

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 11 January 2012

The Council met at Eleven o'clock

## MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

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

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

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

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

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

**PUBLIC OFFICERS ATTENDING:**

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

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

MR KENNETH CHEN WEI-ON, J.P.  
SECRETARY FOR EDUCATION

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 MRS CARRIE LAM CHENG YUET-NGOR, G.B.S., J.P.  
SECRETARY FOR DEVELOPMENT

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

**CLERKS IN ATTENDANCE:**

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

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

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

**PRESIDENT** (in Cantonese): The meeting will now start.

### **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>
Pyramid Schemes Prohibition Ordinance (Commencement) Notice .....	181/2011
Places of Public Entertainment (Exemption) (Amendment) Order 2011 .....	183/2011
Toys and Children's Products Safety Ordinance (Amendment of Schedules 1 and 2) Notice 2011 .....	184/2011
General Holidays and Employment Legislation (Substitution of Holidays) (Amendment) Ordinance 2011 (Commencement) Notice .....	185/2011
Import and Export (Strategic Commodities) Regulations (Amendment of Schedule 1) Order 2011 (Commencement) Notice .....	186/2011
Road Traffic (Impairment Test) Notice .....	1/2012
Road Traffic (Amendment) Ordinance 2011 (Commencement) Notice 2012 .....	2/2012

## Other Papers

No. 58 — Fire Services Department Welfare Fund  
Report on the Administration of the Fire Services Department Welfare Fund and financial statements together with the Report of the Director of Audit for the year ended 31 March 2011

Report No. 8/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Guardianship of Minors (Amendment) Bill 2011

**QUESTIONS UNDER RULE 24(4) OF THE RULES OF PROCEDURE**

**PRESIDENT** (in Cantonese): Questions. I have permitted Dr Joseph LEE and Dr Priscilla LEUNG to respectively ask an additional urgent question under Rule 24(4) of the Rules of Procedure.

As both the two urgent questions are related to Legionella bacteria found at the new Central Government Complex and the Legislative Council Complex, I will first call upon the two Members to ask their urgent questions and the public officers to reply to the two questions respectively. I will then invite the two Members and other Members to ask supplementary questions to the two questions.

The first urgent question.

**Legionella Bacteria Found at New Central Government Complex and Legislative Council Complex**

**1. DR JOSEPH LEE** (in Cantonese): *President, the new Central Government Complex (new CGC) and the Legislative Council Complex (LegCo Complex) were completed only half a year ago, yet after the Secretary for Education was confirmed to have contracted Legionnaires' disease, Legionella bacteria have recently been found on various floors of the new CGC and LegCo*

*Complex, involving such important institutions as the executive authorities and the legislature as well as various government departments, and the impact is extensive. In this connection, will the Government inform this Council:*

- (a) of the reasons why Legionella bacteria have been found at the new CGC and LegCo Complex which were completed only half a year ago; whether problems exist during the construction as well as inspection and acceptance procedures; whether the authorities will take remedial measures immediately to prevent the spread of Legionella bacteria and outbreak of the disease; moreover, whether the authorities have any preventive measures in place to prevent other people from Legionella bacteria infection;*
- (b) as the locations affected are where important executive and legislative institutions of Hong Kong are accommodated, involving senior government officials and staff of various government departments, affecting governance and having extensive impact, whether the authorities will immediately conduct health assessments for the personnel concerned to ensure their safety; furthermore, whether the authorities have formulated contingency measure in case of a major outbreak; if they have, of the details; if not, the reasons for that; and*
- (c) to safeguard public safety and interest, whether the authorities will immediately conduct relevant assessments on the buildings of the Executive Authorities, the Legislature and the Judiciary of the whole territory, as well as on public places and buildings, and take preventive measures to prevent the recurrence of a similar incident; if they will, of the details; if not, the reasons for that?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, my reply to Dr Joseph LEE's question is as follows:

- (a) Legionnaire's Disease (LD) is an infectious disease caused by Legionella bacteria. The bacteria are naturally occurring in various aqueous environments and grow well in warm water (25°C to 40°C).



LD is not transmitted by person-to-person contact or through eating or drinking.

On 21 December 2011, the Centre for Health Protection (CHP) was notified of a case of LD involving a 67 year-old gentleman working in the Central Government Offices (CGO) at Tamar. On 22 December 2011, the CHP visited the patient's home and office at Tamar and collected a total of five water samples for testing. On 28 December 2011, preliminary test results of the water samples obtained from the water tap of the patient's private toilet in office suggested the presence of Legionella bacteria, the bacteria that causes LD. As a precautionary measure, the CHP collected a total of 38 water samples from the CGO, Chief Executive's Office (CEO) and LegCo Complex and Tamar Park on 28 and 29 December 2011.

As soon as the preliminary test results of the first batch of water samples from the CGO were known, the Administration arranged a thorough disinfection for the CGO, which commenced in the evening of 30 December 2011 and was completed in the early hours of 3 January 2012.

Soon after the preliminary test results of the water samples in the CEO, the LegCo Complex and the Tamar Park were known, the Administration also arranged a thorough disinfection for the concerned areas on 3 January 2012. The disinfection was completed in phases with the last one finished on 8 January 2012.

Following the disinfection exercise, the Architectural Services Department, Water Supplies Department and the CHP have conducted systematic post-disinfection sampling of water samples at the CGO, the LegCo Complex, the CEO and the Tamar Park to ensure that Legionella bacterial count has returned to normal levels. Moreover, Prof YUEN Kwok-yung of the Department of Microbiology of the University of Hong Kong has also assisted in the testing of the post-disinfection water samples. He has identified only a small amount of genetic fragment of Legionella bacteria in one out of 227 samples extracted from water taps and shower heads.

The design, materials, installation and testing (including handover procedures) of the whole water supply system in the Tamar are in compliance with the current legislation and in line with other government and private projects.

Based on the current available information, probable causes on the presence of Legionella bacteria in the pipes can be identified as follows:

- (i) The majority of the water samples with positive Legionella bacteria results are collected from outlets of low utilization, for example, private toilets of the Directors of Bureaux and kitchen sinks infrequently used. The water in the water pipes connecting to these outlets is kept in stagnant condition for a long period. Stagnant water has a higher chance to become a medium for breeding Legionella bacteria;
- (ii) Hot water supply pipes in the freshwater supply system are insulated. Insulated pipework can keep warm water inside the pipe for a longer period of time. The amount of warm water retained in pipework increases with the length of pipework between heater and water outlets; and
- (iii) A combination of the two factors in parts (i) and (ii) could provide a favourable breeding environment for Legionella bacteria which grow well in water of 25°C to 40°C. Therefore, water inside pipework connected to outlets of low utilization and with hot water supply could easily become breeding ground for Legionella bacteria.

In order to minimize the risk of Legionella bacteria, we will prepare housekeeping guidelines to advise building management and users on the need of regular cleansing and flushing programme for water taps and shower heads. In particular, hot water outlets which are infrequently used should be flushed for a period of time before use.

- (b) LD is a statutorily notifiable infectious disease. The CHP will conduct epidemiological investigation for each case, including

examining places the patient has visited or come across in order to track the source of infection. In response to this incident in which a colleague in the CGO was infected, the CHP undertook epidemiological investigation, sampling and study in accordance with normal practice.

