed the interest of the whole nation to pursue their own interest. He even quoted the saying of Mencius about "the feeling of commiseration is essential to man" to condemn these heartless enterprises.

Is Premier WEN, who loves the people as his children, aware that in the capital city of Beijing, an unjust case is waiting for the proper attention of our leaders? If the leaders in Beijing also have the feeling of commiseration, they should announce right away that ZHAO Lianhai be acquitted and released. This action not only clears the reputation of ZHAO and gives him justice, but also saves the Chinese from disgrace and this despotic regime from further blemish. I hope the Beijing government will release ZHAO Lianhai immediately so as to give him justice and let the world see that we still have some righteous conscience.

President, I so submit.

MR LEE CHEUK-YAN (in Cantonese): President, first of all, I thank Mr Frederick FUNG for moving this adjournment debate today so that we can cry injustice for ZHAO Lianhai.

President, as I believe you would also agree, the case of ZHAO Lianhai is an unprecedented case of injustice. It is so ridiculous that I feel sad and miserable as a Chinese. ZHAO is the founder of "Kidney Stone Babies", he is a father as well as a victim, and the victim has ultimately been sentenced to two-and-a-half-years' imprisonment. Seeing that there is such a ridiculous incident under the current judicial system of Mainland China, the people of Hong Kong have in common a feeling of outrage and injustice.

President, let us review the injustices suffered by ZHAO Lianhai. I am holding a copy of his criminal verdict in my hands. The Beijing Municipal Daxing District People's Court charged that, "From September 2008 to September 2009, the defendant, ZHAO Lianhai, made use of hot issues in society to provoke and rally people to make trouble by chanting slogans and gathering illegally in

public places in the city of Shijiazhuang in Hebei and the districts of Daxin, Fengtai and others in Beijing, causing serious disruptions to the social order of these areas." Let us think for a moment the charge of "chanting slogans and gathering illegally" — what slogans would he have chanted? He has chanted the slogan of "Restoring health to the children and demanding justice from the judiciary". The gathering which he had taken part in was the candlelight vigil held after the first anniversary of the incident. If these so-called slogan-chanting and trouble-making I just mentioned are so serious as to disrupt social order, the fragility and incompetency of this regime, which wilfully charges a citizen for disturbing public order, are really too plain to see.

Another charge was made out of his coming forth to report a crime. How come reporting a crime can lead to such injustice? That is another case of injustice. According to the verdict, "On 4 August 2009, the defendant, ZHAO Lianhai, again made use of hot issues in society and on the pretext of reporting a crime," — let me supplement here, the crime he reported was a rape case — "..... on the pretext of reporting a crime, to provoke and rally people to make trouble on the east side of the front gate of the Beijing Municipal Public Security Bureau, causing seriously disruptions to the social order of that area." As we all know, the final verdict was: "The defendant, ZHAO Lianhai, was convicted on the charge of picking quarrels and provoking troubles, and sentenced to a two-and-a-half-years' imprisonment."

President, what has ZHAO Lianhai done? After listening to the statements I just read, Members will understand what Zhao had done: convened press conferences, founded the "Kidney Stone Babies" and organized some gatherings, demanded for proper accountability for the tainted formula milk incident at the front gate of the Court and sought compensation from the Sanlu group. Later, because the police had refused to handle a rape case, he went to the police station asking to file a formal report. The actions he took were by no means special. If these actions constitute "picking quarrels and provoking troubles", then honestly, we are picking quarrels and provoking troubles every day. Who in this Chamber have not chanted slogans before? Maybe there are indeed some Members who have never chanted any slogans, but most of us have, most of us have held press conferences, most of us have been interviewed and most of us have taken part in processions. However, in the eyes of the Chinese Communist regime, those who perpetuated these things are picking quarrels and provoking troubles.

President, when a father — there are many fathers here — saw his child feel sick after consuming the tainted formula milk and fails to recover fully, he will not only demand compensation but also ask for the provision of medical services so that his child can have a full recovery. Seeing that his child's kidney stone ailment cannot be fully treated, the father must be very agitated and desperate for seeking proper accountability. It is just human nature. This is what a father, certainly any father in this Chamber, will do. He hopes that justice will be served and a proper account of the whole incident be given.

President, here in Hong Kong, offices of Members of the Legislative Council receive numerous cases every day. Many people come to us to voice their grievances and solicit help to seek justice, reasonable amount of compensation, fair treatment and proper accountability. These are what we encounter every day. Victims of the Lehman Brothers incident who station in various parts of Central every day are only seeking fair treatment and proper accountability. If whenever a victim comes forth to demand fair treatment and proper accountability, he is said to be picking quarrels and provoking troubles, President, what kind of regime is that? How can this regime sentence a victim to two-and-a-half-years' imprisonment? I think the world is shocked by this news. Actually, it is also very disheartening for the society of China itself as well as for all Chinese.

How come the so-called rising big nation, the regime with 1.3 billion people under its rule, cannot put up with just one man, ZHAO Lianhai? How come it cannot put up with the "Kidney Stone Babies"? All they demand is merely a fair treatment. I think we can all share the feelings of the victims; but unfortunately, when the victims have come forth to raise their demand for fair treatment, this regime has suppressed them high-handedly without any obvious reasons, and ZHAO Lianhai was sentenced to two-and-a-half-years' imprisonment. We can still remember the image on television of ZHAO Lianhai's son holding a paper reading: "Daddy, come home". However, his father cannot come home. I believe everyone in Hong Kong is extremely angry, why not let the father of this child go home.

President, we think it is most important for all the people in Hong Kong to speak out for justice with a common voice. Earlier, Mr Frederick FUNG talked about soliciting signatures from Members of the Legislative Council. He said he got 25 signatures, and other Members had told him that they would express their

views through their own channels. It really does not matter. No matter what channels are used, the most important thing is to express our wish. The most important thing is that we cry out against injustice on behalf of ZHAO Lianhai together, hoping that he can be released soon. The present situation is quite urgent because he has been going on a hunger strike and his lawyer cannot visit him. In fact, it is a breach of the Criminal Law of the People's Republic of China to deny ZHAO's access to his lawyers because the purpose of the visit is to make arrangements for an appeal. How can anyone have trust on such a judicial system? What about acting in accordance with law? If the authorities cannot even act in accordance with law in the present case, where is the rule of law? It is quite unimaginable just how many unjust cases are created by the Chinese Communist regime nowadays. Starting from the case of LIU Xiaobo who was sentenced to 11 years of imprisonment, then the case of TAN Zuoren for the Sichuan earthquake incident and now the case of ZHAO Lianhai for the tainted formula milk incident, these rights defense activities have all been jailed unjustly for fighting their lawful rights. Recently, a person named GUO Xianliang was arrested just because he had publicized the news of LIU Xiaobo's award and he was likewise charged with inciting subversion of state power. What kind of regime is this after all?

President, I see something on Facebook which truly reflects what the people of Hong Kong want to say to WEN Jiabao. At times, I have been honestly touched by the words of WEN. But with so many touching words spoken, ultimately there are only words but no actions and hence, we cannot help feeling greatly disappointed. While we hear some kind and touching words, we wonder how could such things happen. Let us look at this poster of "China's Best Actor: WEN Jiabao" which says, "Too little even for a thousand statues of hero, but too many even for half a suit of the Emperor's new clothes." Why is that so? On one side, there are three pictures of LIU Xiaobo, TAN Zuoren and ZHAO Lianhai. WEN Jiabao once said that "we must pursue political reform until the last days of our lives", and LIU Xiaobo was sentenced to 11 years' imprisonment. WEN also said that "we must conduct stringent investigations about the Wenchuan earthquake", and TAN Zuoren was sentenced to five years' imprisonment. WEN then said that "we must conduct stringent investigations about the melamine-laced milk powder incident", and ZHAO Lianhai was sentenced to two-and-a-half-years' imprisonment. That is why the poster asks this final question: WEN Jiabao, come out and say something.

President, all these incidents are telling us that whenever WEN Jiabao talks about conducting stringent investigations, something bad will happen and someone is going to jail. How come something like this happen? A premier has made so many promises to his people but all fail to materialize. How disappointed the people are. All the promises have become lies and the people cannot help but satirize him as the best actor. I do not want to satirize him but the truth is so plain to see. He has done nothing about all these unjust cases, and that is disappointing.

President, I must mention one last thing because recently, I am also involved in an unjust case similar to that of ZHAO Lianhai as I was accused of making trouble. While the offence of picking quarrels and provoking troubles does not exist in Hong Kong, there is the offence of unlawful assembly. When three or more persons assemble together which, according to the opinion of the police or the prosecutor, may cause any other person a feeling of public order under threat — such a feeling is suffice regardless of whether the threat is real — the assembled persons could be charged and sentenced according to the offence of unlawful assembly under the Public Order Ordinance. We do not know whether we would be convicted and sentenced eventually. The incident took place on 25 December last year outside the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (the Liaison Office). As the door was open, we went into the premises to petition. As a result, we were charged with unlawful assembly in private property.

There are similarities between this incident of unlawful assembly and ZHAO Lianhai's charge of "picking quarrels and provoking troubles", but of course ZHAO's incident was more severe. However, Hong Kong is a place under the rule of law. But things totally change whenever something happens at a certain location. Within the premises of the Liaison Office, the rule of law does not apply. It is a black hole of the rule of law. If such things prevail in Hong Kong, it will only jeopardize our rule of law. Therefore, on the one hand, I hope the people of Hong Kong will support the demand for releasing ZHAO Lianhai and continuous actions will be taken by the Hong Kong Alliance in Support of Patriotic Democratic Movements of China to press for the release of LIU Xiaobo, TAN Zuoren and ZHAO Lianhai.

On the other hand, I must lastly express my deep disappointment and regret towards the HKSAR Government because once again, no government officials

have attended today's debate. I trust that as in the incident of LIU Xiaobo, they are effectively saying that they have "no comments". But as a government of a special administrative region of China and under the "one country, two systems" principle, can they at least say something from their conscience? Actually, amongst these few incidents, the case of ZHAO Lianhai is the least political. I am not saying if the cases are political, the person concerned deserve to be sentenced. But considered from another perspective, even for the least political case of ZHAO Lianhai, the authorities have handed down a heavy sentence of two-and-a-half-years' imprisonment and adopted such high-handed measures to suppress the rights defense advocates, I can only say I am bitterly disappointed.

Thank you, President.

MISS TANYA CHAN (in Cantonese): President, in the afternoon of 10 November 2010, the five-year-old ZHAO Pengrui held a placard reading "Daddy, come home" in front of the Beijing Municipal Daxing District People's Court while waiting for his father, ZHAO Lianhai, who has been away for one year. But Pengrui's wish had not come true, and his wailing mother just hugged him closely and said, "Daddy has not come out." I think everyone watching this scene on television will feel heart-broken.

In 2008, ZHAO Lianhai's son, ZHAO Pengrui (who was then three years and eight months old) was diagnosed with two two-millimetre stones in his left kidney. ZHAO Lianhai then founded "Kidney Stone Babies" and set up a website to disseminate information about the incident of tainted milk products in China. Together with parents of other children suffering from kidney stones as a result of consuming melamine-laced milk powder, ZHAO instituted mass lawsuits and demanded the Beijing authorities to conduct thorough investigation into the matter so that a fair and just report would be given to the sickened children. They also instituted civil proceedings against manufacturers of the formula milk and the local government. However, their petition for conducting investigation was ignored and their litigations were dismissed by the court.

In return, ZHAO Lianhai had been detained since November last year. And it was not until earlier this month that he was sentenced to a harsh punishment of two-and-a-half-years' imprisonment by the Beijing Municipal Daxing District People's Court.

Under Article 293 of the Criminal Law of the People's Republic of China (the Criminal Law), acts of "picking quarrels and provoking trouble" are listed out as follows: beating another person at will and to a flagrant extent; chasing, intercepting or hurling insults to another person to a flagrant extent; forcibly taking or demanding, wilfully damaging, destroying or occupying public or private money or property to a serious extent; creating disturbances in a public place, thus causing serious disorder in such place. This offence originates from the "crime of hooliganism" under an old version of the Criminal Law. As its name suggested, this crime was created to counter acts of trouble-making, vandalism and disrupting public order perpetuated by hooligans. Obviously, it was not intended to catch people like ZHAO Lianhai who fought for a citizen's lawful rights and demanded compensation and proper accountability from the authorities. It is enough to show just how ridiculous the Mainland court was in confounding right and wrong.

Let us look at the three counts of crime charged by the prosecution against ZHAO Lianhai, which Mr LEE Cheuk-yan has briefly mentioned just now. These included: holding press conference and drawing crowds of onlookers; organizing a candlelight vigil at the first anniversary of the incident; displaying protest signs and chanting slogans outside the Court of Shijiazhuang during the trials of senior management of Sanlu Group. Like me, many people might be totally flabbergasted upon hearing these crimes for the first time. Should such a draconian offence exist in Hong Kong, I think, as Mr LEE Cheuk-yan just said, most of the Members in this Chamber would be charged with "picking quarrels and provoking trouble". But let us look at what ZHAO Lianhai had actually done.

First, as ZHAO Lianhai was placed under illegal house arrest the night before the press conference, he could not possibly attend the event. The restaurant where the press conference was supposed to be held was forced to close for business. Parents of other victimized children could only go to a park nearby and continue their explanations to foreign journalists.

Second, the charge of "picking quarrel and provoking trouble" referred to acts perpetuated in public places for disrupting public order. However, the first anniversary candlelight vigil attended by ZHAO Lianhai and parents of other "kidney stone babies" was held in a private room of a restaurant. That was strictly a private gathering. And I think tens of thousands or even hundreds of thousands of such gatherings are being held each day all over the country.

Third, ZHAO Lianhai had gone to Shijiazhuang court on four occasions out of concern for the trial of Sanlu Group, its bankruptcy and liquidation auction. He had also filed a lawsuit for compensation but was denied. Against such judicial injustice, ZHAO and his peers had staged protests outside the court. But why was that not allowed? It is but a fabricated accusation.

In February 2009, ZHAO had accepted a telephone interview by a Hong Kong radio station before his arrest, and he explained why he could not accept the compensation package offered by the government. Firstly, the package which awarded compensation of RMB 200,000 yuan, RMB 30,000 yuan and RMB 2,000 yuan respectively for cases of death, serious condition and general condition was proposed without any prior discussion with the parents. As the whole process lacked transparency, there were issues such as why only RMB 30,000 yuan was paid as compensation and not RMB 50,000 yuan; or it turned out that the compensation was actually paid by Sanlu Group instead of the Government. Seemingly, the Government had shirked its responsibility. And after a few months, Sanlu Group actually went bankrupt.

Secondly, nothing much was known at that time about the actual harm that kidney stones would inflict on the children. As there was very little relevant medical research in the Mainland, many parents were extremely worried once they considered the prospect of some unforeseen complications. But under the compensation package, medical services would only be provided to the victimized children before adulthood, that is, until they reach 18 years of age.

It later turned out that the tainted milk powder incident was not as simple as it appeared to be. Although melamine was tested in many major brands of powdered milk in China, only Sanlu Group was eventually made the scapegoat. While several members of its senior management were indicted and convicted, and several dairy farmers who supplied contaminated milk to Sanlu were sentenced to death penalty, other companies were totally unaffected. As the impact of the incident gradually wore off, public concern had subsided and various local governments also stopped following up on the victimized children. Therefore, ZHAO Lianhai and parents of 300 000-plus victimized children must count on themselves to fight for thorough investigation, compensation and medical treatment.