Upon the discovery of the Legionella bacteria on 21 December 2011, the CHP issued a press release to remind the members of the public to be vigilant about LD. In view of the concerns of staff in the CGO and the LegCo Complex, the CHP has prepared health education leaflets on health advice on LD. It has also conducted health talks and briefings for government employees, media, Legislative Council Members and journalists. One may also call the CHP hotline (2125 1122) to enquire about issues related to LD.

Moreover, colleagues in the CGO and the LegCo Complex who do not feel well may seek assistance from healthcare workers in the designated help desk at the Accidents and Emergency Department (A&ED) of Ruttonjee Hospital. There has not been any new case of LD since the set-up of the help desk at 2 pm on 4 January. The on-duty healthcare workers in the A&ED of all hospitals have also undertaken corresponding preparations to handle suspected LD cases expeditiously.

The Administration Wing has, on the advice of the CHP, taken precautionary measures in the CGO. These include installing filters in all pantries, providing alcohol-based handrub facilities in the toilets of various floors and lift lobbies as well as other communal areas, reminding staff to temporarily stop the use of aerosol generating devices (for example, shower, steamer, and so on) and to clean water outlets regularly to avoid the stagnation of water within pipes.

- (c) In the past two years, the number of reported LD cases has remained stable and all the reported cases were sporadic cases.

In addition, we have invited Prof YUEN Kwok-yung of the Department of Microbiology of the University of Hong Kong to help

investigate the issue of the presence of Legionella bacteria at Tamar. His preliminary finding does not suggest any special abnormality and the concerned problem has basically been resolved following the disinfection work. Prof YUEN is of the view that it is unnecessary to monitor Legionella bacteria in various types of buildings regularly unless a case has been found. That said, we will discuss with experts, including those from the Prevention of Legionnaire's Disease Committee, on possible improvement measures to prevent the recurrence of similar incidents.

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

### **Health Risks Posed by Legionella Bacteria to Staff at Tamar**

2. **DR PRISCILLA LEUNG** (in Cantonese): *President, since the Secretary for Education was found to have contracted Legionnaires' disease in December last year, the authorities have conducted sampling checks of water at various locations at the new Central Government Complex (new CGC) and the Legislative Council Complex (LegCo Complex) at Tamar, and Legionella bacteria have been found in a number of the water samples. In less than six months since the occupation of the new CGC and LegCo Complex, such a serious bacteria breeding problem has already occurred; and there have been media reports that since the occupation of the new CGC and LegCo Complex, internal remedial works have been continuously carried out, and the pollutions caused by the dust and chemical materials generated during this period have caused the staff at the aforesaid sites to have fallen ill one after another. In this connection, will the Government inform this Council:*

- (a) *of the total number of water samples taken from the water taps at the new CGC and LegCo Complex by the Department of Health for testing as at this Tuesday, and among them, the number of samples confirmed to contain Legionella bacteria; whether the immediate remedial measures currently taken by the authorities are sufficient to completely eliminate the threat of the bacteria and fully care for the health of the staff at the aforesaid sites;*

- (b) *at present remedial works are still being carried out continuously each day at the new CGC and LegCo Complex, whether this is due to the rush to move in before completion of the works, and when the remedial works are expected to be thoroughly completed; whether the authorities will immediately conduct a comprehensive risk assessment in respect of the pollutions caused by the dust and chemical materials generated during the remedial works, so as to ensure that Legionnaires' disease or other diseases will not be triggered, or serious health risks will not be posed to staff; and*
- (c) *whether the authorities will pursue with the related persons over the responsibility of this incident; and whether they will, by learning a lesson from the incident, immediately require prior checking of water supply systems in all newly completed buildings to ensure the cleanliness before approving the occupation of the buildings?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, my reply to Dr Priscilla LEUNG's question, with input from various government departments incorporated, is as follows:

- (a) On 22, 28 and 29 December 2011, the Centre for Health Protection (CHP) collected a total of 43 water samples before cleansing operations at the Central Government Offices (CGO), the Chief Executive's Office, the Legislative Council (LegCo) Complex and Tamar Park. According to the final laboratory testing results, 23 water samples taken at 19 locations were found to contain bacteria exceeding standards, with the level ranging from 0.7 to 14.2 colony forming units per millilitre (cfu/ml). Details are set out in the Annex.

Cleansing and disinfection operations have been carried out in phases and were fully completed on 8 January. The disinfection procedures referred to the guidelines of the British Standards Institute. The water supply system and water outlets were soaked with hyperchlorinated water for at least one hour in order to kill Legionella bacteria, then flushed with water such that chlorine levels

reverted to drinking water standards recognized by the Water Supplies Department (WSD).

Following the cleansing and disinfection operations, the CHP, the Architectural Services Department (ArchSD) and the WSD took about 400 post-cleansing water samples at the CGO, the Chief Executive's Office, the LegCo Complex and Tamar Park. Laboratory testing is under way. In addition, Prof YUEN Kwok-yung of the Department of Microbiology, University of Hong Kong (HKU) conducted testing after the cleansing and disinfection operations. Among the 227 samples taken at showers and water taps, only one was found to contain a small amount of genetic fragment of Legionella bacteria.

The Chief Secretary for Administration's preceding reply has set out in detail health measures adopted by the Administration for staff of the CGO and the Legislative Council. This includes the setting up of health seminars and briefings, a telephone hotline, and LD special help desk at Ruttonjee Hospital. I shall not repeat here.

- (b) The second part to the question is about remedial works. The Tamar Development Project is in no way rushed. The works contract was signed in 2008 for a period of 39 months and was completed in 2011. As in other construction projects, it is normal for remedial works to be required after taking over the building.

In addition, the Administration has received a number of suggestions from relevant organizations or users. The Administration will consider these and suitably enhance the design, such as the improvement of barrier-free facilities. These works may only be followed up one-by-one after users move in.

As in the case of all new buildings, remedial works and adjustments are expected at the initial periods of moving in. The ArchSD will urge its contractor to complete the remedial works as soon as possible. The ArchSD has always strictly implemented quality control and will follow established procedures and standards for inspection on acceptance, to ensure that requirements are met. It

will certainly not accept works that are not in compliance with requirements or safety standards. According to the terms of contract, the contractor shall be responsible for remedial works and follow up on substandard items during the warranty period.

While remedial works are in progress, the contractor shall take appropriate measures such as portioning of the works area, the use of protective barriers, and the adoption of noise and dust barriers. It shall also co-ordinate the timing of works to minimize impact and disruption to users' daily operations. In fact, most of the remedial works have been arranged to take place during weekends or holidays.

If colleagues with chronic illnesses are worried about their working environment, or if any colleagues feel unwell, they may consult medical practitioners for consultation.

- (c) It has always been the Government's target for the Tamar Development Project to be completed in 2011 and to commission it in phases. Construction and acceptance have generally been on schedule. The procedures and standards of construction and acceptance were in strict accordance with relevant legislation, codes of practice and works-related guidelines. The Government has been following the WSD's established guidelines and conducted tests on water quality prior to commissioning the CGO building. In fact, the World Health Organization's guidelines on drinking water do not carry requirements on testing Legionella bacteria. The WSD does not make such requirements either.

At present, relevant departments are investigating the cause of the incident. Prof YUEN Kwok-yung of the HKU presented some of his preliminary analysis at the press conference on 9 January. He said that there has been a lapse in time between the completion and commissioning of the CGO, which meant low water usage rates on certain floors. Infrequent water flow, stagnation of water and relatively low temperatures of water heaters caused the growth of bacteria. The ArchSD will study the investigative results from various parties and work with the Prevention of LD Committee, the

HKU and relevant departments, in order to review the design, testing and inspection of water supply systems and make relevant improvements.