I think many young people still remember the accident which happened to Selina (a member of the Taiwanese female singer group S.H.E.) during a film

shooting in which she was burnt 40% of her body, and some parts of the body have third-degree burns. I recall that when the accident happened, the father of this female singer came out and said, "If I could, I would use my body to sustain all the tortures of fire for my daughter; if I could, I would use my body to sustain all the blame and hardships for my daughter."

Actually, I believe the greatest wish of parents is for their children to grow up healthily and happily. I truly believe that it is the same with Mr ZHAO Lianhai.

The 38-year-old ZHAO Lianhai has worked in various media organizations including television station, advertising agency under the State Administration for Industry and Commerce, and China Quality Daily under the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China. He has also worked as the director of various state-owned advertising agencies. But on the road of defending for rights, his identity is really very simple. He is just a father.

ZHAO once said, "In a society where children always suffer, do we not feel ashamed and disgraced?" It is exactly under such a society in China that the plaintiff has become the defendant. A man with a conscience has showed us how great and selfless the love a father has for his son and his health.

Since ZHAO Lianhai's arrest last year, the ZHAO family has lost its financial support. In the past year, Mrs ZHAO has to rely on donations from society to take care of their two sons on her own. Moreover, she must run around for her son's medical treatment. The 5-year old ZHAO Pengrui is only one metre in height and 15 kilograms in weight, very much under par with normal children of the same age.

When interviewed by the media of Hong Kong the day before, Mrs ZHAO said, "I dare not tell the children that their father is going on a hunger strike in prison!" The hunger strike has gone on for eight days and ZHAO's family is extremely worried about his condition. I think many people in Hong Kong or even in China are also worried because we do not know what has happened to him in the detention centre and what impact the hunger strike will have on his health. Mrs ZHAO has written to ask him to stop the hunger strike, but she does not even know if the letter will actually reach her husband. Even LI Fangping, ZHAO Lianhai's defense lawyer, was denied access. According to Mr LI, the

deadline for filing an appeal was this Friday and all the necessary information for the appeal was ready. The only thing left was ZHAO's own agreement and signature. But unfortunately, the detention centre would not allow LI to meet ZHAO and no reason was given. As such, nobody has the latest information about ZHAO Lianhai and nobody knows whether ZHAO's right of appeal has been deprived.

Seeing the fate of ZHAO Lianhai, we cannot but lament about how unfair and ridiculous the Mainland judiciary has been. In fact, "there is no such thing as 'the darkest' in China because things only get 'even darker'." Seemingly, courts in China have become a legal tool used by the Government to suppress the people as well as their rights defense actions. As Mr LEE Cheuk-yan just said, the dark side of the Mainland judiciary as depicted in the poster seen on the Internet has also filled me with great indignation and sorrow. Words spoken by Premier WEN Jiabao seem lost to the whole nation and nobody put those words in action properly. How long should we wait before the words spoken by WEN become a reality and are practiced all over the whole nation — our Motherland?

In this incident, ZHAO Lianhai was indicted on the trumped-up charge of "picking quarrels and provoking trouble". After the cases of LIU Xiaobo and TAN Zuoren, this is yet another blatant display that the standard of human civilization and the Constitution of the People's Republic of China have been trampled on. In his self-defense statement, ZHAO steadfastly maintained his innocence. He also said, "In order to keep righteousness and conscience in our lives and our souls, we can only maintain the faith and standard of rectitude." With his own deeds, ZHAO Lianhai taught his five-year-old son, ZHAO Pengrui, how to be a man of righteousness. According to Mrs ZHAO, ZHAO Lianhai once said that he did those things in order to lessen the suffering of the next generation. A man living in this period of time should have commitment and he had no regrets. He also believed that his actions would have the understanding of his family as well as his sons when they grow up.

What crime has this caring father committed?

I implore the Chinese government to grant early and unconditional release to ZHAO Lianhai — the good father of China.

With these remarks, I support the motion. Thank you, President.

PRESIDENT (in Cantonese): I consider that this Council cannot possibly complete all the items on the Agenda before midnight today. Therefore, I will adjourn the meeting at around 10 pm and resume tomorrow at 9 am.

MR RONNY TONG (in Cantonese): President, the court is a place for administering justice. But when it becomes a venue for denying justice or even becomes a political tool, what then is the function of the court? One not only thinks that the rule of law has gone, he also doubts whether it is more terrible to have a society without any courts, or a society having courts, but the rule by law is conducted according to the government's will.

President, noting the recent spate of cases from TAN Zuoren, LIU Xiaobo to ZHAO Lianhai, many people are questioning whether China has completely discarded its Constitution and there is no longer the rule of law in the country. President, I know this is not a saying most people can agree wholeheartedly, but when the facts are all laid on the table, these people should perhaps think again that such a saying is not without grounds. President, the facts are that the plaintiff ZHAO Lianhai was made the defendant just because his son had unfortunately consumed powdered milk produced by Sanlu — a dairy group with such a good reputation and standing in the Mainland that those who consumed Sanlu milk products were said to be the lucky ones.

The whole incident happens because ZHAO's son has consumed melamine-laced powdered milk produced by Sanlu Group and hence suffered from kidney stones. He has the right to sue for civil compensation. When he opined that the laws could not guarantee him a fair and just outcome, he brought the matter to the attention of the media. While he was just hoping to seek justice for his son, he was sentenced by the People's Court in Beijing. In the verdict, one of ZHAO's charges was that he made use of hot issues in society to provoke and rally people to make trouble by chanting slogans and gathering illegally in public places in the city of Shijiazhuang in Hebei and the districts of Daxin, Fengtai and others in Beijing, causing serious disruptions to the social order of these areas.

But the truth is that he has neither organized any gathering nor invited other persons to participate in any gathering. It was just that crowds of onlookers were drawn by his protests. Another count of his charges was

receiving interviews from media and for this, he was sentenced to two-and-a-half-years' imprisonment. But in fact, he would be put behind bars for more than two and a half years because he has already been detained for one year. He would have to stay in prison for three and a half years for this case.

President, many people consider this incident of ZHAO Lianhai the last straw. Many people who have been silently respecting and obeying the Central Government also feel they can no longer remain silent on this matter. President, even for yourself, you have disallowed the request for moving an adjournment debate about two weeks ago on LIU Xiaobo's case subsequent to his award of the Nobel Peace Prize — some people may think that LIU's case is even more urgent than ZHAO's, but President, you have disallowed that request.

PRESIDENT (in Cantonese): Whenever there is a request for moving an adjournment debate in this Council, I will rule on the same in accordance with Rule 16(2) of the Rules of Procedure. There is a set of clear guidelines when handling Members' requests for moving adjournment debates.

MR RONNY TONG (in Cantonese): President, I was neither challenging your authority nor the guidelines. I was merely making a comparison. Regarding the case of ZHAO Lianhai, many people may feel that it is time for them to speak out. President, you also think it is time to let Members hold an urgent debate on this matter. President, I do not disagree with your decision. I am only saying that with all these things adding up, one can sense that the situation is worsening.

President, many people say that the most vehement criticisms have come from LEW Mon-hung, a Member of the National Committee of the Chinese People's Political Consultative Committee. Just a few days ago, I watched a television programme attended by LEW Mon-hung and others including those from the democratic camp and academics, yet LEW was the one who lashed out the fiercest criticisms. Moreover, many other persons from the pro-establishment camp have asked for leniency for ZHAO Lianhai including Fanny LAW, a Hong Kong deputy to the National People's Congress, who has asked all her fellow deputies to support her appeal letter. And one of the co-signatories is Mrs Rita FAN, a Member of the Standing Committee of the National People's Congress. President, when we saw the joint letter, we actually

felt quite sad because they were not saying outright that this matter was unrighteous. They were just appealing for leniency, hoping that the Supreme People's Court could consider a more lenient sentence for ZHAO Lianhai on account of humanitarian grounds and his sentiment as a desperate father who loved his son dearly. Moreover, as ZHAO had already been detained for over a year, they hoped that the court could deal with the case leniently. In other words, they had indirectly said that ZHAO was guilty but they were just asking for leniency from the Court.

President, I of course understand that by the way things are done in the Mainland, the more high profile the signature campaign is, the less likely it will be successful, and many people feel they have already done what they can. However, President, even though a miracle does happen — because ZHAO's case does not involve any political factors — and he is given a lighter sentence, does it mean the issue has been resolved? The truth is, as our country becomes more successful and its economic achievements more prominent, the basic rights of our people and the rule of law of our country become more regressive. I think any Chinese who is proud of China would query, given the great success of our country today, how come such a powerful state will be afraid of a humble father, an academic and some teachers? What sort of powers do these people have that make the state which is in possession of nuclear warheads, satellites and hundreds of thousands of troops in the People's Liberation Army so frightened that these people must be sanctioned by the law?

President, I dare not say I am familiar with the affairs of China. Like many people of Hong Kong, I observe and learn about the Chinese Government through a veil. However, regarding what are said by many people, are they true facts. That is, why is the state so frightened of those who are apparently unarmed and spare no effort to maintain the so-called stability of the country? President, I really cannot figure out why and do not understand about this theory. If a country wants stability, should it not administer justice so as to convince the public that the government is people-oriented? By creating more cases of injustices, cases causing public furor and cases involving wrong decisions even by the standard of laymen, will the society be more prone to instability as a result?

President, I am sometimes really at a loss because in the past 10 years, leaders of the state have time and again stressed the importance of governing the

country according to law. But for them, it is just a euphemism for rule by law, or there is a just fine line between governing the country according to law and the rule by law. Honestly, if what we see today is the outcome of governing the country according to law, all those who are concerned about the affairs and future of China dare not think what will China and Hong Kong become in the future. Thank you, President.

MR LEUNG YIU-CHUNG (in Cantonese): President, the Chinese Government's political suppression against human rights advocates in the Mainland has verged on insanity. I think the present case of ZHAO Lianhai being sentenced to two-and-a-half-years' imprisonment is a stark example of undisguised political persecution.

As we all know, ZHAO Lianhai is the father of a sick child suffering from kidney stones. He founded an alliance called "Kidney Stone Babies" to defend the rights of victims of melamine-laced powdered milk. He also participated in rights defense activities hoping to demand justice for his son and for some 30 million victimized children. Yet he was arrested on 13 November last year on the charge of "picking quarrels and provoking trouble".

President, what is more infuriating and unacceptable is the so-called four offences committed by ZHAO Lianhai as alleged by the authorities. What are these four offences? Some Honourable colleagues have mentioned these offences earlier, and I will give a recap here. Firstly, he accepted interviews from reporters on the street and attracted a crowd of more than 10 on-lookers. Secondly, he held up a banner the size of an A4 paper — President, it is the size of this paper I am holding — outside the court of Shijiazhuang in Hebei during the trial of the tainted formula milk case. Thirdly, ZHAO Lianhai and 10-odd parents of victimized children held a commemorative gathering at a restaurant on the first anniversary of the tainted milk incident. Yet it had become an offence even to commemorate the incident. Fourthly, ZHAO was charged with provoking and rallying people to make trouble outside the Public Security Bureau's office when he filed a report about the rape of LI Ruirui, a female petitioner from Hubei.

President, as many colleagues have pointed out, if these so-called offences committed by ZHAO Lianhai were committed in Hong Kong, many people would have been convicted. But actually, we all know that the acts of these

so-called offences (as considered by the state) are but the basic rights of the people. They are not offences at all. Therefore, notwithstanding ZHAO's sentence, I think he was merely exercising his civil rights as conferred by the Constitution and the laws and he should never be convicted. Moreover, it is beyond all reasons that the plaintiff of the case was turned into the defendant. I think this is but a typical unjust case built on "trumped-up charges" in the modern times, which is both infuriating and horrendous.

President, I believe that the Chinese Government's frantic suppression against human rights advocates in the country is closely related to its emphasis on "maintaining stability" in recent years. But if a country's stability is built upon putting down different opinions and disadvantaged groups in society, the so-called stability or harmony achieved is anything but an illusion that shall not last.

Recently, with the award of this year's Nobel Peace Prize to Chinese dissident, LIU Xiaobo, the Chinese Government has not only continued to keep LIU behind bars, but also put other persons including his wife LIU Xia as well as Tiananmen mothers DING Zilin and ZHANG Xianling under illegal house arrest. Even activities celebrating LIU's award had been suppressed; more than 100 human rights advocates were detained and questioned, and surveillance cameras have been installed outside their residences. MO Shaoping, the defense lawyer of LIU Xiaobo, was prevented from leaving the country to attend a meeting. Moreover, several colleagues have earlier mentioned that on 2 November this year, GUO Xianliang, an engineer from Yunan, has been formally arrested in Guangzhou on the charge of inciting subversion of state power because he has publicized the news about the award of the Nobel Peace Prize to LIU Xiaobo. President, if these are not acts of trampling and disrespecting human rights, what are they anyway?

Last week, a court in Beijing has sentenced ZHAO Lianhai to two-and-a-half-years' imprisonment. As I see it, this is a continuation of the recent acts of suppression against LIU Xiaobo and other human rights advocates. At the same time, it shows us how pathetic the society of China is nowadays and how tragic the lives of the Chinese people are under such conditions.

President, I must take this occasion to state again the demands of the Hong Kong Alliance in Support of Patriotic Democratic Movements in China. We demand that ZHAO Lianhai, GUO Xianliang, LIU Xiaobo and all political

prisoners of conscience be released immediately, LIU Xia and Tiananmen mothers be released from illegal house arrest, the 1989 pro-democracy movement be vindicated, the responsibility for the crackdown be ascertained, one-party dictatorship be ended, the ban on freely organizing political parties be lifted, democratic institutions be established and human rights be respected. It is only when these demands are met that there will be harmony in society and progress in China. I very much hope that the Chinese Government will learn from the lessons of the past.

WEN Jiabao has just visited Macao and he has recently stressed time and again his wish "to let everyone lead a happy life with dignity, to let everyone feel safe and secure, to let the society be one with equity and justice and to let everyone have confidence in the future". He also mentioned that "the people's wishes for and needs for democracy and freedom are irresistible" and "it is the people and the strength of the people who determine the future of the country and history". He also said that "freedom of speech is indispensable for any country". He even stressed that "we should not only let people have the freedom of speech, we more importantly must create conditions to let them criticize the work of the government". All these words were so beautifully spoken that LEE Cheuk-yan said he felt touched. But no matter how beautiful and touching these words are, they just show that the Chinese officials do not practice what they preach. President, if this is how a government official of this big nation acts, how can we still have any confidence?

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

Deputy President, I think the people's powers are irresistible and "those who go along with the trend will thrive on while those who go against it will fail". I think the respect for human rights and freedom is a common value in the international community and it is also our consensus. Hence, I very much hope that the Chinese Government can pull back before it is too late by giving respect to the basic rights of the people in China and releasing all political prisoners of conscience.

Deputy President, I so submit.

MR CHEUNG MAN-KWONG (in Cantonese): Deputy President, with deepest anger and sorrow, I voice out my support for ZHAO Lianhai and his family who are now in the direst of situations. Even though my voice, if pitched against the state machinery, is but like a tiny spark in the dark of the night, I, being a Chinese, cannot stay silent for silence is a crime of conscience.

The case of ZHAO Lianhai's involvement in the tainted formula milk incident is an injustice of the millennium. If LIU Xiaobo created fear and foreboding for the Chinese Government by speaking about China's constitutionality, then ZHAO Lianhai was just a victim of tainted formula milk; he merely organized other helpless parents to redress their grievances, seek some humble justice and demand humanitarian compensation, yet he was regarded as a heinous traitor and had been detained for more than one year before he was heavily sentenced to two-and-a-half-years' imprisonment.

After the Sanlu tainted formula milk incident came to light, WEN Jiabao had apologized to family members of the victims with tears of guilt in his eyes. He even said to the whole world in New York that every businessman should flow the blood of morality within his body and that China would learn its lessons from the tainted formula milk incident. The culprits of the incident were of course the unscrupulous dairy farmers and manufactures, but as the scandal was exposed before the Beijing Olympics, the Central Propaganda Department had strictly censored the dissemination of relevant information; and in doing so, the Central Propaganda Department had become an accomplice, leading to the wide distribution of tainted formula milk all over the country. Should the blood of morality not flow in the bodies of the officials concerned? Should they not bear responsibility for the proliferation of tainted milk and resign, or even be arrested and imprisoned?

Chinese Nobel Peace Prize laureate LIU Xiaobo once lashed out against the Central Propaganda Department for putting "harmony" before human lives during the Olympics. During that period, the media were just hyping about the spectacular opening ceremony of the Olympics and the glory of winning gold medals; yet behind such scenes of glory, countless parents have been kept in the dark and they kept feeding their babies with the tainted formula milk for more than a month. Now, manufacturers of the tainted milk products had either been sentenced to death penalty or life imprisonment. However, officials of different ranks can get off scot-free, including local officials who harboured the

wrongdoers and officers of the Central Propaganda Department who suppressed the news and covered up the incident. As an aggrieved parent himself, ZHAO Lianhai had just liaised with fellow parents to demand justice for the 300 000 victimized children, and he was given such a harsh sentence, where is justice?

The charge imposed on ZHAO Lianhai for "picking quarrels and provoking trouble" may well be used to deal with the hooligans who stir up uncalled-for trouble. But what are the evidences against ZHAO? All he had done was to set up the "Kidney Stone Babies", receive an interview on the street, put up a slogan written in an A4 size paper outside the Court and commemorate the first anniversary of the tainted milk incident in a restaurant with other parents. If these are all crimes, how many people will be arrested each day in front of the Government Headquarters in Hong Kong? Although different legal systems are applied in the Mainland and Hong Kong, it is just human nature common to all for a father to love his son, to feel agonized by his son's suffering caused by the tainted formula milk. How can such a man be found guilty of any crime? How can such a heavy penalty be imposed on ZHAO Lianhai who is rightfully the plaintiff?

The heavy sentence handed down by the Chinese Government on ZHAO Lianhai is obviously intended to be an act of defiance against the Nobel Peace Prize award, a warning signal for those who supported the Charter 08 and LIU Xiaobo, a statement underlying the judicial independence of China and a challenge defying human civilization. However, through this act, the world has seen how barbarous and autocratic China is; the gold medals won at the Olympics and the fireworks displayed at the World Expo did no help to boost China's image.

When the people of Hong Kong saw on television ZHAO Lianhai's son staring around aimlessly and hopelessly while holding up a thin paper reading "Daddy, come home" in the wind; when we saw ZHAO's elderly mother and wailing wife shouting out loudly his innocence outside the court; and furthermore, when we saw the arrogant and sneering face of that shameless court official who was enjoying the suffering of ZHAO's family members, how could we not feel outraged and sad.

During the reign of MAO Zedong in 1976, people gathered at Tiananmen Square to mourn ZHOU Enlai, but they were in fact taking this chance to protest

against MAO Zedong's dictatorship and hegemony. A disheartening poem had been written to describe the darkness of the MAO Zedong era and the most famous couplet read, "In my grief I hear demons shriek; I weep while wolves and jackals laugh." In China today, the couplet still holds truth for LIU Xiaobo, TAN Zuoren and ZHAO Lianhai. It still expresses the anger of the people. The country was founded 61 years ago but the apparitions of feudalism still wander in the vast territory of China. Democracy, constitutionalism and civilized values advocated in LIU Xiaobo's Charter 08 are still very much out of reach in China. Today, the Chinese people are still fighting for the basics: human compassion, humanitarianism, humanity and human rights, just like ZHAO Lianhai and his family.

The heavy sentence of ZHAO Lianhai was met with uproar in the world and fury of the Hong Kong people. While the democratic camp took to the street, the pro-establishment camp could no longer stay silent. The Hong Kong deputies to the National People's Congress (Hong Kong NPC deputies) and Members of the National Committee of the Chinese People's Political Consultative Committee had initiated a joint petition. Sources said that after several revisions, the final version of joint letter aimed at appealing for leniency from the Supreme People's Court so that a lighter sentence be meted out to ZHAO Lianhai on account that he loved his son dearly and had been detained for over a year. However, the Democratic Party considers that ZHAO has not committed any crime for organizing the aggrieved parents to protect their rights and for demanding justice and compensation for the health and well-being of their children. Therefore, we ask for the immediate release of the innocent ZHAO Lianhai and not some condescending mercy from the Central Authorities to reduce his sentence out of leniency. Nonetheless, the efforts made by Hong Kong NPC deputies in sending the joint letter should be recognized. But regrettably, only 27 deputies have signed and eight marble-hearted deputies just put up all sort of specious arguments to stall or reject the request. An argument most often heard goes like this: the more high profile our actions, the more inflexible the Central Authorities will be and hence, low-profile mediation would be the best way forward.

What then are high-profiles actions: the petition of Hong Kong NPC deputies, the open request of ZHAO Lianhai's lawyer for appeal, ZHAO's wife being interviewed, and of course, ZHAO going on a hunger strike in jail. Therefore, under an overpowering, barbarous and autocratic Government, it is

low-profile for people to consume tainted formula milk, have kidney stones and remain silent; it is low profile for people to kneel on the floor and wait for some condescending mercy. But people have been kneeling on the floor for 61 years and if they were to go down any further, they would have to be buried on the ground. They would be no better than dirt on the floor. Is that still human? How many crimes have been harboured, how many people have been wronged and aggrieved in the name of staying low profile? The case of ZHAO Lianhai's involvement with the tainted formula milk incident is an injustice of the millennium, the modern version of the Injustice to DOU E³. Heaven will wail if heaven feels, and it can really snow in June.

Nonetheless, even though Hong Kong NPC deputies are so discreet, there are still eight deputies who refuse to sign the joint letter and some even make cold-hearted remarks. One of them is TSO Wung-wai. During an interview on the Commercial Radio, he said that as many cases for help were received by NPC deputies every day, how come ZHAO Lianhai could jump the queue? How could he say ZHAO has jumped the queue? The tainted formula milk incident happened in 2008, ZHAO Lianhai was arrested in 2009 and sentenced to imprisonment in 2010. This incident which lasted for two years (not a short span by any standard) had far-reaching consequences and numerous aggrieved persons were involved. This incident is about 300 000 innocent infants being victimized and 300 000 families seeking justice. It is a mass case of injustice where one person is severely penalized to deter all others. How can someone say ZHAO Lianhai has jumped the queue? TSO Wung-wai's "jump queue" remark makes him unworthy of being a scholar as well as a NPC deputy. How cold-hearted he is! TSO's remark is as mean and heartless as the official's sneer outside the court.

Currently, the aggrieved ZHAO Lianhai is on a hunger strike in prison. LI Fangping, ZHAO's defense lawyer (who had been preparing for his appeal) was banned from visiting ZHAO so that the appeal might not be filed in time. According to the laws of China, a lawyer shall have the right to visit his client and lodge an appeal on his client's behalf. But according to the officials at the detention centre, "A phone call from the 'leaders' has instructed that nobody be allowed to visit ZHAO Lianhai." The rule of China is gone simply with just an

³ The Injustice to Dou E is a Chinese drama during the Yuan Dynasty. Dou E was wrongly accused and before her execution, she swore that her innocence would be proven by three upcoming abnormalities, one of which was snow in summer.

instruction from the "leaders". Given the situation, the joint letter sent by HK NPC deputies might be in vain and ZHAO probably would have to spend three and a half years in prison. That is truly the real picture of China's rule of law — a person was convicted on a trumped-up charge of "picking quarrels and provoking trouble" while the "Lawyer Law" was violated so that his lawyer could not appeal on his client's behalf — the power of decision rests only with the "leaders". The "leaders" supersede the courts and the rule of man overrides the rule of law. That is the judicial independence so strongly asserted by China to western countries. According to the latest news today, the officials at the detention centre claimed that it was ZHAO Lianhai who did not want to meet his lawyer. I implore Members to think through this matter with common sense. Would any prisoner refuse to meet his lawyer and give up the chance of appeal? Not to mention that ZHAO had refused to wear his prison uniform and gone on a hunger strike. That indicated he had admitted no guilt. Would he not meet his lawyer?

Nonetheless, as neither his lawyer nor family members could visit him, there is no news about ZHAO's well-being given his hunger strike. ZHAO's communication has also been restricted as he is only allowed to write not more than 20 words in each letter. But even with such limited communication, we still hear these emphatic words of ZHAO after he began the hunger strike: In order to lessen the suffering of the next generation, a man living in this period of time should have commitment. He has no regrets and believes that he would have the understanding of his family and his sons.

In this society, TAN Zuoren was jailed for investigating into the "tofu-dreg" construction works in Sichuan, and LIU Xiaobo for publishing the Charter 08 and pursuing democracy. Now, even an aggrieved person, ZHAO Lianhai, was jailed for demanding justice for the victimized children. Prisons are set up all over the place; in the vast territory of China, people keep quiet out of fear, there are aggrieved citizens and marble-hearted judges, China has become a country of silence. Today, if the state is not behaving in a way that a state should, how can the people behave as a citizen should? If Donald TSANG still has some conscience, the first lessons to be taught in the so-called national education or understanding of China's conditions he promoted should be the cases of TAN Zuoren, LIU Xiaobo, ZHAO Lianhai and others.

However, it is not so with the SAR Government. None of its officials attended the motion debate on vindicating the 4 June incident, or the motion

debate on LIU Xiaobo's award of the Nobel Peace Prize, or today's motion debate on releasing ZHAO Lianhai. Faced with these three motions that signify the conscience of the Hong Kong people, the SAR Government acts like a coward, officials dare not attend and dare not comment. This is far from low-profile, this is playing dumb, too frightened to speak. LIN Zexu wrote these two lines: "I would do whatever it takes to serve my country, even at the cost of my own life and regardless of fortune or misfortune to myself." But notwithstanding the SAR Government's emphasis on promoting national education, it acts in an exactly opposite way by treating subjects relating to the 4 June incident and human rights as taboo to be avoided at all costs. The Government's stance towards the cases of LIU Xiaobo and ZHAO Lianhai is revealing enough. This kind of utilitarian cynicism is not helping but harming the country. It is an example of what not to teach in the curriculum of national education.

Deputy President, I do not know the fate of ZHAO Lianhai? But the people of Hong Kong and all those righteous persons in the world are extremely concerned about the fate of this innocent person. We can see from this incident that that there is still a long way to go in the fight for democracy, freedom, human rights and rule of law in China. Should our country give more regard to humanity, human compassion and humanitarianism? Should ZHAO Lianhai, LIU Xiaobo, TAN Zuoren and many other jailed dissidents in China be given humanitarian, humane and compassionate treatment?*(The buzzer sounded)*

DEPUTY PRESIDENT (in Cantonese): Speaking time is up.

MR WONG YUK-MAN (in Cantonese): Deputy President, ZHAO Lianhai is innocent and the Communist Party of China (CPC) has breached the law! The heavy sentence meted out to ZHAO, the founder of "Kidney Stone Babies", has created uproar in the media and anyone who has a slight twinge of conscience would cry injustice on his behalf. A victim falling prey under a lawless and evil political regime was merely seeking self-remedy, yet he was made a prisoner. As the facts of ZHAO's case are crystal-clear, I will no longer repeat the details here. Some patriots were baffled by ZHAO's sentence while some said ZHAO's motive was upright with no political involvement. I believe that these people, having lived in Hong Kong for quite some time, may have learnt something about the rule of law, and they still have some senses of compassion. Moreover, they

start to gain some new insights about the disguise of "governing the country according to law" donned by an absolute government.

ZHAO Lianhai is seven days into his hunger strike today. I think the Legislative Council of Hong Kong, being the only elected legislature in the territory of China which enjoys the freedom of speech, must send a loud and clear message to the Central Government for the immediate release of ZHAO Lianhai. Recently, some Hong Kong deputies to the National People's Congress (Hong Kong NPC deputies) have written to Beijing pleading for leniency on ZHAO's case. It has been reported that the petition mainly emphasized on the upright motives of ZHAO as he only wanted to seek redress for the suffering infants. While some of his actions might be impulsive, they were understandable. Listen, those people called this a petition for leniency, but ZHAO Lianhai is innocent.

While some people may applaud the action taken by local political figures of the pro-establishment camp to appeal to the totalitarian regime for leniency on ZHAO's case, other shrewd observers may think otherwise. For instance, political commentator NG Chi-sum made the following comments in an article: "The more we think about it, the more uneasy we feel. This unjust case is not the first of its kind in recent years. There are many other more outrageous and horrendous cases. If one says that LIU Xiaobo was heavily sentenced to 11 years' imprisonment because he had challenged the ruling authority of CPC and that his case was so political that this group of patriots must sing from the same hymn sheet and dare not speak their hearts out, then what about TAN Zuoren who demanded accountability for the "tofu-dreg" construction works? Was he not just demanding accountability on behalf of those children who should never have died during the earthquakes in Sichuan? TAN was heavily sentenced to five years' imprisonment and how come no Hong Kong NPC deputies said anything for him? What about HU Jia? He was sentenced to three-and-a-half-years' imprisonment just because he defended the rights of AIDS patients. How come not even one single patriot in Hong Kong spoke out for HU Jia? Is that really such a big difference between the present case of ZHAO Lianhai and the others?"

This is what I think. The petition made by these pro-establishment, pro-government and pro-Communist persons on ZHAO's behalf may sound quite plausible upon first hearing. But when we consider the matter from another

perspective, what is the difference between ZHAO's actions and the peaceful protests we engage in now? Why were his actions impulsive and thus "understandable"? If education purpose can be served by locking up a human rights advocate for one year — that is what was mentioned in the petition — it is really too ridiculous. Instead, the stance of another pro-establishment individual, LEW Mon-hung who is a Member of the National Committee of the Chinese People's Political Consultative Committee (CPPCC Member), is much more definite. He said, "It is a case of using the laws unlawfully to return a guilty verdict for an innocent. Political reform must start from the rule of law. Anyone not pushing forward political reform must resign." Is he not also an CPPCC Member? He at least made a point about the core of the matter.

Deputy President, ZHAO Lianhai is innocent and the CPC has breached the law! Why is leniency sought in ZHAO's case? This is not a legal matter. This is obviously a political matter. Even from the Mainland's legal point of view, ZHAO Lianhai's case had been tried under unfair proceedings and more importantly, the Daxing Detention Centre had prohibited the meeting between ZHAO and his lawyer, LI Fangping. This action is unconstitutional and unlawful.

As we all know, what ZHAO Lianhai did was to seek justice for the "kidney stone babies" and their parents. That is merely some sort of self-help from persons suppressed or aggrieved by the legal or political institutions. Actually, their acts of self-defense only involved holding press conferences to cry injustice or liaising with family members of the victims. It was just that simple. But the Mainland Government had sentenced him for the charge of picking quarrels and provoking trouble. In other words, his was charged for stirring up trouble.