Annex

Water samples taken by the CHP at  
the CGO and LegCo Complex

<i>Date of sample collection</i>	<i>Number of samples collected</i>	<i>Number found to contain bacteria</i>
22 December 2011	5	4 (at one location) - 11/F, East Wing, CGO — private washroom in the office of Secretary for Education
28 December 2011	7	1 (at one location) - 2/F, East Wing, CGO — water tap at the food counter in the bakery
29 December 2011	31	18 (at 17 locations) 1. Chief Executive's Office 2. 24/F, West Wing, CGO — private washroom in the office of Secretary for Financial Services and the Treasury 3. 10/F, West Wing, CGO — private washroom in the office of Secretary for Labour and Welfare 4. 9/F, West Wing, CGO — private washroom in the office of Secretary for the Civil Service 5. 22/F, East Wing, CGO — private washroom in the office of Secretary for Transport and Housing 6. 10/F, East Wing, CGO — private washroom in the office of Secretary for Security



<i>Date of sample collection</i>	<i>Number of samples collected</i>	<i>Number found to contain bacteria</i>
		<p>7. 1/F, LegCo Complex — water tap in kitchen of Dining Hall</p> <p>8. 1/F, CGO — water tap in kitchen of Canteen</p> <p>9. 12/F, West Wing, CGO — private washroom in the office of Secretary for Home Affairs</p> <p>10. 2/F, West Wing, CGO — water tap in kitchen of Conference Hall</p> <p>11. 3/F, LegCo Complex — water tap in pantry</p> <p>12. 25/F, West Wing, CGO — private washroom in the office of Financial Secretary</p> <p>13. 25/F, East Wing, CGO — private washroom in the office of Chief Secretary for Administration</p> <p>14. 10/F, East Wing, CGO — water tap in female washroom</p> <p>15. 10/F, East Wing, CGO — water tap in disabled washroom</p> <p>16. 10/F, East Wing, CGO — water tap in male washroom</p> <p>17. 22/F, West Wing, CGO — private washroom in the office of Secretary for Commerce and Economic Development</p>

**PRESIDENT** (in Cantonese): I will now call on Members to ask supplementary questions.

**DR JOSEPH LEE** (in Cantonese): *President, I asked in part (a) of my main question if the authorities had any precautionary measures to prevent further*

*infections by Legionella bacteria. However, the aerosol generating systems in the freshwater cooling towers of air-conditioning systems are a very important aspect in prevention. The Chief Secretary for Administration's reply did not mention or give an account of this aspect, so as to put our minds at ease, rather, he only talked about water sources and taps. May I ask him to give us an account of the precautionary measures?*

**PRESIDENT** (in Cantonese): Which public officer will reply to this supplementary question? Chief Secretary for Administration.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I will reply first. As far as I know, this kind of cooling towers is not installed on the buildings at Tamar. The water supply system and air-conditioning system there are the same kind of systems. As regards other places in Hong Kong, of course, the works departments and health departments concerned will strive to prevent the incidence of this kind of disease and we will monitor the bacterial count in this kind of cooling towers.

In response to Dr Joseph LEE's concern about the follow-up actions that we will take in the future, let me add a few points here. We are now preparing to take follow-up actions in the following six areas in conjunction with the Government Secretariat, the CEO and the Legislative Council Secretariat.

First, we will issue housekeeping guidelines. The ArchSD will draft a set of housekeeping guidelines to remind the building management and users at Tamar of the need to regularly cleanse and flush taps and shower heads. In particular, in respect of some infrequently used hot-water pipes, it is necessary to flush them for some time before use and turn the system and switches off when hot water is not needed.

Second, we will monitor the chlorine content of the water supply because it can suppress the growth of bacteria effectively. For this reason, the departments concerned will regularly check the residual chlorine content of the water supply for the buildings.

The third area is the promotion of public education. The CHP will look at the measures to strengthen public education, so as to raise the awareness among

members of the Hong Kong public of LD, including the precautionary measures that should be taken by high-risk groups, and to explain to the public the general knowledge and information that they need to know in a question-and-answer format.

Fourth, we will deal with some pipes and joints that are not used. The pipes installed in some places in the LegCo Complex, for example, the pipes to the tap at the wash basin in the third-floor pantry of the LegCo Complex, are originally designed to be connected to water heaters in the future but since short sections of these pipes cannot be installed for the time being, water may accumulate in these pipes. The ArchSD will look at the situation in the LegCo Complex and remove redundant pipes that are not used.

Fifth, just now, I have said a couple of times in the main reply that in view of this incident, the Prevention of LD Committee will call a meeting to discuss with Prof YUEN Kwok-yung and the experts in the committee the improvement measures that can be taken to prevent recurrence of similar incidents, including whether or not the guidelines laid down for new buildings should be updated.

Sixth, concerning the results of the tests on water samples, we will study if it is necessary to formulate and adopt further measures in a timely manner, having regard to the results of the tests on hundreds of water samples taken and the test results of post-disinfection water samples.

President, this is what I wish to add.

**SECRETARY FOR DEVELOPMENT** (in Cantonese): I believe that maybe Dr LEE is concerned not just about the LegCo Complex, so I wish to comment further and in brief on the efforts we have made in the prevention of LD and in respect of freshwater cooling towers, which tend to be the breeding grounds of Legionella bacteria.

As the Chief Secretary for Administration has said, freshwater cooling towers are not used in the case of the LegCo Complex. For this Complex, a seawater cooling system is used to provide air-conditioning. With regard to freshwater cooling towers, we have taken a series of measures according to the instructions of the Prevention of LD Committee. The executive department is

the Electrical and Mechanical Services Department (E&MSD). Apart from formulating codes of practice on the prevention of LD according to the instructions of the Prevention of LD Committee, the Department has also formulated precautionary measures against LD in relation to various types of water containers, that is, freshwater cooling towers, air-conditioning systems, cold and hot water supply systems, water fountains and hot water spring spas. This set of codes of practice is intended for the relevant sector to consider and make reference to.

With regard to general users and property management committees, the Prevention of LD Committee has also compiled a leaflet, "Understanding Legionnaire's Disease", to promote good practices and provide information on the prevention of LD, as well as holding seminars and forums regularly through the E&MSD.

Of course, most importantly, as the regulatory department, the E&MSD is also in charge of inspection. At present, the E&MSD has obtained information on about 9 600 freshwater cooling tower facilities of about 4 000 buildings throughout Hong Kong and it will carry out inspections regularly. Since April last year, the Department has also stepped up the efforts in this regard by making use of the additional resources allocated to it by the Development Bureau.

At present, the E&MSD carries out random inspections on 800 cooling towers annually to monitor the overall internal and external maintenance of cooling towers and deal with some problems resulting from improper management and repairs and maintenance. From April to mid-December last year, we issued 26 Nuisance Notices as a result of such inspections, that is, it was found on inspections and tests on samples that the Legionella bacteria counts had exceeded the limit. All owners have carried out cleaning after receiving the notices, so there are no more problems now.

However, as the Chief Secretary for Administration said, the Prevention of LD Committee will call a meeting in February to study what recommendations on follow-up actions it can make to the Administration in view of this incident.