In the tainted milk products incident of China, while melamine was found in 69 batches of milk products from 22 dairy companies including Sanlu, Yili, Mengniu, Bright Dairy, Sheng Yuan and Yashili during inspections, only Sanlu was persecuted with several members of its senior management sentenced to imprisonment. For other milk traders and farmers who were allegedly producing and selling melamine-laced milk products, death sentence or other heavy penalties had been meted out. However, no responsibility had been assigned to most other dairy companies. The worst thing is that LI Changjiang, the then Minister of the General Administration of Quality Supervision,

Inspection and Quarantine of China just resigned for taking the blame, and a number of officials in the city of Shijiazhuang in Hebei were punished and sacked. But many of them were assigned new offices soon after their punishment. The former Minister of the General Administration of Quality Supervision, Inspection and Quarantine LI Changjiang was the best example. He soon returned to the political scene and assumed the dedicated office of Deputy Head of the National Working Group on Eliminating Pornography and Illegal Publications in December 2009. In March 2010, LI became an co-opted member of the Chinese People's Political Consultative Conference and the Vice-chairman of its Committee for Liaison with Hong Kong, Macao, Taiwan and Overseas Chinese. As the old saying goes, it is really a case of "those who kill and set fires get gold belts; those who build bridges and roads perish without a trace".

Whenever the Chinese give a teaching to younger generation, they would often say it pays to do good deeds, because people doing good deeds will flourish while people doing evil deeds will perish; good will be rewarded with good while evil with evil. But it turns out that many a times, the good will be rewarded with evil while evil with good. When a person doing all sorts of evil has yet to be punished, the Chinese, will offer the following explanation. People doing good deeds will flourish; if not so, it is because they are under the influence of their ancestors' immorality; they will flourish after the influence is gone. Likewise, people doing evil deeds will perish; if not so, it is because they are under the influence of their ancestors' benevolence; they will perish after the influence is gone. It is because of benevolence left over from their ancestors that these people have yet to perish. This saying is used to justify the validity of "the good will be rewarded with good while evil with evil". That is why the Chinese are always the cynic, the hypocrite. That is why some consider it "deserving" that the Chinese are ruled by the totalitarians.

The CPC's rule is closely tied with the network of collusion between the officials of all ranks and the parties with vested interests. That net of interests is so closely interwoven and complicated that it is barely touchable. A vivid depiction of this phenomenon is given in one of the articles written by Nobel Peace Prize laureate, LIU Xiaobo, which is entitled *The Many Aspects of CPC Dictatorship*. LIU said, "The CPC regime does not have complete confidence in the social classes with vested interests (government officials and business owners) either. Therefore, while it protects and indulges them, it also guards

against and controls them. The regime intentionally maintains a kind of blurry and flexible gray order: it flaunts its rule by law, but practices rule by man; it encourages influential officials and members of the elite to become rich but it also discredits the accumulation of capital by all those with vested interests as a grave original sin". Very often, this is where political struggles or struggles for power originate. Everyone has to stand on moral high ground and those without any family members being entrepreneurs or business operators can lash out on their opponents. But sometimes, measured actions would have to be taken. That is why in the tainted formula milk incident, the concerned persons are strongly condemned but lightly sanctioned with the culprits being let loose.

As a result of the "policy of stability preservation" to safeguard the parties with vested interests (the first and foremost being the CPC), ZHAO Lianhai was heavily sanctioned. In other words, for the purpose of preserving stability, ZHAO must be sanctioned at all costs even with fabricated charges. In this case, the good citizen is not wrongly punished but wilfully punished so as to silence the millions of parents of kidney stone infants.

As noted by this human rights advocate who has long been fighting for democracy in the Mainland, there is another covert Machiavellian trick employed by this totalitarian government. During an interview with the Science Magazine of the United States on 30 September 2008, an almost tear-stricken WEN Jiabao said, "We feel great sorrow about the milk incident. I once again solemnly emphasize that it is absolutely impermissible to sacrifice people's lives and health in exchange for temporary economic development."⁴ However, the CPC has chosen to mete out such a heavy sentence to a father, who merely cried injustice for his child, soon after the Peace Prize award of LIU Xiaobo. This is in itself a challenge against basic human rights. The unspoken message is: the people are not allowed to defend their rights and only actions for preserving stability can be taken by the totalitarians.

In parroting others' statement, those belonging to the pro-establishment camp cited Articles 33, 35 and 41 of the Constitution of the People's Republic of China about safeguarding the rights of the people, the freedom of speech and the right to make complaints. Some quoted the remarks made by WEN Jiabao during his interview with CNN that, "we should not only let people have the

⁴ Quoted from <<http://www.sciencemag.org/content/322/5900/362.full>>

freedom of speech, we more importantly must create conditions to let them criticize the work of the government." However, all these are just empty words with no substance. Neither the Constitution nor the laws have any effect at all. Hong Kong is a place where we enjoy the freedom of speech. Should we not make factual statements more practical, important and fundamental than those empty words?

The occurrence of the tainted formula milk incident as well as numerous man-made disasters are testimonies to the corruption of the Chinese political system, and every tragedy is caused by institutional defects. Deputy President, I recently came across a post from a Mainland website which was circulated on the Internet (incidentally, the post has been "dealt with" quickly). What is this post about? "The principle of proportional criminal sentence in the People's Republic of China: Ask, on behalf of younger children what has happened to the formula milk: a sentence of two-and-a-half-years' imprisonment; ask, on behalf of older children what has happened to school buildings: a sentence of five years' imprisonment; ask, on behalf of the people of all ages in the People's Republic of China, what has happened to the country: a sentence of 11 years' imprisonment." (*in Putonghua*)

In this twisted manner, the people in the Mainland have expressed their dissatisfaction about the totalitarian rule of the government. ZHAO Lianhai asked on behalf of younger children what had happened to the formula milk, and he was charged for stirring up issues, picking quarrels and provoking trouble. For this, he was sentenced to two-and-a-half-years' imprisonment. TAN Zuoren demanded justice from the Government on behalf of students falling victim to the tofu-dreg construction works in Sichuan and he asked, on behalf of older children, what had happened to the school buildings and why did the tofu-dreg construction works come about, and for this, he was sentenced to five years' imprisonment. LIU Xiaobo was just asking the CPC to comply with or revert to the Constitution and advocating some very moderate so-called institutional reforms. In other works, he asked, on behalf of children of all ages in the People's Republic of China, what had happened to the country, and for this, he was sentenced to 11 years' imprisonment.

It is very disappointing to see Chinese people here in Hong Kong — a place with relatively more freedom — not acting truthfully in accordance with their conscience and rational thinking. The subject of this adjournment debate

today is really very simple, that is, whether or not the value and dignity of an individual as a human being exist under such a totalitarian institution. We are voicing out a call, a question. What wrong has been done by ZHAO Lianhai? What wrong has been done by LIU Xiaobo? What wrong has been done by TAN Zuoren?

For those engaging in democratic movement in Hong Kong, their lives are comfortable. They work in air-conditioned offices. The toughest thing they do is to take part in demonstrations on Sundays, and sometimes they may not finish the whole walk. In critical moments, they can join the Communists Party or betray their voters and allies. How can those people compare with ZHAO Lianhai, LIU Xiaobo or TAN Zuoren? Of course, they would come out at the right time to demand the release of LIU and ZHAO. While they dare not criticize the inherently totalitarian CPC, they can talk about releasing LIU Xiaobo and ZHAO Lianhai. How can these people still claim that they are the so-called democrats? In this Chamber today, everybody is expressing their views about ZHAO's case. It is really the biggest inspiration for us. What should we do? Can we just talk our way through, or should we truly believe in our hearts that this totalitarian regime must be dumped into the landfill of history (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Speaking time is up.

MR WONG YUK-MAN (in Cantonese): Thank you, Deputy President.

MR ALBERT HO (in Cantonese): Deputy President, regarding the case of ZHAO Lianhai, as many Members mentioned in their speeches just now, any people with a slight sense of justice, conscience and human feelings would find it a case of great injustice.

Today, in this Chamber, even some pro-establishment Members are willing to seek justice or plead for ZHAO Lianhai. Certainly we can criticize and query why do they voice out today but not yesterday. No matter what, if we can reach a cross-party consensus on this issue and unanimously request for the immediate mitigation of ZHAO Lianhai's sentence or his release, I would be delighted to see

that happen. No matter what, these Members are far better than those in power or their accomplices who engineer, cover up or wink at frame-up cases and subject dissidents like ZHAO Lianhai to unjust imprisonment.

As we saw on the television, outside the prison, some officials in their uniforms even coldly and shamelessly sneered at the misfortune of the crying "kidney stone baby", his mother and ZHAO Lianhai's elderly mother. We really want to ask: Do these people have the slightest human feelings?

ZHAO Lianhai is the father of a victimized child of the tainted formula milk incident. As a father, one has every right to pursue redress of grievance and seek justice for his child. Unfortunately, the father of the victim has been further victimized, and the victimized child has lost his father's care. The plaintiff has been turned into the defendant, furthermore, he has been unjustly sentenced to imprisonment. Where can we find justice today?

From the verdict issued by the court in respect of the case of ZHAO Lianhai, the so-called verified facts are just that ZHAO Lianhai had summoned several or at most dozen-odd people for press meetings or assemblies in public areas to make known their concerns and requests, and in doing so, had attracted several or dozen-odd reporters to report on the incident. At a time, there might be dozen-odd onlookers, but that is all. All he had done was to organize a candle-light vigil which had attracted some media coverage and attention. According to this verdict, the request of ZHAO was very simple: To restore the health of the children and call for judicial justice. He also requested that in handling the remaining assets of Sanlu, the victimized families should be given prior consideration. He even called on conscientious employees to leave Sanlu so as to stop poisoning the children.

In fact, even if all these facts are substantiated, how can we come to the conclusion that ZHAO Lianhai has caused troubles and seriously disrupted social order? Even though a few family members of the victims attending the press meeting might be emotive, in what way did they disrupt order and stability? None of the allegations indicated that these family members of the "kidney stone babies", who convened press conference to raise their request, had been involved in any violent and provocative acts. None of them had done anything like breaking glasses, turning over cars or rubbish bins or burning trash. Moreover, no people was hurt or robbed.

In an open and relatively civilized society, this kind of peaceful demonstration is in fact a part of people's life. But today, in our country, they are charged for picking quarrels and provoking trouble. In fact, this is a "trumped-up charge", a tool for oppressing the freedom of expression of thoughts and speech, depriving people of their basic rights of peaceful assembly and demonstration, as well as defying the provisions on protection of human rights under the Constitution of the state. If we take one step backward, even if the court has to impose a penalty, will anyone with a slight sense of compassion impose such a sentence? The defendant, ZHAO Lianhai himself is family member of the victim. He has been suffering from great mental stress since the health of his child has been affected by the tainted milk. The victims' families once intended to pursue civil litigation through lawyers. Nevertheless, all these years, the courts have refused to handle the case, and arbitrarily demanded the complainants to accept the mediation package proposed by the authorities.

The Government has provided neither suitable support nor any other assistance to the victims, such as arranging medical and health check services for the affected children. According to a report issued by the Institute of Reproduction and Child Health of the University of Beijing, 12% of the children who had consumed the tainted milk have kidney stones and hydronephrosis. Their health problem during their process of growing up will be a great concern for parents. What has the government done to ease the worries and grievances of these parents?

There is no effective channels for lodging complaints in the whole country. In fact, this group of helpless and powerless parents are making weak voices. They are not hooligans nor bad guys, they do not intend to threaten people for any unfair benefits. They only ask for fair and reasonable compensation, as well as care and attention to which they are entitled, but ZHAO Lianhai was given a heavy sentence of two-and-a-half years' imprisonment in return. One cannot but feel how wicked and evil are those who make such a judgment.

In prison, ZHAO Lianhai has been going on a hunger strike for almost a week to protest against the unreasonable conviction. He is a person with a strong will and mind. According to his wife, he will refuse to eat anything under force. After the last meeting with him, his lawyer said ZHAO Lianhai only signed a letter of authorization and instructed his lawyers to file an appeal. These two days, LI Fangping, the lawyer who acts on behalf of ZHAO, was denied access to him. Even his wife cannot relay some words of consolation —

say reminding him to take care of his health for the sake of a long-term battle — to ZHAO through his lawyer. Even these words are forbidden.

Under this circumstance, LI Xuemui (Mrs ZHAO) can only support her husband to bravely go on a hunger strike. She once publicly said that if not for her youngest daughter who still needs breast feeding at the moment, she would follow her husband to go on a hunger strike. She has made a very touching remark, she said (I quote), "Everything is being forced, we have come to the point of fearing nothing"(end of quote). This remark sounds tragic and sad. Today, people facing all kinds of oppression in the Mainland have nothing to fear because they do not have the basic freedom and dignity that one relies on to live. In fact, one has nothing if he does not have these basic rights. One may even question if there is still any meaning in life. Hence, today human rights advocates have been cornered into a dead end. To safeguard human rights and all these basic rights and dignity in life, they no longer have anything to fear.

I would like to tell Premier WEN Jiabao, the democratic vision that he described to the world really paints a beautiful but distant picture for China. However, if this picture is compared with the real China of today, the difference is as big as that between heaven and hell. The unfortunate and powerless underprivileged are deprived of even the humblest rights and freedom, including the right to complain and victims' right to appeal. They can only remain silent in face of the unjust bully and oppression.

As China rises to power, tragic persons like LIU Xiaobo, HU Jia, TAN Zuoren and ZHAO Lianhai have come on the scene one after another. Is our country really a strong one? I find that behind the surface of the strong national power, there is a hidden fall in ruling ethics and authority. On the surface, the state advocates harmony, stability and ruling the country according to the law, yet it keeps abusing the power of law and court as a political tool to oppress the people. Maintaining stability is an excuse that leaders always use to suppress human rights issues. Would our country really become strong?

Deputy President, when there is no deep-rooted conflict between the stability of our country and the rights of the people, and when the stability of our country is built on the basis of civil rights, by then our country truly belongs to the people, and our country will truly be strong and powerful.

I so submit.

MS EMILY LAU (in Cantonese): Deputy President, eight days ago, the Beijing Court imposed a heavy sentence on Mr ZHAO Lianhai, which has created a big stir in Hong Kong. Either in my electoral constituency or in other districts, I could hear angry voices of numerous members of the public. Someone said, "Huh! Seeing so many banners relating to ZHAO Lianhai, I wonder if he were running in an election." Deputy President, when someone collected signatures in the street, members of the public flocked to sign their names. Deputy President, have you ever thought about the reason why Hong Kong people have such a reaction? Certainly, they feel injustice for ZHAO Lianhai, and they do not understand why a person who strived for his victimized son's rights with other parents of the victimized children would receive such a heavy sentence. How come one who came forth to defend his rights has become a prisoner? They feel gravely unjust.

However, what makes Hong Kong people feel more fearful and worried is that such cases might soon happen in Hong Kong. Although the people of Hong Kong are aware that there is no democracy in Hong Kong, they believe that the courts are more independent, and there are independent lawyers to help them in lawsuits. Hence, they can enjoy some freedom, even though more and more people have exercised self-censorship. However, Hong Kong people are also aware of the weak foundation of these rights. As we now live under the sovereignty of China, what happens in the Mainland will possibly happens in Hong Kong someday, Deputy President. Therefore, on the one hand, Hong Kong people hope that ZHAO Lianhai can be released immediately, but at the same time, they are afraid they will have the same fate as ZHAO Lianhai someday.