**DR PRISCILLA LEUNG** (in Cantonese): *President, the Secretary said in the first paragraph of part (b) of the main reply that the Tamar Development Project*

*was in no way rushed but the impression that the whole project has given us is precisely that there was great haste in completing the project and moving in. As a result, we do not know whether those works being carried out can really be considered remedial works. Moreover, in formal operation, we found that the sound-proofing of the walls is indeed inadequate and as a result, many problems with the decoration have arisen, for example, remedial works have to be carried out and the existence of Legionella bacteria is just one of the examples.*

*Another view is that there was too great a haste in moving in and consequently, many steps in the inspection and acceptance procedures were not taken properly. Many experts have pointed out that after the completion of the LegCo Complex, it is necessary to wait for six months for the odour arising from the decoration works to dissipate and for various tests to be completed before moving in. In view of this, is the LegCo Complex now in the warranty period, has the inspection for acceptance procedure been completed, have all the tests involved been done and are all the works being carried out now just remedial works? Did the authorities inspect and accept all the areas which we still find problematic at present, be it in the decoration or other areas, and did the authorities inspect and accept all of them?*

**PRESIDENT** (in Cantonese): Which public officer will reply to this supplementary question? Chief Secretary for Administration.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, allow me to give some brief supplementary information. As I said in the main reply, the Tamar Development Project was in no way rushed. The works contract was signed in 2008 for a period of 39 months and was completed last year. The arrangement of inspection and acceptance and the warranty period are specified in the contract. At present, the three buildings, that is, the LegCo Complex, the CGO and the CEO, have begun operation and the inspection and acceptance procedure has been completed. Therefore, the warranty period has begun.

However, the departments concerned, including the Administration Wing and ArchSD, will surely follow up the remedial works strictly. Generally speaking, the progress of these remedial works has also been very steady. At the

CGO, over 80% of the remedial works have been completed and for the CEO, over 90% of the works have also been completed. In respect of the lower floors and the peripheral areas, 70% of the works have been completed, whereas almost 40% in the LegCo Complex have been completed. President, we are doing our work according to the arrangements prescribed by the contract.

**MR RONNY TONG** (in Cantonese): *President, LD is a fairly serious notifiable disease. We should all understand this. Usually, we would hear or learn from the mass media that infection by this kind of bacteria is caused by the water storage systems or cooling systems of old buildings.*

*May I ask the authorities how many instances of finding this kind of bacteria in a brand new building and even resulting in infections have occurred in Hong Kong? If there has been no such instance, why did this happen in the CGO and the LegCo Complex at Tamar in Hong Kong this time around? If there are few such instances, why has no regulation been imposed to require that precautionary measures be taken to prevent such problems in buildings?*

**PRESIDENT** (in Cantonese): Which public officer will reply? Secretary for Food and Health.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, since LD is a notifiable disease, the Department of Health will follow up and investigate each case. In the past, in particular, in recent years — since 2008 or 2009 — after tests on urine and diagnostic tests were introduced, there has been an increase in the number of reported cases compared with the early 2000s. Although it was possible to cure pneumonia at that time, it was not possible to cultivate the bacteria to confirm the disease. However, as urine analysis is now available, since 2008, the numbers of cases reported to us ranges from 13 to 37 every year. Generally speaking, we will look into the sources of such cases carefully but in our record, no distinction is made between infections that occurred in new buildings and those that occurred in old buildings.

However, there are several factors that are very important and they relate to the patients. The highly pathogenic factors on the part of patients are even more important. We found that most of the patients were elderly people and the majority of them were smokers, who accounted for about 66%, that is, two thirds of the patients. Among those who died of this disease, nearly 90% were habitual smokers, so this is the biggest risk factor. Of course, some of them suffer from chronic diseases or other conditions that compromise their immunity. Therefore, we believe that the factors relating to the patients are very important.

Second, since this kind of bacteria can be found in any aqueous environment, this may not be the most important factor. In this instance, however, the bacteria were found in the new LegCo Complex, so we deem it necessary to conduct extensive studies to examine how the situation in the whole LegCo Complex is like. It is mainly for this reason that we conducted such thorough tests. We are sure that after cleansing and disinfection, the risks have been effectively removed. We believe that this incident is a positive experience. In the future, when it is necessary to follow up similar incidents or carry out inspections on new buildings, and even when carrying out repairs and maintenance on old buildings, we have to do more. I hope Members will all understand that this time, we have gained some valuable experience.

**PRESIDENT** (in Cantonese): Secretary, what the Member asked was whether or not statistical information on the detection of Legionella bacteria in new buildings could be provided.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the Director of Architectural Services and the Director of Water Supplies have both pointed out that generally speaking, in building inspection and acceptance procedures, checks for this kind of bacteria will not be conducted but checks on the normal operation of the water supply system will be conducted, including using hyperchlorinated water to carry out cleansing after water tanks have been washed. The chlorine level in the water will then be checked. The test results will indicate whether or not the cleansing of the system has been successful. This is an even more effective approach and it does not require taking water samples from each and every tap for bacteria cultivation.

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

**MR RONNY TONG** (in Cantonese): *No, President, the Secretary did not answer part of my question. I do not quite understand if the reply of the Secretary just now means that it is because Secretary Michael SUEN is a chronically ill person that this kind of .....*

**PRESIDENT** (in Cantonese): Mr TONG, you can only repeat the part that you think the Secretary has not answered.

**MR RONNY TONG** (in Cantonese): *..... symptoms have appeared. President, part of my supplementary question asks if consideration should be given to setting standards for new buildings to ensure that this kind of bacteria will not spread easily. However, it seems what the Secretary said just now was that it had nothing to do with the buildings but with Secretary Michael SUEN .....*

**PRESIDENT** (in Cantonese): Mr TONG, you have already repeated the part not answered. Please sit down. Which public officer can comment further on whether or not standards have to be set for new buildings?

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): First, just now, Mr TONG asked us about how many cases had occurred in new buildings and old buildings respectively, and I have already answered this supplementary question.

As regards the question of whether or not additional inspections have to be carried out on new buildings, according to expert opinion, there is no need to check for this kind of bacteria in new buildings but we must check the safety of water supply. In this connection, we use a chlorination system to carry out flushing and disinfection, then determine the safety of the water supply system by the level of chlorination.



**MR JAMES TO** (in Cantonese): *President, I only wish to ask a simple question. Having carried out investigations thus far, has the possibility of a biochemical attack been ruled out in the direction of the investigation or in view of all the findings?*

**PRESIDENT** (in Cantonese): Which public officer will reply? Chief Secretary for Administration.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, we are taking follow-up actions in a very pragmatic manner. So far, be it the investigations conducted by the CHP or by the HKU on our behalf, the conclusions reached are quite clear: The water supply system had been in place for several months since the completion of the CGO. In particular, the water in the private toilets in the offices of our Secretaries and Principal Officials had not been used for several months, and this was particularly the case for the water in water heaters. The random checks found that the bacteria existed at more than 30 locations, and the majority of them are the private toilets. Therefore, our present follow-up actions have been narrowed down in view of the figures and information obtained. So far, there is no evidence to suggest that we were subjected to such attacks.

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

**MR JAMES TO** (in Cantonese): *Has the possibility of a biochemical attack been ruled out completely?*

**PRESIDENT** (in Cantonese): Chief Secretary for Administration, has such a possibility been ruled out?

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, we have not found any such evidence, so we will not take any follow-up action in this regard.

**MS LI FUNG-YING** (in Cantonese): *President, may I ask if, after this incident, any briefing intended specifically for front-line cleaning workers and workers of outsourced services has been organized, so that they can obtain information on Legionella bacteria to avoid being infected in the course of their work, and where they can seek medical treatment direct should they develop symptoms of this kind of infection? Have adequate safety measures, for examples, the provision of gloves and masks, been put in place for these workers? This is because they have to clean toilets and pantries daily, so they stand great chances of coming into contact with such bacteria.*

**PRESIDENT** (in Cantonese): Which public officer will reply? Chief Secretary for Administration.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, according to what I have learnt from the colleagues of the Administration Wing, after detecting this case of the disease, over the past week or so, we have given briefings to colleagues working in the CGO, including workers of the contractor responsible for the remedial works, colleagues of the Legislative Council and journalists covering news in the Legislative Council. As regards the employees of the companies providing cleaning services to us, we have also communicated with them and their company has also provided gloves to them. President, on such specific matters, I will reflect the concerns of Ms LI Fung-ying when I am back in my office to ensure that measures are taken in this regard.

**MR WONG KWOK-HING** (in Cantonese): *President, the contamination in the new buildings this time around is something bad, but even something good can come out of something bad under certain conditions because this time, the contamination occurred in the new buildings; it was a non-smoker, Mr Michael SUEN, who was infected and it was stagnant water that was contaminated. I believe that this case has become the first such case in the world. Since the*

*Chief Secretary for Administration is now the convener of the task force, may I ask him through the President how this matter, which is originally bad, can be turned into something good? I notice that the Chief Secretary for Administration said in the main reply that he would have a meeting with the Prevention of LD Committee and the experts concerned, and that Secretary Carrie LAM said that the meeting might be held in February. In view of this, my supplementary question is: How can the Chief Secretary for Administration apply the lesson learnt on this occasion extensively, so that the Hong Kong public would know how to prevent contamination by Legionella bacteria, in particular, in stagnant water, water not flowing frequently enough or warm water in buildings old and new in Hong Kong, so as to prevent further adverse effects on the health of the public? My supplementary question is: How can something bad be turned into something good?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, over the past week or so, we have held internal meetings daily to follow up this task. In these meetings, a number of Directors of Bureaux and heads of departments were present. Apart from colleagues in the leadership of Policy Bureaux and departments, we also invited Prof YUEN Kwok-yung to help us take follow-up actions immediately in his capacity as an expert. Therefore, drawing on this experience, we believe this experience of dealing with government buildings can be applied on a wider scale to private buildings.

At present, we have to do a good job in summarizing the experience on this occasion by all means. We will relate the data gathered from hundreds of water outlets to the study conducted by Prof YUEN in the HKU and the views of experts in various fields in the Prevention of LD Committee. We will look at the experience gained from this incident relating to the CGO and deliberate on how to apply it extensively, so that better precautionary measures can be taken when inspecting new buildings for acceptance, and in respect of commercial buildings under occupation or in use, how guidelines can be provided. Basically, at the final stage, it will be necessary to carry out public education. In the future, all our works departments and other departments concerned, be it the WSD, the ArchSD or the CHP, have to formulate guidelines that are both clear and practical. Therefore, in respect of the CGO and the complexes in Tamar, as I told Members just now, follow-up actions in six areas will be taken. In the Government Secretariat, all of us, be it the Secretaries of Departments, Directors

of Bureaux or heads of other departments, are working in concert to summarize the experience and turn this experience into guidelines that will be useful to building management in the future, and public education will also be carried out.

**MISS TANYA CHAN** (in Cantonese): *The present situation is that the LegCo Complex, the CEO and the CGO are all built in the same place, so they can be described as belonging to the same cluster of buildings. Of course, that the office buildings of the executive and legislature are so close to one another — it can be said that they are practically conjoined — is already something undesirable but suppose there is an outbreak of a certain disease in this cluster of buildings, may I ask Chief Secretary for Administration Stephen LAM if the Government has put in place a set of guidelines, procedures, criteria and arrangements, so that employees can be notified and evacuated, or continue to work in other places? Have all the colleagues concerned learnt about these guidelines, arrangements and procedures? Has the Government also put in place proper arrangements, so that the public can learn about the details on the Internet?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, concerning the cluster of new buildings, over the years, the Security Bureau has put in place measures and plans for various types of incidents. I also know that a couple of days ago, colleagues of the Department of Health also conducted a drill here. Perhaps I should defer to Secretary Dr York CHOW to give an explanation to Members.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, in the past few days, the CHP has given explanations to the representatives of the workers concerned in the several buildings on how to pay attention to personal hygiene, in particular, personal health habits in using water. We believe these measures are effective.

As regards Miss CHAN's question just now on whether or not the extensive spread of some diseases would occur, I believe some common infectious diseases, for example, influenza, can be spread when Members meet with each other day to day, but so long as Members pay attention to their own health, in particular, if

people who consider themselves to be high-risk and receive vaccinations at appropriate times, the chance of being infected can be reduced. If anyone is sick but wants to attend the meetings of the Legislative Council and speak, they can prevent the spread of disease to the people nearby by wearing a mask. I think that with this kind of common sense, our goal can be achieved.

As regards the question of whether or not problems of even greater gravity may arise and for this reason, it becomes necessary to formulate precautionary contingency plans, at present, I cannot see any special infectious disease that would affect only workers in the Legislative Council and the CGO. In contrast, in Hong Kong as a whole, we are currently monitoring many types of infectious diseases. Therefore, I hope Members will understand that the risk of contracting infectious diseases in the LegCo Complex is almost the same as that in society as a whole.

**MISS TANYA CHAN** (in Cantonese): *President, my supplementary question was very specific and what the Chief Secretary for Administration said was that in the past .....*

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

**MISS TANYA CHAN** (in Cantonese): *..... what I am saying is whether or not new codes have been drawn up or preparations made for this cluster of new buildings. This is different from the past, President.*

**PRESIDENT** (in Cantonese): Are you asking whether or not new codes have been formulated for this cluster of new buildings; I think the public officers have already answered it.

We have spent 49 minutes on these two urgent questions. Last supplementary question.

**DR PAN PEY-CHYOU** (in Cantonese): *President, when I was searching for information, I found that the Prevention of LD Committee had begun to compile the codes of practice on the prevention of LD in 1994 and the latest update was made in 2007. I found therein that it is specified that regular inspections have*

*to be carried out on water supply facilities to see if there are any Legionella bacteria. I am not at all versed in these codes of practice and it was after the outbreak of LD that I gathered such information. These codes of practice are compiled by experts and regularly updated. May I ask how many of those people responsible for the management of water supply facilities in Hong Kong have complied with the codes of practice? Does the Government monitor the situation? In other words, how important is this set of codes?*

**PRESIDENT** (in Cantonese): Which public officer will reply? Secretary for Development.

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, I thank Dr PAN for his question. Just now, I have also responded to this in the supplementary points just now. Over the years, the Prevention of LD Committee has made efforts in various areas, including compiling and updating the Codes of Practice for Prevention of Legionnaire's Disease continually. This set of codes focuses on some water containers, for example, such vulnerable areas as freshwater cooling towers, air-conditioning systems, cold and hot water supply systems, water fountains and hot water spring spas. Therefore, these codes of practice are intended for reference by the relevant sector, that is, all people involved in the installation, management or repairs and maintenance of these water containers must comply with them. We also conduct regular checks on cooling towers through the E&MSD to see if the people required to carry out repairs and maintenance or cleansing on these water containers have complied with the relevant guidelines.