Deputy President, many members of the public hope that we would, in today's Legislative Council meeting, request the Central Government for the immediate release of this innocent person. What happened in the couple of days after Zhao Lianhai's sentencing? In Guangzhou, there was a splendid firework display to celebrate the opening of the Asian Games. After seeing this show, one can hardly believe that the two events actually happened in the same country. We do not know how many hundreds of billions of dollars are spent in holding the Asian Games to make it so impressive; yet, on the other hand, the lives and livelihood of tens of thousands of people in the lowest strata of society have been wrecked. In 2007, I joined with Mr Albert HO and some lawyers to set up the China Human Rights Lawyers Concern Group to support those brave human rights lawyers in helping the unarmed Chinese people, namely, those insignificant

members of the public in China whose human rights had been trampled on by the Chinese Government. If China really wishes to rise to power, do not think that it has made a remarkable achievement by almost catching up with the United States in terms of economic development. If it treats its tens of thousands of people in this way, how can it gain ground in the international community? It absolutely should feel ashamed.

Although we are now living under the sovereignty of China, we, the group of people who are being denied of entry into the Mainland over the past 20 years, still have to voice out unceasingly the fear and anger of Hong Kong people. People in the Mainland also have the same fear and anger. Therefore, Deputy President, I am happy to see that various political parties and groupings in Hong Kong have requested the immediate release of ZHAO Lianhai. However, I also hope that all of us can state clearly that ZHAO is actually innocent. What he had done happens every day in Hong Kong and in many civilized countries and places. Why does the barbarous Mainland China have to punish him this way? We do not know whether or not he will soon be released. Someone has said, "The greater you react, the lesser chance of success". However, what should be done? Does it mean that the louder we speak, the lesser chance of success; so every one of us should keep our mouth shut, or we should not move a step forward? Certainly not. Sine we cannot negotiate with the Central Authorities, I hope that those who can negotiate with the Central Authorities and those who are powerful and influential can, for conscience's sake, tell the Central Authorities that tens of thousands of Hong Kong people actually have sided with ZHAO Lianhai. We hope eagerly that the Central Authorities can state his innocence publicly. He should be given compensation, and so should the 300 000 infants. I further hope that those brave human rights lawyers can continue to strive for the unarmed Chinese people in the Mainland their rights and interests without facing great restrictions. People living in Hong Kong do not know what Hong Kong will be like of in the future, but we will drum up our courage and continue to do what we can do and what we should do. We also hope that the seven million people in Hong Kong can summon up their courage and come out to defend the rights and interests of ZHAO Lianhai as well as those who have face similar sufferings.

With these remarks, I urge the Central Government to immediately release ZHAO Lianhai.

DR JOSEPH LEE (in Cantonese): Deputy President, today is the eighth day after ZHAO Lianhai, a victim in the tainted formula milk incident, was sentenced to imprisonment, and he has also been going on a hunger strike for seven days. He was previously a victim as well as a plaintiff, but he has suddenly become a defendant. After being detained for one year, he was further sentenced to two-and-a-half-years' imprisonment. I would like to analyse this incident with reference to a few commentaries and some opinions in the newspapers.

On 11 November, *Sing Pao Daily* published the opinions of Prof ONG Yew-kim, the Visiting Chair Professor of the China University of Political Science and Law. He pointed out that in this case, the authorities prosecuted ZHAO Lianhai in accordance with Article 293 of the Criminal Law of the People's Republic of China. Under Article 293, beating another person at will; chasing, intercepting or hurling insults to another person; forcibly taking or demanding, wilfully damaging, destroying or occupying public or private money or property; and creating disturbances in a public place, thus causing serious disorder in such place, are acts of "picking quarrels and provoking troubles", liable to a fixed-term imprisonment of not more than five years. However, Prof ONG Yew-kim pointed out that in the present case, ZHAO Lianhai only helped parents of the victimized children of San Lu tainted formula milk to defend their rights, and assisted them to appeal to the court and engage lawyers. He had been acting in accordance with the law, without any acts involving violent resistance and inciting subversion of state power. He criticized that invoking Article 293 to charge ZHAO Lianhai was totally irrelevant.

On the same day, *Apple Daily* also reported that ZHAO Lianhai was sentenced to two-and-a-half-years' imprisonment for "picking quarrels and provoking troubles". *Apple Daily* pointed out that this charge was originated from part of the "offence of hooliganism" under the 1979 version of the Criminal Law of the People's Republic of China. In respect of the subjective intention involved in the "offence of hooliganism", the Mainland jurists always emphasize the "stimulus theory": The objective of hooligans is to seek some kind of dirty and shameless mental stimulus through acts of undermining social disorder, in order to attain a certain kind of mental satisfaction. Therefore, the offence of hooliganism is different from acts of insulting or disturbing social order. In the present case of ZHAO Lianhai, the four counts against him include accepting a street interview leading to a gathering of on-lookers, displaying a placard of an A4 size paper, gathering in a restaurant to commemorate the first anniversary of

the tainted formula milk incident, and creating disturbance in the Public Security Office when reporting a rape case for the victim LI Ruirui. The report in the *Apple Daily* queried which of the four charges was related to the seeking of mental stimulus. Obviously, the authorities framed up a charge by adopting part of the "offence of hooliganism" and no excuse whatsoever is needed.

On the 13th of this month, *Sing Tao Daily* also reported that Dr LEW Mon-hung, a member of the National Committee of the Chinese People's Political Consultative Conference, had his opinions published in a full page of newspaper. I try to quote Dr LEW Mon-hung's words so as to reflect his tone. *Sing Tao Daily* said that his tone was stern. Dr LEW Mon-hung said, "This judgment tramples on the constitutional right of a Chinese citizen, a betrayal to the important thought of the 'Three Represents' of the ruling political party, and also an insult to human conscience. All people have to reprimand it, and the entire nation has to condemn it." Dr LEW Mon-hung also pointed out that ZHAO Lianhai only cried out against injustice in accordance with his civil rights, and this totally had nothing to do with the so-called "picking quarrels and provoking troubles". The unjust verdict against ZHAO Lianhai has also given a negative example which serves as a lesson, that is, when the judiciary of a certain place cannot even tolerate a father who loves his children, or a good citizen who never hesitates to do what is righteous, all those who are conscientious and righteous should be forced to come out and let out their last growl. These are the opinions of Dr LEW Mon-hung.

In addition, the last report that I would like to talk about is an article published in the *Hong Kong Economic Journal* yesterday (16 November). This article also mentioned the legal aspect. It said that in the present case, ZHAO Lianhai was sentenced to imprisonment (as also pointed out by the report that I quoted earlier), and the acts of "picking quarrels and provoking troubles" under Article 293 of the Criminal Law of the People's Republic of China were involved, which include (let me repeat): first, beating another person at will and to a flagrant extent; second, chasing, intercepting or hurling insults to another person to a flagrant extent; third, forcibly taking or demanding, wilfully damaging, destroying or occupying public or private money or property to a serious extent; fourth, creating disturbances in a public place, thus causing serious disorder in such place. This article pointed out that these offences have been amended based on the "offence of hooliganism" under the previous Criminal Law of the People's Republic of China. As the name implies, the offence should be related

to the destructive acts of hooligans and this is stipulated to prevent any disturbance to public order. This is totally different from the nature of a citizen fighting for lawful rights and interest, requesting the authorities for compensation and accountability. Clearly, the charge against Mr ZHAO Lianhai in this case is inappropriate. Apart from being inappropriate, it also involved vilifying and slandering. It is surprising that the court would — as I said earlier — turn the plaintiff into a defendant, confounding right and wrong, and even resorting to framing up and shifting the blame onto the innocent, as well as smearing the law-abiding citizen. This is the report in the *Hong Kong Economic Journal*.

These few articles commented on the incident purely from the legal point of view. I am, of course, a layman in law. However, when I read these reports from a layman's point of view, I actually find it absurd. That is a place to be ruled by law. When a place is ruled by law, obviously, the spirit of rule by law should be to safeguard justice and righteousness. Nevertheless, if rule by law has been debased into a tool, to be dominated by the executives and the will of the leaders, then the courts or even the legal system will apparently become stooges, and can no longer play the roles of upholding righteousness and justice. This is very regrettable indeed. Has the law in the Mainland been degraded into an instrument which can no longer play the role of upholding the rule of law?

Outside the Legislative Council Building, there is a statue of a goddess representing the rule of law. She is blindfolded. As I understand, the goddess holds a sword with one hand and a scale with the other, and being blindfolded, she can truly represent the fairness and justice of law. This is exactly the spirit of the rule of law and the spirit of law. Regrettably, I believe that if this goddess learns about the ZHAO Lianhai incident, maybe she is blindfolded for avoiding to see the world instead of upholding the spirit of the rule of law.

Today, the economy of China is already very strong and well developed. Therefore, China should enter the international arena and dovetail with the international path. However, if the rule of law in China is degraded into an instrument for inspecting and prosecuting people, I would hope that the Chinese Government can think about whether this administrative attitude is already unfeasible nowadays.

Deputy President, thank you.

DR PRISCILLA LEUNG (in Cantonese): Deputy President, on 10 November this year, ZHAO Lianhai, who is a victim of the Sanlu formula milk incident and who has been working hard helping other victimized families to seek for justice, was sentenced to two-and-a-half-years' imprisonment after being detained for one year, for his violation of the Criminal Law of the state. Just as many people have said, the announcement of the verdict has aroused great response in society.

Today, I would like to concentrate on discussing, from the perspective of the laws of China, why people reacted so vigorously to this case. The case of ZHAO Lianhai is directly related to that of the Sanlu formula milk. ZHAO's son is sick, he is one of the victims. In my opinion, any parents of the victimized children will strive to seek justice against all odds. This is human nature.

Against this background, even if ZHAO Lianhai may have acted wrongly under certain circumstances, he will gain the sympathy and understanding of society. Therefore, I think the Court has basically totally disregarded this important background, that is, why ZHAO Lianhai would, before his detention, take such actions as regarded by the Court as gathering a crowd or causing disturbance. He took such actions because he himself is the victim, and he is the contact person of other victims.

Now, the court has confirmed that ZHAO Lianhai has committed the crime of "picking quarrels and provoking troubles", and has disrupted social order. Earlier, Dr Joseph LEE repeatedly read out Article 293 of the Criminal Law of the People's Republic of China. In my opinion, attention should be paid to the provision on creating disturbance in a public place, thus causing serious disorder in such place under Article 293. This is the Article which I would like to discuss.

According to media reports, ZHAO Lianhai was alleged to have reserved a hotel room on 11 September for a gathering to pay a silent tribute; he also chanted slogans with other people outside the Court on another occasion. Such reports and some factual statements pointed out that on these occasions, some reporters from television stations and county police might have gathered at the scene. If such reports and facts are the entire fact, and if the judgment of the original Court had not left out the fact which the Court considered to be of utmost importance, this verdict is obviously inappropriate in the light of the Criminal Law and Criminal Procedure Law of China, and from the angle of the applicability of laws and facts. Why? This is because when ZHAO Lianhai sought assistance and

gathered the parents of the victims of the tainted formula milk, he in fact hoped to seek justice together with those victims, this clearly reflected that ZHAO Lianhai had no intention to commit a crime.

In handing down a sentence in accordance with the laws of China, a few essential factors must be considered: first, objective circumstances; second, the subjective thinking, purpose or motive of the offender; third, the harm inflicted. In this case, whether the behaviour in question has caused serious disorder should be considered. According to Article 293 of the Criminal Law, I think ZHAO Lianhai's behaviour did not cause serious disorder in a public place, that is to say, he should not be convicted.

As regards the subjective wish of ZHAO Lianhai, he can be compared with the victims of the Lehman Brothers incident in Hong Kong. I would like to mention in passing that in May or June this year, I offered help to a victim of the Lehman Brothers incident in Hong Kong named Philip. In fact, whenever hearings are held by the Subcommittee to study issues arising from the Lehman Brothers incident, the victims concerned will demonstrate outside the Legislative Council Building. A few victims, having lost control of their emotions due to the torments lasting for a year or so, felt flat to the ground airing their grievances, and even forced their way into banks. Philip is of these victims. He was arrested after staff of the bank called the police. I went to the Queen Mary Hospital to offer assistance when he was questioned by the police. The case has been transferred to the Regional Crime Unit of the Police, and I have been helping out in this case.

I think victims like ZHAO Lianhai share some similarities with the victims of the Lehman Brother incident. These people seldom take to the street under normal circumstances, and if they do so, they must have great grievances, feeling that they have been very unfairly treated, and that the compensation they receive can hardly be enough to treat the chronic illnesses that their children suffer as a result of drinking the tainted formula milk. Under this macro environment, even though the victims concerned gather as a crowd, and some of them have lost control of their emotions, their behaviour by no means constituted serious disruption to social order. I think the verdict delivered by the Court fails to reflect why the behaviour of ZHAO Lianhai contravenes Article 293(4) of the Criminal Law of the People's Republic of China.

From my point of view, victims of this kind of major incident deserve sympathy. When these cases are heard in the Court, the objective environment has to be taken into consideration. If the party involved does not have the subjective wish of committing a crime and creating disturbance, but the Court convicts him of picking quarrels and provoking trouble, there will be huge reverberations in society.

Everyone may make mistakes, and I believe the Daxing District People's Court in Beijing has made a mistake this time. In fact, apart from appeal, the People's Court at a higher level can, in accordance with the judicial procedures in China, initiate the trial supervision proceedings to retry the case. The major principle behind the retrial is that, owing to the mistakes identified with regard to the applicability of laws and facts, the case is to be retried by another batch of judges. In view of the facts currently presented to us as well as the legal definition of "serious disorder" under Article 293(4), the Court should release ZHAO Lianhai as soon as possible after the retrial. During the retrial, the Court should consider the case in greater detail, instead of making a verdict based on the *prima facie* facts.

I so submit.

MR LEE WING-TAT (in Cantonese): Deputy President, I speak to express some views on the unjust verdict handed down to ZHAO Lianhai. I remember in early 1980s — I do not remember exactly which year — when DENG Xiaoping came back to power and PENG Zhen was the Chairman of the Standing Committee of the National People's Congress (NPCSC), PENG Zhen made a very famous remark when a journalist asked him: "Actually, which is more predominant — the law or the Party?" He replied: "I am also not very sure." Such remark from PENG Zhen, being the Chairman of the NPCSC where laws of the country are enacted, left people with a profound impression. Which is more predominant — the law or the Party? It was back in early 1980s, and needless to say, it was of course the Party which dominated. However, 20 years later, if you ask the same question again: "In China, which is in reality more predominant — the law or the Party?" Everyone will give you the same answer, of course it is the Party that dominates, how the law can surpass the Party?

According to my shallow knowledge in law, the courts are not independent in our country. There are still Party committees and Party secretaries attached to

courts to handle Party affairs related to the courts. Of course, the leaders of the state or the Party will not say that in China, Party committees at various levels will direct the judges or the appropriate judges to adjudicate. However, frankly speaking, apart from cases that are unrelated to politics, for cases involving the so-called national interest or political cases, it is an act to deceive yourself as well as others if you want me to believe that Party members or Party committees will not get involved. I have earlier on heard many colleagues quoting from the laws. Actually, I have respect for them, but I sometimes think that this is somehow useless to do so. I am not saying that their efforts are useless, but they fail to understand the system, what is the significance of the provisions of the law as quoted by them? Deputy President, they are of no significance.