However, on a larger scale, as I said just now, we believe that it is not just the relevant sector that has to enhance their awareness of LD. For this reason, the Prevention of LD Committee also published other booklets to publicize information on best practices and prevention of LD. After the incident this time around, the Prevention of LD Committee will consider the experience gained in this incident and put forward its views again, so that the Government can take follow-up actions.

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

**DR PAN PEY-CHYOU** (in Cantonese): *The Secretary has not replied as to whether or not the Government monitors compliance with the codes of practice by the sector. This is because it is stated clearly in the codes of practice that the items requiring inspection include .....*

**PRESIDENT** (in Cantonese): You have already asked your supplementary question. Secretary, do you have anything to add?

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, I reiterate that generally speaking, the sector and the relevant people must comply with these codes of practice in their day-to-day work.

**PRESIDENT** (in Cantonese): Urgent question time ends now.

## **ORAL ANSWERS TO QUESTIONS**

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

### **Availability of Land for Development of Small Houses**

1. **MR LEE WING-TAT** (in Cantonese): *President, the Secretary for Development has indicated earlier that the demand for the construction of New Territories small houses cannot be quantified so far and may be infinite, and if the village zones are to be substantially extended for the construction of small houses, it will have an impact on the formation of land to cater for the demand for housing and development of industries. At present, the construction of small houses is in general restricted to within the "environs of a recognized village" (village environs). Construction of small houses outside the village environs may also be considered provided that the sites concerned are located within a*

"village type development" ("V") zone which surrounds or overlaps with the village environs; and planning permission from the Town Planning Board (TPB) must first be obtained if the sites concerned lie outside the "V" zone. In this connection, will the Government inform this Council:

- (a) *of the respective area of land available for the construction of small houses inside and outside the environs of the current 642 recognized villages, and the approximate number of small houses that can be built, broken down by District Lands Office district; the area of land that is zoned as "V" land use, and the approximate number of small houses that can be built; the number of applications being processed; the demand for small houses (including the number of small houses and the area of land required) in the next 10 years based on the information provided by the various village representatives;*
- (b) *of the number of planning permission applications submitted to the TPB for the building of small houses in each of the past five years, and the number of cases approved as well as the number of small houses and area of land involved; among the cases approved, the respective area of the sites concerned which are located inside and outside the "village environs", together with a breakdown by land use; the number of cases which had been approved based on the criterion that the supply of land within "V" zones is insufficient to meet the demand for small houses in the next 10 years; the vetting criteria adopted by the TPB; whether the authorities have studied how to improve the approach of checking and verifying the statistics on the demand for small houses; if they have, of the progress; and*
- (c) *whether the authorities will review the small house policy and the relevant vetting criteria as soon as possible so as to tackle the aforesaid problem that land is scarce but small house concessionary rights may be infinite; whether they have assessed the impact of allowing small houses to increase in height (such as building six or nine floors) on the rural planning and development in the New Territories?*



**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, under the Small House Policy, a male indigenous villager at least 18 years old who is descended through the male line from a resident in 1898 of a recognized village in the New Territories may apply to the authorities for permission to erect for himself during his lifetime a small house on a suitable site within his own village.

In general, land suitable for building small houses is restricted to areas within the "Village Environs" (VE). There are in total 642 recognized villages approved by the Lands Department (LandsD). As a general rule, the VE refers to a 300-ft radius from the edge of the last Village Type House built before the introduction of the Small House Policy on 1 December 1972. Applications for building small houses within this area by eligible indigenous villagers may be considered. Consideration will also be given to the application if the site concerned lies outside the VE but is located within a "V" zone in the relevant Development Permission Area plan or Outline Zoning Plan, provided that the "V" zone concerned surrounds or overlaps with the VE.

Under the Town Planning Ordinance, the planning intention of the "V" zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion. Land within this zone is primarily intended for development of small houses by indigenous villagers. As such, "V" zone often has certain connection with the VE. For instance, the two may be overlapping, or the "V" zone may cover the VE in whole or in part. Small house is always permitted within the "V" zone. As regards small house development outside the "V" zone, depending on the specific requirements of the land use zone on which the small house site lies, applications for planning permission may be submitted to the TPB.

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

- (a) According to a rough estimation conducted years ago by the LandsD, the area covered by the VE and the "V" zone and which may be used for the construction of small houses is roughly estimated to be 4 960 hectares, of which an estimated 1 620 hectares is currently still available for application. The LandsD does not have such information broken down by districts. Moreover, I must point out that not all of the land covered by the VE and the "V" zone is suitable for building of small houses; the topography, the

geographical situation, the size and distribution of individual lots, and so on, would affect the use of land, and therefore we are unable to accurately assess the number of small houses that could be built within such 1 620 hectares of land.

As regards small house application statistics, since the implementation of the Small House Policy in 1972 and until end of 2011, the LandsD had approved a total of 36 912 small house application cases. Another 6 895 applications are still being processed, while some 3 360 applications are pending processing. The relevant figures broken down by districts are at Table I.

Regarding the demand for small houses in the coming 10 years, the Administration does not get hold of the demand for small houses from eligible indigenous villagers in the coming 10 years for each of these 600-plus recognized villages, and therefore we have no way to make an aggregate assessment. The "information provided by the various village representatives" mentioned in Mr LEE's question only applies when the relevant Village Representatives are consulted via the LandsD when required by the Planning Department (PlanD) for preparing statutory plans which covers the "V" zone or when the TPB considers planning applications for small house developments. The information received will become one of the factors considered by the TPB with regard to individual cases.

- (b) When the TPB considers planning applications for small house developments, the applications will be assessed in accordance with the "Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in the New Territories" (Interim Criteria). Under the Interim Criteria, the TPB will consider a range of factors, including whether the footprint of the proposed development mainly falls within the VE, the amount of land available for small house development within the "V" zone, and whether the proposed development would cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. In respect of the amount of land available for small house development, the TPB will consider the existing number of outstanding small house applications at the

relevant site, as well as the 10-year forecast demand for small houses.

In the past five years, the TPB processed a total of 595 planning applications relevant to small house development, of which 413 were approved, involving 8.9 hectares of land and 557 small houses. Details of the relevant figures are at Table II.

As regards the statistics on the amount of land lying inside or outside the VE for the approved applications, as well as information on the number of approved applications which meet the requirement of land available for small house development within the "V" zone, I am afraid I cannot set aside substantial manpower resources to examine each of the 400-plus approved applications. Yet, from our experience, most of the approved applications are connected to the VE. If the approved applications are within the "Agriculture" and "Green Belt" zones listed in Table II, the footprint of the proposed small houses should generally meet the requirement of not less than 50% falling within the VE, otherwise it is unlikely that the applications would be considered by the LandsD and the TPB. If the approved applications are under the third, fourth and fifth categories of land listed in Table II, then the said footprint straddles between the "V" zone and another zone, while the former is drawn up taking the VE into consideration. As explained during my previous response to concerns over the demand for small houses, I have made it clear that the Administration has practical difficulties in verifying the demand for small houses in the coming 10 years. Notwithstanding this, the implementation of the policy at present is subject to the availability of land on which an eligible indigenous villager can apply for building a small house, but not led by the estimation of the number of eligible indigenous villagers. The demand for small houses is just one of the factors considered by the TPB when looking into relevant planning applications in accordance with the Interim Criteria.