In our country, courts are still controlled by the Party, and the powers of the Party secretaries attached to courts still override those of the presidents of courts or the adjudicating judges. I think very few countries in this world implement such a system where there are Party committees and Party secretaries attached to every state organ. There are Party committees in every ministry under the State Council of our country, so do the provinces, municipalities and counties, and even our courts have party organizations.

As such, no wonder when Mr XI Jinping, Vice President of the People's Republic of China, visited Hong Kong last year or two years ago, he called for a good collaboration among the courts in Hong Kong, the Legislative Council and the Administration. We felt very uncomfortable on hearing such remarks. How can the courts collaborate with the Government? I can accept the saying that there should be communication and co-operation as well as monitoring and criticism between the Legislative Council and the Government. Sometimes, I also support the Government's motions and funding requests, and it cannot be said that we are always opposing each other. But, how can courts collaborate with the Government? I cannot hardly figure this out. However, you can hardly put the blame on the Vice President, XI Jinping — I am not defending for him — that is the practice in Mainland China. In Mainland China, courts have to collaborate with the organizations of the Party and the government. Decisions have to be made by the Party, and courts need to work in line with decisions considered to be important by the Party. There is no separation of the three powers, and the courts will not challenge the so-called authority of the Party or the state over such matters.

Therefore, when I sometimes see incidents like this, I will recall the remarks made by PENG Zhen. In Mainland China, which is more predominant — the

Party or the law? With the passing of 20 years it is now 2010. Deputy President, I am sorry that I suffer from what is that new terminology? That is dementia. Not 20 years, but 30 years have passed. It has been 30 years from 1980 up to now, and if you ask the same question: which is more predominant in our country — the Party or the law? The answer is very simple, and it is always the Party that dominates. As such, I do not want to quote anything from the laws. Many colleagues have spent a lot of efforts in making quotes from the laws, but I think it is not meaningful at all to doing so.

Deputy President, we are elated at an incident that occurred last week, that is, Myanmar's pro-democratic leader AUNG SAN Suu Kyi was released. However, I do not know how long she will enjoy freedom in such a country as Myanmar, and I hope that it will be everlasting. At the same time, we also see how our country puts so much pressure on a person who merely fights for the basic rights for his own child and other victims. We feel very sad and dismal. I see that a colleague sitting in front has put up a photo of WEN Jiabao. In receiving interviews with the international media, WEN would, very often, portray an image that he cares for the people and puts people first. However, Deputy President, in delivering such high-sounding words, he must ask himself whether the Government led by him can live up to the words?

Mr WEN Jiabao is one of the nine members of the Politburo Standing Committee of the Communist Party of China. I do not know his ranking. Of course, he does not rank first as HU Jintao already takes the first. I think he ranks second, third or fourth. The powers of the country are centralized and vested in nine persons, and he is one of them. Every time when there are coal mine disasters, flooding or other natural and human calamities, he will express his heart-felt concern through the media. However, when I see other people who are put behind bars merely for exercising their rights under the Constitution or for expressing different opinions; for example, TAN Zhuoren was sentenced to several years' imprisonment for talking about the "tofu-dreg" construction works, I wonder if Premier WEN is making such remarks in a pretentious manner. Mr HU Jintao is a bit better as he seldom makes such remarks. If he seldom makes such remarks, I will have no expectation whatsoever. As Premier WEN has repeatedly made such remarks, people will ask solemnly, "Premier WEN, are you actually serious in dealing with the problems?" Of course, if he really takes actions to deal with the problems, I would hope that he makes such remarks frequently. However, after making high-sounding remarks, there are still so many disappointing examples, how can he convince people to believe him?

I remember vividly that a few years ago explosions often occur in coal mines in China, causing serious casualties — the history of coal mining in our country is indeed written in blood. Such incidents actually do not involve politics; nobody will mobilize coal miners to stage a strike. The question only lies on whether the leaders are determined to impose tough vigilance over those private or state enterprises as well as workers engaging in coal mining. However, nothing has been achieved, and so he can only repeat his remarks time and again whenever an accident occurs. As such, Deputy President, may I also request Premier WEN not to make such remarks again? I will be a bit more at ease if he does not make any remarks as I will have no expectation whatsoever.

Deputy President, it is very difficult and hard to be a Chinese. When we see our country progress with successful economic development, we have no reason not to support it. However, in every debate on this subject, I have said time and again that if a country tries to win over the support of its people, people not only ask for having enough to eat and wear, they will say to their leaders: can we live freely in our own country without fear for being imprisoned for criticizing the state leaders, without fear for being arrested for mobilizing a mass demonstration, and without worry for being vanished for one or two months or even in this world for organizing a labour union? Only when the people of our country not only have enough to eat and wear, but also enjoy the fundamental freedom as described by me can our country tell other people in the international community that we are truly a modernized strong power.

Deputy President, I so submit.

MR WONG KWOK-KIN (in Cantonese): Deputy President, on behalf of the Hong Kong Federation of Trade Unions (FTU), I would now clearly state our attitude towards the debate on the motion for the adjournment of the Council today. We are aware that society is very concerned about the case of Mr ZHAO Lianhai, and we hope that he will be released as soon as possible. Hence, on behalf of the FTU, our President CHENG Yiu-tong and I have signed the joint petition initiated by the Hong Kong deputies to the National Peoples' Congress (NPC), the channel through which we express our attitude.

We are of the view that the NPC and the Chinese People's Political Consultative Conference are appropriate channels to reflect the opinions of Hong Kong people on this case to relevant parties in the Mainland. As to the Legislative Council debate on the adjournment motion on this case today, we think that under "one country, two systems", the Legislative Council as the legislature of Hong Kong is part of the political structure, so it is inappropriate for the Council to discuss any judicial case in the Mainland. Hence, the FTU will not take part in the debate on the adjournment motion today.

Deputy President, I so submit.

MS CYD HO (in Cantonese): Deputy President, our debate today is not about a judicial case in the Mainland, instead, it is an issue of concern to the 1.3 billion Chinese people living in an abyss of suffering. How come a plaintiff, a victim become a prisoner? This is an issue about right and wrong, about conscience. This matter should be discussed not only in Hong Kong but in other places, so that the world will know more and understand more about what has happened.

Deputy President, as the saying goes, "If you are out to condemn somebody, you can always trump up a charge." ZHAO Lianhai is an aggrieved person himself, an ordinary middle-class person. But what was he charged for? He was charged under Article 293(4) of the Criminal Law of the People's Republic of China for "creating disturbances in a public place, thus causing serious disorder in such place". As such, he was sentenced for two-and-a-half-years' imprisonment for such a contravention.

We can see from the criminal verdict of ZHAO Lianhai that much information has been given. A number of witnesses including parents of the victims and law-enforcement public security officers had testified for the case. As shown by their testimony, this so-called "creating disturbances in a public place" actually referred to five events. Four of these events were related to the tainted formula milk incident and one related to ZHAO giving support for a victim of sex violence.

The first event happened on 2 January 2009. As someone belonging to the middle class, ZHAO intended to hold a press conference in a hotel. The said press conference was not intended to be held on the streets. ZHAO had planned to hold the press conference in a hotel in the Fengtai District, Beijing. However,

when the hotel management knew that the press conference was about the melamine-tainted powdered milk incident, they dared not entertain ZHAO's request and asked the group to leave.

According to ZHAO Lianhai's testimony, there were only altogether 17 parents who attended the press conference. Separately, according to the brief issued by the Fengtai sub-bureau of the Beijing Public Security Bureau, several victims of Sanlu formula milk were being interviewed by dozen-odd foreign reporters and this attracted a crowd of 20 to 30 on-lookers. The total number of persons involved was not more than 50.

In the afternoon of the same day, someone asked ZHAO Lianhai to attend a meeting at the Tuanhe Conference Centre, which was about compensation and settlement issues. The parents outside naturally wanted to go inside. During that time, a woman tried to force her way inside the Conference Centre. As a result, the automatic door was jammed and failed to maintain normal operation.

In this event, the so-called act of "crowd gathering" was about holding a press conference. Only 17 parents were involved and the reporters had out-numbered the petitioners and protestors. By the standard of Hong Kong, this is not a demonstration of "strength" but "weakness". Moreover, there were more reporters than those displaying slogans. During that time, ZHAO Lianhai was discussing compensation inside the Tuanhe Conference Centre and had not participated in any events outside.

The second event happened on 22 January 2009. There were even fewer people involved in this event. ZHAO and six other parents (that makes up a total of seven persons) went to observe a hearing at the Shijiazhuang Intermediate People's Court. However, they were intercepted by public security officers before they arrived at the court. Hence, they displayed some A4-size paper slogans. According to their testimony, they were advised to leave after 10 minutes by civilian police officers. According to the testimony of the duty officers outside the court, they were clamouring and many foreign reporters came forward to take pictures.

The number of participants in the third event was even less. On 4 March 2009, ZHAO Lianhai and four other parents displayed slogans, also of A4-size paper, outside the Shijiazhuang Intermediate People's Court.

The fourth incident happened not in a public but in a private place. The day was the first anniversary the tainted milk incident came to light. ZHAO Lianhai and family members of some victimized infants held a seminar in a hotel where they prayed and expressed well wishes. Some reporters from Hong Kong, Reuters and Taiwan came to cover the story. Later, they ate and went home at 9.30 pm. ZHAO was likewise charged for "crowd gathering" because of this event.

For all these events, one was held indoor and the others outdoor. The number of participants in these events was but minimal and at most, only about 10-plus people had participated. How could such a scanty force seriously disrupt social order in such a vast country?

Actually, more disruption should generally be done by reporters who covered the event than demonstrators. Nonetheless, why did the authorities not make better arrangements for interview and instead turn this into a charge against ZHAO Lianhai for seriously disrupting social order in a public place?

The final event happened on 4 August 2009. It was about ZHAO Lianhai giving support to a victim of sex violence, LI Ruirui, for reporting her case to the police. ZHAO was not even the organizer of the event. He was merely there to give support. This event has entirely nothing to do with "picking quarrels and provoking trouble".

ZHAO Lianhai is just an ordinary man, an ordinary middle-class person who has worked in television stations and the advertising industry. Then, what made him come forth and speak out? Because formula milk tainted with melamine was ingested by the babies. When he saw how the babies had suffered, he came forth to seek the truth and demand compensation. However, he was turned into a defendant. He is not only a victim of the tainted formula milk, to be more accurate, he is a victim under the net of corruption in China, where the Government colluded with the businesses and the authorities, acting lawlessly and without the slightest respect for human lives.

In September 2008, the public already knew that the businessmen had laced milk products with melamine so that such products could pass the test for protein content. So what is melamine? Melamine is actually an adhesive. The glue for sealing the edges of milk cartons also contains melamine. That is why, Deputy President, we start to drink bottled milk instead since 2008. Tableware

commonly used in tea restaurants which looks like porcelain-ware or plastic-ware also contains melamine. Melamine is a very dense substance. If a person consumes melamine-laced milk products for a prolonged period without drinking enough water, the chemical will stay in the body causing the formation of kidney stones. How dare those cunning businessmen harm the infants who cannot even speak yet! Deputy President, I am very impressed by something you once said in this Council. You said, "A gentleman should only make money in the right way." While businessmen aim to make money, they should not do so in such a mean and unethical way. And they should never try to harm infants who cannot even articulate their feelings of pain and discomfort. Because infants can neither speak nor complain, the cunning businessmen target on them, and reap huge profits by producing contaminated formula milk to make the defenseless infants suffer. In addition to ZHAO Lianhai's family, many families are also made affected. While the official source said 39 000 infants are affected, the unofficial figure is as many as 300 000.

Given the rapid economic development of China, why did such a shameless and unethical act happen? Since the opening up of China's economy in 1980s, the Central Government has only focused on the opening up and development of its economy. But on matters concerning the development of humanistic values, the protection of the people as well as the progress of rule of law, democracy and reform, its stand is elusive. Why? Because once the subject of humanistic values is touched on, it will mean giving rein to the freedom of expression and the independence of the media. In turn, it will immediately attract criticisms against the Central Government. But this is something inevitable and unavoidable in the process of opening up and reform. We cannot just talk about money, GDP and nothing else for fear of attracting criticisms and monitoring. This will only make the whole country so money-oriented that its advancement and development can only be measured against quantifiable figures and statistics. But on the other hand, its progress in safeguarding the people and their personal safety as well as the protection of public health lags far behind. There is also no way to foster mutual care and concern in the country. Apart from melamine-laced formula milk, there were other food incidents, such as "hairy soya sauce", food items bleached with sulphur, pigs fed with asthma medicine, toxic vegetables and food items containing malachite green. Even many citizens in Hong Kong have been affected and there is really no end to these incidents. As such, the victims are not limited to infants who cannot yet speak.

Before its reform and opening up, China has suffered from 30 years of tyranny. Those officials of the older generation who managed to stay in power having endured the 30 years of political turbulence would have learned an important lesson, that is, in a place with neither rule of law nor safeguard for personal safety, the best way of self-protection is to make as much money as possible while in power so that they can send their children and family to the capitalist countries which they so despised in words. Therefore, the pursuit of economic development in the absence of rule of law and democracy becomes a hotbed for cunning businessmen. The infants and ZHAO Lianhai are all victims of these cunning businessmen. Nonetheless, the cunning businessmen must have the protection of corrupt officials before their "cheating" businesses can flourish with many scam items coming on line.

After the incident was given full coverage in the media, reports had already been filed with the authorities but were suppressed. Some people said that the incident was played down because of the Olympic Games. However, Deputy President, I think it is because the network of corrupt officials is just so wide that many people had played down the incident in order to protect their own interests. Then, who blew the whistle at last? It was the major shareholder of the Sanlu Group. But this major shareholder was a New Zealand company which insisted on reporting the matter directly to the Central Government and going public with the news while risking significant fall in turnover. We can see that in a capitalist country, a profit-first business has risked temporary loss of business to blow the whistle. Why do businessmen with conscience exist in countries practicing capitalism which is so despised by the Communist Party? Why does China, a country known for politeness and righteousness, turn a blind eye to the tainted formula milk incident and allow the cunning businessmen to continue with their evil deeds? Is the so-called gentle, honest and sincere character of the Chinese people just a myth which has long disappeared?

After the incident came to light, actions had been taken by the Central Government. Several members of senior management in the Sanlu Group had been indicted and three dairy farmers sentenced to death penalty. But surprisingly, melamine-laced milk products were still found in other milk stations. Hence, it was clear that many more persons were involved in the matter than those arrested. There is no way that the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China can deny its responsibility. Why were the concerned officials just dismissed? How come those people could stay unaffected? Because there is an extensive

network of corruption involved. This network of corruption is so extensive that nobody knows how many persons are involved. In this network of corruption, they cover up for each other. Under the rule of this corrupt government, ZHAO Lianhai, his son and many other infants had become victims.

ZHAO Lianhai was convicted on the charge of causing serious disorder in a public place. In the events concerned, 10-odd parents and 20-odd reporters were involved in interviews and shootings in the street. As a result, ZHAO was convicted and sentenced to two-and-a-half-years' imprisonment. But why do officials who protected the "scams" of the consortia and cunning businessmen and caused suffering to tens of thousands of families still go scot-free? What sort of social order are we talking about? Is it that public order is only restricted to what is seen in public, as regards the wrongdoings done clandestinely, they will not be regarded as disrupting social order? A ridiculous charge backed by a lot of ridiculous evidence had turned an innocent man into a defendant and then a prisoner for two and a half years. I must stress again that ZHAO Lianhai is not the only victim. As a result of such corruption, the 1.3 billion people in China all suffer together, and their suffering is so much greater and profound than that caused by the tainted formula milk.