- (c) The present Small House Policy has been implemented since 1972 with its historical background. Any major change to the policy

would entail complicated legal, land use and planning problems which would require careful examination.

Under the reality of "unlimited demand and limited supply", allowing multi-storey small house development is not a proposal which could tackle the problem once and for all. On the other hand, such proposal would entail planning and building control problems, as well as invite extremely divergent public opinion. This is because a range of factors have to be taken into account when the PlanD draws up the "V" zone, including the location of individual villages, compatibility with the surrounding land use, urban design, environmental and topographical constraints, the provision of infrastructure, and so on. Moreover, the fact that small houses are currently exempted from certain controls under the Buildings Ordinance is also based on the height, area, and so on, of small houses. The building safety aspect will be a concern if it is to allow multi-storey small house development.

Table I

Statistics of Small House Applications Processed by the LandsD

<i>District Lands Office</i>	<i>Number of cases pending processing</i>	<i>Number of cases being processed</i>
Islands	0	597
North	1 424	1 119
Sai Kung	111	733
Sha Tin	230	387
Tai Po	359	1 546
Tsuen Wan and Kwai Tsing	220	78
Tuen Mun	107	292
Yuen Long	909	2 143
Total	3 360	6 895

Note:

As at 31 December 2011

Table II

Small House-Related Planning Applications Processed  
by the TPB in the Past Five Years

Number of Applications

<i>Year</i>	<i>Number of applications processed</i>	<i>Number of applications approved</i>	<i>Number of small houses involved in the approved cases</i>	<i>Land area involved in the approved cases (ha)</i>
2007	94	76	101	1.5
2008	121	83	120	1.8
2009	103	60	92	1.7
2010	114	92	110	1.7
2011	163	102	134	2.2
Total	595	413	557	8.9

Land Use Zoning Involved in the Approved Applications

	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>Total</i>
"Agriculture"	28	30	27	26	49	160
"Green Belt"	9	20	9	30	21	89
"Village Type Development" and "Agriculture"*	16	16	7	15	15	69
"Village Type Development" and "Green Belt"*	12	11	13	19	10	65
"Village Type Development" and "Other Specified Uses"*	8	5	3	1	0	17
"Other Specified Uses"	3	1	1	1	7	13
Total	76	83	60	92	102	413

Note:

\* that is, the application site covers both the "Village Type Development" zone and another zone.

**MR LEE WING-TAT** (in Cantonese): *President, it was reported the day before yesterday that, according to an internal report by the Home Affairs Department 32 years ago, the then Executive Council specified in November 1972 in a memorandum for the approval of the Small House Policy that small houses could be built only when "there was no place to live". Nevertheless, due to the Government's omission of this clause for vetting, all male indigenous villagers in the New Territories may build small houses. It was also reported that a serious problem of abuse was already found in 1977, five years after the implementation of the Small House Policy.*

*President, may I ask the Government whether or not it agrees that small houses have become a profit-making tool acquired by indigenous villagers by inheritance, and are no longer built to provide them with a dwelling place? If nine-storey small house developments are permitted, as suggested by Chief Executive candidate Henry TANG, does the Secretary agree that this privilege will become even more of a privilege, thereby leading to serious rural-urban conflicts?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): *President, the relevant sentence in the reported document mentioned by Mr LEE just now actually reads, "provided he is not adequately housed in accordance with village tradition". I only wish to provide information here to present the complete sentence.*

*My response to the question raised by Mr LEE is as follows: Although the Small House Policy has been reviewed and revised since its formulation in 1972, the Government must still act according to it. As mentioned by me earlier, this policy is an important foundation, allowing small houses to be built roughly within the VE, which was drawn up with the agreement between the Government and rural bodies back then. Hence, we have no intention to substantially expand the VE for the implementation of the existing Small House Policy, as mentioned by Mr LEE Wing-tat in the main question.*

**MR CHEUNG HOK-MING** (in Cantonese): *President, the Secretary indicated in part (c) of the main reply that "the present Small House Policy has been implemented since 1972 with its historical background. Any major change to*

*the policy would entail complicated legal, land use and planning problems which would require careful examination."*

*President, may I ask the Secretary if the "historical background" mentioned by her in the reply refers to the Government's determination to develop the New Territories and build new towns when the Small House Policy was proposed in 1972. At that time, land belonging to many indigenous villagers was acquired by the Government for the construction of public housing, Home Ownership Scheme flats, hospitals, schools, roads and even reservoirs. The Government even abused its power by resuming land belonging to indigenous villagers in the New Territories and auctioning it at a high price. Is this background the "historical background" mentioned by the Secretary? Based on this background, is the Small House Policy part of Hong Kong's housing policy?*

**PRESIDENT** (in Cantonese): Mr CHEUNG, you may only raise one simple supplementary question. You have already raised your question, which is about whether or not the "historical background" mentioned by the Secretary in her reply refers to the series of facts pointed out by you just now. Secretary, please.

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, according to my understanding, many factors were considered at that time. Perhaps those mentioned by Mr CHEUNG Hok-ming were included. It is precisely for this reason that I said if the policy is to be reviewed in a comprehensive manner, careful examination would be required. "Careful examination" includes comprehensive studies, probably including a study in this respect.

**MR CHAN KAM-LAM** (in Cantonese): *Some villagers have complained that applications made for building small houses, even if the sites concerned are situated within the VE or "V" zone, were more often than not delayed or made difficult by the LandsD for various reasons. There are also some people who complained that their applications submitted more than 10 years ago have yet to be approved. We can see from Table II in the Secretary's reply that the number of applications approved per annum is only around 100, but the total number of applications exceeds 6 000. May I ask what criteria are adopted by the*

*Government in vetting these applications? Besides the criterion that the sites must lie within the VE or "V" zone, are there any other criteria? Why does it take so long for their applications to be vetted?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, I might need to spend a little time answering this question. First, under what circumstances will applications for small houses be approved? In rural areas not covered by the Town Planning Ordinance (TPO), the key vetting criterion is to consider whether or not the sites involved lie within the VE. If they are found to be so, the LandsD will consider granting approval for the applications. Rural zones covered by the TPO are, however, subject to an additional criterion, namely whether the relevant sites are situated in statutory "V" zones. The relevant applications must satisfy this statutory criterion before they are considered. As regards the second criterion, as it is a statutory procedure and the applications will be processed by the TPB, a comprehensive set of criteria has been drawn up by the PlanD. Although I will not repeat it here, I can furnish Members with this comprehensive set of criteria after the meeting if they are interested. It is stated clearly in the criteria under what circumstances a planning application can be exempted, that is, under what circumstances an application for planning permission is not required, and under what circumstances an application has to be made due to the fact that the site concerned is situated in a conservation zone, even though it is also located in a zone where applications for planning permission are generally not required, which is another matter. Therefore, the vetting work has its complexity.

On planning and land use applications, I have to tell Members frankly one thing. Mr CHEUNG Hok-ming knows our statistics best. Some people say "unlimited demand and limited supply"; likewise, there is "unlimited demand as well as limited manpower". In dealing with such a large number of applications, as we are all aware, the scope of work of the LandsD is so extensive that we cannot possibly pool its manpower to just deal with this task. Recently, members of the public have frequently expressed concern about the work related to land control and the enforcement of land leases. Hence, administration-wise, only the manpower available for use by the LandsD for this task can be deployed to process these applications. This also explains why the relevant statistics appear to be so strange, with some applications "being processed" and some "pending processing", which means that these applications are still in the queue



and have not yet reached the stage at which enquiries are made by the LandsD with the applicants. This is a pretty frank reply from me to Mr CHAN.