Deputy President, the Central Government should release ZHAO Lianhai immediately and provide medical services to the infants suffering from kidney stones. Moreover, I implore the Central Government to face squarely the problem of collusion between government officials and the businesses, so as to eliminate corruption and enable the 1.3 billion people in China to live healthily as normal persons.

DR MARGARET NG (in Cantonese): Deputy President, as the saying goes, "flesh and skin always stay together even when cut", it is thus natural for the people of Hong Kong to be concerned about the situation of human rights, freedom and rule of law in Mainland China. Things that happened to ZHAO Lianhai, a father seeking justice for his son, has touched the heart of all the people in Hong Kong. But today I am commenting on this incident from the perspective of a legal practitioner.

(THE PRESIDENT resumed the Chair)

The incident of ZHAO Lianhai made me reflect on the questions about why the rule of law is so important and what it actually embraces. Today, we are not merely demanding justice for a good man; instead we must focus on what the problems are, where the problems lie and why there are such problems. We are concerned not only about one person but the whole country. If there is no rule of law in China, the rule of law in Hong Kong will not last long. As we ponder on the case of ZHAO Lianhai and examine the factors involved, we cannot help but feel that we also have to examine in depth the rule of law of Hong Kong.

Firstly, I asked myself why ZHAO Lianhai got into trouble. For this purpose, I have gone through some information. As we all know, ZHAO Lianhai's son is one of the "kidney stone babies". He got into trouble primarily because he wanted to file a lawsuit to seek compensation. But it was not an easy thing to do because he had to liaise with a lot of people and seek their participation before the matter could proceed. ZHAO's present charge of so-called "picking quarrels and provoking trouble" was related to the actions he had taken during that period. This reminds me of the first and foremost element of the rule of law — the people's right of access to justice. The right of access to justice is not always for good people like ZHAO Lianhai — the cunning businessmen were selling contaminated formula milk and everyone supports the actions of ZHAO — even though we may not think that this man is right, but if he has a reasonable cause of action, his right of access to justice must be safeguarded by our system.

President, I think we will still recall that in The Link REIT incident, LO Siu-lan filed an application for judicial review and she was accused of abusing the legal process. Actually, the Honourable Member sitting behind me always goes to court and he has been queried by some people as to whether he has abused the legal process. If someone is granted legal aid, it will also invite queries whether the legal aid system has been abused. Hence, if we consider the present case of ZHAO Lianhai, we have a strong sense that a person's right of access to justice must be safeguarded. As long as he holds one reasonable cause of action, he should be allowed to take his case to court. Of course, how the case will be decided is a matter for the court. While we naturally hope that the court will act in a fair and independent manner, this person should at least have the chance to make his case heard in court. However, ZHAO got into trouble before he could take his case to court and many things were done to prevent him from doing so.

President, I then looked up some more information to see how this matter developed. Apart from organizing those people in filing the lawsuit, ZHAO also prepared the case for court. Finally, he has a valid cause in this case, in fact, there was the first court case seeking compensation in respect of the tainted formula milk incident in November 2009 — *WANG Gang vs. Sanlu Group* — the court had ruled in favour for the plaintiff. But even though WANG won the case, he did not get any compensation because the Sanlu Group had gone bankrupt. This case finally ended with a man not getting any compensation even though he won his case in court. This has dealt a severe blow to our legal system. The impact is felt not only in the Mainland, but also in Hong Kong. If the legal system cannot ensure that someone will get his rightful compensation as awarded by the court after winning his case, serious problem would arise.

President, secondly, ZHAO Lianhai had pressed on with his fight. Therefore, he was indicted. In an article published today, Prof Johannes CHAN pointed out the thing which worried him most. He said why this person was indicted? Why this person was charged with the offence of "picking quarrels and provoking trouble"? Prof CHAN was acquainted with some senior leaders of the people's procuratorates and he knew they were good people. But why did these persons bring such a charge against ZHAO Lianhai? Earlier, LEE Cheuk-yan cautioned that it was not only in China that the offence of "picking quarrels and provoking trouble" was wilfully used to press charges, many similar provisions also existed in the laws of Hong Kong. If you assaulted the police or made some jokes on the Internet, the police could arrest you on certain charges. Strictly speaking, you could also be convicted by the court. President, what is the critical point here? It is whether the responsible prosecutor has adhered to the principle of justice and whether he acts not only according to the words of the law but its spirit and objective.

In fact, something similar has happened in Hong Kong, that is, the incident in which the Goddess of Democracy statues were forcibly seized. The authorities were saying that someone had displayed the statues in a public place and they could press charges against those people because it was a public place. That is why, President, we were so anxious when we were prosecuted. We should rightfully be anxious because if prosecutions are unjustly instituted, our rule of law will be undermined.

The third important point I would like to mention is the meaning of law. The meaning of law must be justifiable so that no laws will give rise to any

illogical interpretation. If the laws are bad, unreasonable and unjust, the people will cast away these laws. When the people cast away these laws, the place will become lawless because the laws have lost the respect of the people. President, it is why we must painstakingly scrutinize each and every law as they are presented to this Council because if we have not done so to ensure that the laws are in line with legal principles, we will undermine our rule of law.

Lately, I have been reading, for no particular reason, the biography of Robert PEEL. President, I think you might know that he was a British Prime Minister from your study of English history in secondary school. This British Prime Minister of the 19th century had made extensive reforms to the criminal justice system in Britain. What was his objective? He did not introduce those reforms on the consideration of human rights or justice. He opined that if a country was to be ruled by law, the laws *per se* must be reasonable, just and enforceable; otherwise it would be futile to impose the laws on the people. That is why he had to reform the laws.

That brings us to my third point, which is, the laws must be reasonable and justifiable. Some events of picking quarrels and provoking trouble Earlier on, some Members have read out the events constituting "picking quarrels and provoking trouble". Under certain circumstances, one may question whether acts of picking quarrels and provoking trouble should be punished? I think they should. But if someone is just holding a press conference or displaying signs outside the court asking for the chance of litigation or compensation, are those really acts of picking quarrels and provoking trouble? I think these are separate issues.

President, regarding the case of ZHAO Lianhai, many Members have just mentioned that he is a good man. But I want us to think this over: If the case concerns an unpopular or very troublesome person, does it mean that we should consider him undeserving of the chance to take his case to court? If the people we do not agree to hold a procession outside and mischievously display some large props, does it mean that we should consider them undeserving of such a right? If we hold this thought, our rule of law will disappear very soon. Therefore, we must give the broadest consideration as regards the people's right to fight for civil rights, to enjoy the freedom of speech and to gain access to justice.

President, I must say I am extremely worried about the future of this rising economic giant when I see that the legal system of the Mainland is so unhealthy, and when I see how a man with a reasonable cause had been treated. President, if a country is in poverty, or if it is closed to outside influence or under totalitarian rule, the people may not have many rights and they do not have to consider how conflicts among different rights are to be resolved. But China is in the process of opening up, and capitalism, albeit with Chinese characteristics, has brought various interests for many people. When conflicts occur among these interests, what would the state do to resolve the disputes? Should we allow those people to bring their cases to court in an orderly manner so that their disputes would be adjudicated by judges who are fair, just and law-abiding; so that the final judgment would be agreeable to all, or even if not, the parties concerned would at least respect the power and standing of the court in making the judgment? Do we want to resolve these civil disputes through a civilized means, or do we want to undermine or destroy such a system? If we do not support such a system or if the state does not support or buttress such a system, what will happen to the people? The society will certainly become unstable. When the people do not respect the law, they cannot resort to self-help. What is the origin of common law? When everybody resorts to self-help, the society will fall into disarray as violence becomes the order of the day and the weak being at the mercy of the strong. In order to avoid such a situation, we must give our support to the rule of law. However, the bottom line of the rule of law is that if the system is unfair and offers no help to the people, the society will revert to the state of violence.

Hence, President, many Honourable Members have spoken today about their support for ZHAO Lianhai and his early release, as well as how we should seek justice on his behalf. But I think those are not enough because ZHAO Lianhai is not acting for his own interest. Having the experience of what he had gone through, ZHAO deeply felt the urgency of China's reform so that a sound system would be established for the future.

President, as we hold this debate today — sorry, President, I have not read your ruling — I think the greatest significance of this debate is not about how the legislature of the Hong Kong Special Administrative Region interferes with a court verdict in Mainland China, but how the incident has made us reflected on the value of our rule of law so that we are now speaking out our observations here, speaking out for the good of Hong Kong and speaking out our wish to safeguard the rule of law.

President, last but not least, I think we all know that AUNG SAN Suu Kyi of Myanmar (Burma) has regained her freedom. In her speech, she made a remark that might be familiar to us and quite apt for tonight. She said, "Even if only one man loses his freedom of speech, we will all lose our freedom of speech." President, even if only one man loses the protection under rule of law, all of us will be harmed and rule of law undermined. Therefore, we must make our voice be heard today. Thank you, President.

MR IP KWOK-HIM (in Cantonese): President, in 2008 major food safety incidents have occurred on the Mainland one after another. Some infant formula milk was found to contain melamine, a type of industrial material. After investigation by the Ministry of Health, it was found that the number of children who had developed kidney disease from consuming such tainted formula milk rose drastically. In Hong Kong there were also some suspected medical cases. In view of the extensive implications of the matter, at that time TAM Yiu-chung, Chairman of the DAB, immediately wrote a letter to WEN Jiabao, Premier of the State Council, putting forward four suggestions, which included requesting the State Council to set up a task force to fully implement the follow-up work and provide diagnosis and treatment to the suffering children; rectifying the safe production procedures of the dairy production industry and improving the testing methods; plugging the loopholes in food safety supervision to restore the people's confidence in food safety; focusing on the inadequacy of corporate ethical responsibilities and some officials' lack of crisis awareness and a sense of responsibility at work, enhancing education and training work for enterprises and officials.

Afterwards, apart from the State Council, which immediately activated the national emergency mechanism for safety incidents and dealt with the incident of contaminated Sanlu formula milk, the State General Administration of Quality Supervision, Inspection and Quarantine also conducted comprehensive inspection on formula manufacturers on the Mainland. The departments concerned also provided free treatment to the sick babies and infants, the cost of which was borne by the Ministry of Finance. According to Premier WEN Jiabao, our country has compensated the affected children with 2 billion yuan and at the same time offered them insurance for 20 years. We hope the Central Authorities will genuinely implement the follow-up work in looking after the suffering children and enhance food safety supervision.

It has been two years since the incident happened. The children have recovered one after another. However, a number of infants are still under treatment. Many of the children's parents are from needy families who cannot afford such expensive medical fees in the longer term. For this reason, being the parent of a tainted formula milk victim, ZHAO Lianhai ran around to fight for follow-up treatment and regular checkup for these children. I believe what set him off was his paternal love.

ZHAO Lianhai founded the "Kidney Stone Babies" in the hope of gathering the parents of all children suffering from kidney stones to pursue litigation to defend their rights. The situation is like taking a class action in Hong Kong, fighting for their rights and defending justice with collective power by judicial means. I believe that is why Hong Kong people sympathized with ZHAO Lianhai's action in pursuit of his rights. Through the website of "Kidney Stone Babies", ZHAO Lianhai continued to disseminate relevant information about the tainted formula milk incident to other members of the public, thereby effectively exposing such unscrupulous enterprises and assisting the Government in monitoring them. We think ZHAO Lianhai's action should be understood by the authorities.

ZHAO Lianhai's case has already been tried in accordance with the legal rules on the Mainland. The judicial power on the Mainland is exercised by the judiciary consistently without any intervention. The DAB respects the principle of judicial independence. We may not completely understand what specific actions ZHAO Lianhai has taken to defend his rights on the Mainland, yet compassion is human nature. While respecting the principle of judicial independence, we hope the President of the Supreme People's Court will, with due consideration given to both empathy and laws, attend to the appeal of ZHAO Lianhai's case and let the little boy, ZHAO Pengrun reunite as soon as possible with his father, who has been separated from him for more than a year, so as to bring consolation to the poor kid's soul. We further hope that all babies suffering from kidney stones will recover soon and grow up in health.

President, I so submit.

MS MIRIAM LAU (in Cantonese): President, two years ago the melamine-tainted formula milk incident on the Mainland shocked the whole nation. A total of 300 000 babies and infants in various provinces and places

had fallen victim and suffered from disease like kidney stone. At that time, Hong Kong people watched from the television scenes of parents, carrying their babies in their arms, rushed to the hospital helplessly in fear. Now looking back at those scenes, it is still heartrending. For those parents whose children are the victims, the pain and distress can hardly be understood by outsiders.

ZHAO Lianhai, the founder of "Kidney Stone Babies" mentioned in this motion today, is the poor father of a child who has fallen victim to the tainted formula milk. We learnt from the media that ZHAO Pengrun, ZHAO Lianhai's son who was three years old at the time, had developed kidney stones from consuming contaminated formula milk and became a "kidney stone baby". Apart from making every effort to help his son to recover, ZHAO Lianhai set up a website to liaise with and assist other parents, providing them with information and resources. Thus he was named "Father of Kidney Stone Babies". It can be said that what he did was simply based on the noble spirit of a Chinese saying, "Take care of one's own children and extend the same care to others' children." His motive is pure and worthy of our sympathy.

Hence, last Wednesday (10 November), when ZHAO Lianhai was sentenced to imprisonment for two and a half years by the Beijing Municipal Daxing District People's Court for the crime of "picking quarrels and provoking troubles", the maximum penalty of which is imprisonment for three years, we really consider that the two-and-a-half-years' sentence is too heavy.

President, last Wednesday, outside the gate of the Daxing Court in Beijing, ZHAO Pengrun, ZHAO Lianhai's five-year-old son, held up a placard which read "Daddy, Come Home" against the cold wind at a temperature which was lower than 5°C, yearning for some good news. Unfortunately, his wish did not come true. Looking at such a scene was indeed heartbreaking. Like little Pengrun, I have a wish too. That is, I hope the Mainland authorities, having given consideration to law, reason and compassion, will mitigate ZHAO Lianhai's sentence so that this poor father who has been suffering all kinds of hardships and running around for the "kidney stone babies" can be released and return home as early as possible. At that time I thought, there would be a lot of difficulties if the matter is handled through other channels. Actually to get ZHAO Lianhai released is the best help he needs. This is the topmost consideration. All actions and all words should aim at ZHAO Lianhai's release. Only such a way is the best option.

A few days ago some 20 Hong Kong deputies to the National People's Congress and I jointly signed a petition letter to the Beijing Supreme People's Court. I hope that through the joint signatures of the 27 NPC deputies, the Hong Kong people's concern and sympathy for what has happened to ZHAO Lianhai will be conveyed. I wish to urge the Court to consider on humanitarian grounds that even though ZHAO Lianhai's behaviour might have rashly crossed the line and might have broken some laws, his motive was pure and simple. He was just overwhelmed by his love for his son, and therefore should be given a lenient sentence. In addition, ZHAO Lianhai has already been detained for about a year, and his family has suffered great pains since ZHAO Lianhai was jailed. For this reason, I hope that he can be released immediately. In my opinion, bearing in mind that all parents will do their utmost for their children, having deep sympathy with ZHAO Lianhai's story is understandable. I hope the court will focus the issue more from this perspective.

I know that I am not the only one having such a wish. The other people include the NPC deputies who have jointly signed the petition letter, a number of Members who are speaking in this Chamber right now and many kind-hearted people in Hong Kong and even on the Mainland. I wish our hope can be realized soon.

President, I so submit.

MR ALAN LEONG (in Cantonese): President, the melamine-tainted formula case on the Mainland has caused a group of innocent "kidney stone babies" to suffer. Hundreds of thousands of babies have developed the kidney stone syndrome; their kidneys malfunctioned, and some of them even died. For these children, they are going to suffer great pain for the rest of their lives. For those parents who witness their own children suffering from illness since childhood, their pain must be excruciating.

Being one of the parents, Mr ZHAO Lianhai bravely stepped forward in the hope of seeking justice for his beloved son. He set up the website of "Kidney Stone Babies", to investigate the tainted formula milk incidence and liaise with the parents of other victimized children to pursue litigations, demanding the Government to provide lifelong free treatment for the sufferings endured by their children. Being mentally tortured by his beloved son's sufferings, ZHAO Lianhai still insisted on seeking public justice by taking rights defense action.

His noble behaviour should deserve commendation. However, unexpectedly, the plaintiff became the defendant in the end. ZHAO Lianhai was charged for the crime of "picking quarrels and provoking troubles" and sentenced to imprisonment for two and a half years.

ZHAO Lianhai's experience let the whole world witness an unjust case. The saying "if you want to condemn somebody, you can always trump up a charge" is still applicable in a big nation in the 21st century. A big nation which claims to rise up in peace may exercise its autocratic political power at will to impose a heavy sentence on an ordinary citizen pursuing justice. It turns out that the purpose of its people's lives is merely to tie in with the operation of a political regime. The people's basic conscience is under the control of an autocratic and authoritarian power.

President, in the democratic movement in 1989, Prof DING Zilin who witnessed her child sacrifice in pursuit of his ideals formed the Tiananmen Mothers afterwards; and since then, she has lost her freedom, she is under surveillance even when she pays respects to her child. In the Sichuan earthquake in 2008, parents lost their children who were buried alive by tofu-dreg construction works. HUANG Qi, one of the human rights advocates who assisted these people, was found guilty for unlawfully holding state secrets and he was sentenced to imprisonment for three years. In the tainted formula milk incident in the same year, parents saw their children suffering from perpetual illness at an age when they had not learnt much about the world. A good father who only wished to seek justice for his beloved son was also convicted. Parents have to face the emotional trauma since their children became victims, and at the same time they have to bear the consequences of political suppression. The price for the so-called harmony and stability is that there is no way to redress grievances. Justice is gone. Those babies who have suffered from tainted formula will also have to face a future where right and wrong are confused and good and evil are completely reversed. They will have to accept the fact that their good fathers who pursued justice for them somehow ended up in jail.

President, the treatment accorded to human rights advocates like ZHAO Lianhai and LIU Xiaobo has completely tarnished the international image which China has paid much effort to build up. What it shows is that purse-proud and callously wealthy may have gradually become the new stigma of China. The people are not proud of their country's economic success. On the contrary, they feel ashamed for the tyrannical and despotic rule of the political regime. Such a

series of incidents of political suppression not only makes the Hong Kong people more wary of Article 23 of the Basic Law, it also shakes our Taiwanese compatriots' confidence in China, adding to the difficulties in the unification of the two sides of the straits. The Civic Party strongly believes that it is the Chinese people's common wish to have democracy, human rights and freedom safeguarded. It is also a key foundation upon which people may live with dignity.

President, in the past 20 years the economy of China has bloomed. People's material life has become increasingly affluent. With regard to democracy, rule of law, human rights and freedom, however, there has not been much progress. Some people opine that we should develop these universal values in the so-called Chinese mode and that we cannot be too hasty. They further say that so long as we wait patiently, when the conditions are ripe, naturally everything will work its way out.

President, our country has indeed become stronger. However, behind the emergence of the big country, the mass media is forced to harmonized, reporting only good news and not bad news. Being the world factory, China experiences economic growth, but the consequences are environmental pollution and exploitation of labour. The truth of ruling the country by law is that people like ZHAO Lianhai and TAN Zuoren, who fought for justice for infants who had fallen victim to tainted formula and tofu-dreg projects, were charged for the crime of "picking quarrels and provoking troubles" and locked up behind bars.

President, today I would like to make a comparison and look at a country which faces similar demographic problems like China and whose social problems are very much the same — India. In fact, the population of India is second only to China. Although its pace of development in the past 20 years is not as fast as that of China, it has recently been identified as a future giant of high technology and creative industries. After all, the reason is that the democratic political system in India acts as a channel for redressing the people's grievances. Its legal system can protect the people's rights and freedom. When the people develop creative ideas, they can give rein to unrestricted imagination with no need to worry about any consequences. Comparing the two countries, a number of economic analysts have estimated that India will probably have more steady and long-term development than China in the future.

Both China and India have heroic figures recognized by the world. In India there was the saint GANDHI. His story of non-violent and peaceful resistance has spread around the world, enlightening the later generations with profound influence. In China, although LIU Xiaobo fought for human rights and the rule of law in the same non-violent way and demonstrated the same glory of humanity with no fear of sacrifice, he is not known by people in China and he is even wilfully smeared by the Government. In a country where justice cannot be upheld, how will the people's conscience not be distorted?

President, someone said that the verdict in the cases of LIU Xiaobo, TAN Zuoren and ZHAO Lianhai was China's "trial and error". After correction, China will go to the right track. However, repeated cases have once and again told us and made us understand that one cannot change the present situation by waiting. It will only let the wrongdoer do more wrongs.

Recently, a Hong Kong member of the National Committee of the Chinese People's Political Consultative Conference has made the following speech. (Let me quote) "Conscience should always come first. Human rights and freedom are universal values which everyone pursues. They should not be differentiated by any western or Chinese mode, and no one is allowed to decide or veto the rights to which other people are entitled." (End of the quote) I find this speech, which is relatively rare, is just like a wakeup call, awakening those in power.

President, the Civic Party regrets that rights advocates on the Mainland have been suppressed and heavily sentenced one after another. We strongly urge the Central Authorities to unconditionally release the rights advocates, including ZHAO Lianhai and LIU Xiaobo, as soon as possible and carry out political reform expeditiously.

I so submit.

MR ANDREW CHENG (in Cantonese): President, in the past few days, I believe the three words "ZHAO Lianhai" have caused much pain to Members who have or have not spoken at this meeting, especially those who have children. I believe as a parent and a Chinese, ZHAO Lianhai's case is, just as many colleagues have said earlier on, an unjust case of the millennium. Honestly

speaking, the three words "ZHAO Lianhai" have reminded me of an old Cantonese movie called "YANG Naiwu and XIAO Baicai"⁵. It seems that what happened in the story does exist in the real world.

ZHAO Lianhai's case has produced a phenomenon which has rarely been seen in Hong Kong's political environment over the last decade or so. For instance, while Mrs Rita FAN has divergent views with me and the pan-democratic camp over most political issues, I learnt that she has issued a joint petition to the Central Authorities with other Hong Kong deputies to the National People's Congress (Hong Kong NPC deputies). Although Mrs Rita FAN and Mr LEW Mon-hung did not see eye to eye with us on political issues in the past, they have also initiated a signature campaign for ZHAO Lianhai's case this time. People who believe in conspiracy theory may think that this is probably a political struggle within the Communist Party, and is merely a tactic adopted by different parties and groupings in the political struggle. Anyway, as politicians, we have at least, for conscience's sake, taken a stand in this case. In this connection, I have paid special attention to the remarks made by Hong Kong NPC deputies who have not signed the petition. Today, I heard Mr Peter WONG Man-kong gave a few points of analysis. In fact, what he said is essentially the same as the comments made by those pro-Beijing extreme conservatives on the 4 June incident and on LIU Xiaobo's case. Here, I would like to refute the arguments one by one, and have my views put on record.

Mr Peter WONG said, "ZHAO Lianhai's case should not be politicized as this would place the Central Authorities in a very difficult situation. The case should therefore be treated in a low-profile fashion. The Central Authorities might be deterred from releasing ZHAO if the case is treated in a high-profile fashion. What is more, why hire human rights defense lawyers, these lawyers have other motives, they are using you." President, how can parents of children who are victims of tainted formula milk be asked to handle the case in a low-profile fashion when they are crying out their grievances? To be honest, if your children were the victims, will you handle the case in a low-profile fashion? Besides, how high-profile was he? What is meant by high-profile? What is meant by low-profile? He only wishes to pursue the case to find out the ultimate persons responsible for the incident, for the sake of his child and other children, as well as other victims of the tainted formula milk. That is it. Can this be

⁵ The film is about the miscarriage of justice in imperial China.

regarded as high-profile? Should he be sent to jail because of this? Should he be sentenced to two-and-a-half years' imprisonment after being detained him for one year? Now, we are told that he denied his lawyer's request to see him. What kind of authority is this? If he did not seek help from human rights defense lawyers, who else can he turn to? What kind of lawyer can help them? The Constitution of People's Republic of China is written in such a way that after reading it, many Chinese people would have a feeling that China is a great nation which can definitely surpass the United Kingdom and catch up with the United States. But is it true?

Premier WEN Jiabao has claimed to look into the tainted formula milk case and would severely punish the manufacturers concerned. A trophy has been placed on the table in front of "Long Hair" and perhaps the President may not be able to see the numbers written on it. However, regardless of whether we accept or agree to allow "Long Hair" to place this "Best Actor" trophy for WEN Jiabao on the table in this Council, we should exercise self-reflection after all. What actually is in the minds of the Chinese leaders? The only explanation I can give is that, they are communists who are ready to sacrifice everything for the stability of state power. Harmony is the foundation and no disorder would be allowed. ZHAO Lianhai's taking to the street and receiving media interviews openly in public places are seen as provocation. In the eye of the Communist Party, such acts would cause instability to the Chinese Communist regime. This is why the Chinese Communist Party felt panic. Although they know that ZHAO Lianhai is right, they still have to arrest him to protect the state power. What I would like to say to the leaders of the Central Authorities is that, I wish they would listen carefully to the views expressed by Hong Kong people and particularly Members of this Council. We will legislate on Article 23 of the Basic Law to meet the establishment purpose. Hong Kong people will legislate on Article 23 sooner or later. However, Hong Kong has been subject to the double blow of LIAO Xiaobo and ZHAO Lianhai. How frighten would Hong Kong people feel in the face of the future legislative work of Article 23 of the Basic Law? Since the Constitution of China was so well written, the future legislation on Article 23 will also be very well written. The question is whether the law-enforcement bodies and executive authorities would respect the spirit of the law. How can Hong Kong people have confidence in the Central Authorities amidst the spate of such incidents? Being Chinese, we definitely love our nation. However, the more one loves the nation, the sadder he would become and the more frightened he would feel in the face of Article 23.

I hope that this case is nothing but a peaceful evolution of the rising of a great nation. Take a look at Japanese Prime Minister Naoto Kan, his hands kept shaking when he met HU Jintao. After shaking hands with HU, he immediately forgot and shook hands with HU again. Likewise, leaders of the United Kingdom and France have also refrained from putting pressure on China in respect of these issues in view of the importance of the Chinese market. The reason is very simple, because we have a market of 1.3 billion people. We do not wish to see any foreign countries pointing their fingers at us, because after all, their human rights condition is no better. And yet, there is an international yardstick for the process of democratization. Unfortunately, over the past eight to 10 years after the 4 June incident in 1989, the policy of our country has become more conservative, and political suppression has also become more barbaric.

Many people try to convince us by saying that, instead of criticizing the Central Government all the time, more time should be given as improvement is forthcoming. When the economy prospers, a small of group will become rich and thus the number of well-off families will increase. President, I do not oppose the Central Government entirely as Chinese people did take big strides forward in many respects. And yet, we cannot merely focus on getting people enough to eat and wear. We must also lead a dignified life, and should not allow such inhuman and unreasonable things to happen. A father rushed around to campaign for justice for his own children, but met with such treatment in the end. Can we still remain silent? If we remain silent, we will become the accomplices of the Communist one-party dictatorship which suppresses the people. Hong Kong NPC deputies who refused to sign the petition should not claim themselves as Hong Kong people.

I hope that the Central Government would listen carefully that, in this case, Hong Kong people are not hard-hearted. Nor do we not love our country. However, I must remind the Central Government that it cannot keep asking us to wait for the democratization process which it claims will come sooner or later, and the time is not ripe now. It is fine if this is not the right time. And yet, it should at least be more lenient to the dissidents amidst the present economic takeoff.

President, I am talking about ZHAO Lianhai and the tens of thousands of people who have petitioned to Beijing. ZHAO is only one of them. In the

past, many farmers and ordinary people had very miserable experiences. They left home in the morning but returned at night to find their homes destroyed and their family members all dead. On the other hand, those who petitioned to Beijing were arrested. Some simply disappeared from this world. It is just that we are unaware of these cases, thinking that they are none of our business or perhaps they have done something wrong. Why did ZHAO Lianhai receive so much sympathy? Because the case of tainted formula milk is well-known. What is more, ZHAO is a good father who has touched our souls. He is nonetheless only one of the tens of thousands of aggrieved Chinese people under the Chinese Communist regime.

The reason why we are still so hysterical to cry out the grievances here is that we wish to see improvements in our society, our government and our country. However, our country has disappointed us time and again. President, I will continue to proactively campaign with a saddened heart, hoping that people of China will stand upright. Given that we are Chinese living under "one country, two systems", having Chinese blood and drinking the same water as other Hong Kong people, we should express views and make suggestions with our courage and conscience whenever we have a chance. We should also request the Hong Kong NPC deputies and the Legislative Council to continuously relay our concerns on this case to the Central Authorities in the hope that the thousands of cases of wrong conviction, like ZHAO Lianhai's case, will be overturned.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the meeting until 9 am tomorrow.

Suspended accordingly at two minutes to Ten o'clock.

Appendix I

WRITTEN ANSWER

Written answer by the Secretary for Food and Health to Dr Joseph LEE's supplementary question to Question 5

As regards the projected manpower required for the New Territories West Cluster by 2016, the projected additional manpower required each year (including doctors, nurses, allied health staff and supporting/other staff) to cope with the enhanced services in the New Territories West Cluster is set out below:

<i>Calendar Year</i>	<i>No. of staff</i>
2011	210
2012	55
2013	57
2014	107
2015	107
2016	200

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Food and Health to Dr LEUNG Ka-lau's supplementary question to Question 5**

As regards the required manpower and its deployment upon commissioning of Tin Shui Wai Hospital (TSWH), it is projected that the new TSWH will require around 1 000 staff comprising doctors, nurses, allied health staff and supporting/other staff upon its full commissioning. About 500 to 600 staff will be provided at the TSWH when it commences operation in 2016.

Drawing on past experience, the New Territories West Cluster (NTWC) will recruit additional staff as well as deploy existing staff to operate the new beds and run the new services in the TSWH. Recruitment will be conducted by phases and recruitment exercise will commence one to two years before the service comes to operation. Staff recruited in the commissioning stage for the TSWH prior to its opening will station at other hospitals in the NTWC.

Around 80% to 85% of the required manpower by the TSWH will be deployed from hospitals in the NTWC (including those already recruited for the TSWH during the commissioning stage of the hospital), and the remaining percentages will be new recruits. Replacement will be provided for manpower deployed from other hospitals in the NTWC based on service needs and reprovisioning of services (if any) upon the completion of the TSWH.