**MR IP KWOK-HIM** (in Cantonese): *President, we are also concerned about part (a) of the question because of our concern that land is scarce but small house concessionary rights may be infinite. Moreover, many indigenous villagers in the New Territories have a lot of opinions on the problem of small houses. In her reply to whether small houses can be increased in height to six or seven storeys, the Secretary mentioned that many factors have to be taken into account in drawing up the "V" zone, including location, urban design, and so on. Furthermore, she raised a very important point that "the fact that small houses are currently exempted from certain controls under the Buildings Ordinance" is also based on the restrictions on their height and area. This is a safety issue. In this connection, may I ask the Secretary whether building safety and area are the most important considerations? Is multi-storey small house development a solution if it can really tackle the existing problem that "land is scarce but small house concessionary rights may be infinite"?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, actually, I have not indicated our stance in part (c) of the main reply to illustrate whether or not we will consider the proposal of allowing multi-storey small house development. I am merely duty-bound to point out that, if more or taller buildings are allowed to be built on the same plot of land based on the consideration that land use efficiency can be enhanced, this will actually give rise to some other problems at the same time, such as planning problems. This is because the relevant land might be suitable for low-density developments but not the construction of exceedingly tall buildings. Meanwhile, consideration has to be given to building safety as well. In a nutshell, a slight move in one part may affect the situation as a whole. We cannot tackle the problem of small houses solely from the angle of land use efficiency. Other related issues must be considered and tackled simultaneously.

**PRESIDENT** (in Cantonese): We have spent more than 21 minutes on this question. Last supplementary question.

**MS AUDREY EU** (in Cantonese): *President, I wish to follow up part (c) of the main question. The Secretary indicated in her reply that the Small House Policy has been implemented since 1972 with its historical background. I would like to point out that, insofar as its historical background is concerned, the policy has all along had numerous problems. Besides the incident involving the initial error, the District Offices in the New Territories also pointed out in 1977 that the abuse of small houses was very serious. The Buildings and Lands Department also publicly admitted in 1988 that small houses were abused by villagers. And then in 2002, the Director of Audit ..... there is no need for me to give such a detailed report. When I asked her lately about the abuse of small houses, the Secretary replied that the Government had to wait slowly for the applications before considering whether or not premiums had to be paid. May I ask the Government why it is still reluctant to conduct a review after such a lengthy period and given the numerous reports that the policy is being abused? The Government originally indicated that a review would be conducted in 1998 but has failed to do so. Is it because the Government is simply at its wits' end and must rely on influential people in the New Territories to deal with the affairs there, and hence it is reluctant to conduct a review even though the Small House Policy is still plagued with numerous problems?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): *President, I think that I mainly need to respond to the last part of the question raised by Ms Audrey EU, that is, the part concerning whether or not the SAR Government is at its wits' end in considering implementing this policy because the New Territories is involved. Facts speak louder than words. I have been acting in accordance with the law in dealing with the problem of unauthorized building works in respect of small houses in the New Territories lately. Certain sentiments or certain people's considerations in the New Territories have not affected our resolve to enforce the law. But, insofar as small houses are concerned, we must admit the presence of such a policy, and this policy involves complicated issues. Therefore, as stated in the main reply, careful examination is warranted.*

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

## **Outreach Primary Dental Care Services for Elderly in Residential Care Homes and Day Care Centres**

2. **MR WONG YUK-MAN** (in Cantonese): *President, the Government launched a three-year pilot project on outreach primary dental care services for the elderly (Pilot Project) in April last year to provide various kinds of free dental care and oral healthcare services to elderly people in residential care homes (RCHEs) or day care centres (DCCs), and it was expected that 17 non-governmental organizations (NGOs) would participate in the Pilot Project. Regarding dental care services for the elderly, will the Government inform this Council:*

- (a) *given that at present, the Pilot Project only covers dental check-up, scaling and polishing, pain relief and emergency dental treatments, whether the Government will expand the scope of services to include denture-fixing and tooth-filling services, and so on;*
- (b) *given that the Department of Health (DH) currently provides pain relief and teeth extraction services to the public through its 11 government dental clinics in the territory, but no such government dental clinic is provided in districts with an ageing population or in densely populated districts, such as Sham Shui Po and Yau Tsim Mong District, and so on, hence, quite a number of members of the public need to seek treatment from dental clinics in other districts, and some of them even have to queue up at the clinics in the early hours for consultation chips, whether the Government has any plan at present to set up additional clinics in various districts, so as to alleviate the pressure brought by an ageing population on the provision of dental care services; and*
- (c) *given that it is set out in the Civil Service Regulations that civil servants and pensioners are provided with medical and dental benefits in respect of themselves and their eligible dependants, and there are a number of government dental clinics and orthodontic clinics dedicated to providing services to civil servants in various districts on Hong Kong Island and in Kowloon, whether the Government will consider opening up the dental care services in these clinics for use by the elderly?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the Government's dental care policy seeks to improve oral health and prevent dental diseases through education and promotion, thereby raising public awareness of oral health and facilitating the development of proper oral health habits. Preventive measures are more effective in improving oral and dental health of the general public and reducing health problems due to dental conditions. According to a territory-wide oral health survey conducted by the DH in 2001 in accordance with the recommendations of the World Health Organization (WHO), the oral health status of the elderly population in Hong Kong compared favourably to that of many developed countries. For instance, about 9% of the non-institutionalized elderly people aged between 65 and 74 were found toothless, which was far below the percentage recorded for other comparable developed economies such as the United States (26% to 31%) and Singapore (15% to 21%). The DH is now conducting another territory-wide oral health survey to keep track of the oral health status of our population.

Regarding parts (a) and (b) of the question on Hong Kong's dental services, currently primary dental care services in Hong Kong are mainly provided by the private sector and NGOs. Public dental services provided by the DH mainly focus on emergency dental services for the public including elderly people. Free emergency dental services covering treatment of acute dental diseases, prescription for pain relief, treatment of oral abscess and teeth extraction are provided by the DH in 11 dental clinics, where dentists would also give professional advice having regard to the individual needs of patients. Between January and November 2011, an average utilization rate of 86% was recorded for these clinics providing public dental out-patient services. Currently there are about 2 200 registered dentists in Hong Kong providing dental services to members of the public, and the Government has no plan to increase emergency dental services.

To cater for the needs of elderly with financial difficulties, recipients of Comprehensive Social Security Assistance (CSSA) aged 60 or above or medically certified to be disabled or in ill-health are eligible for applying dental grants under the CSSA Scheme to cover expenses of dental treatments received in NGOs or private dental clinics. Dental treatments covered include scaling, tooth-filling, extraction, dentures, crowns, bridges and root canal treatment. In 2010-2011, a total of 9 940 applications of dental grants were awarded.

Meanwhile, under the Government's Elderly Health Care Voucher Pilot Scheme, launched in 2009, eligible elderly persons aged 70 or above may also use healthcare vouchers for seeking private dental care services. A total of 277 dentists have enrolled on the pilot scheme since its inception to provide dental care services to the eligible elderly. Starting from January 2012, the annual voucher amount of each eligible elderly person has been increased from \$250 to \$500; and the elderly may accumulate and use multiple vouchers.

Elderly residing in RCHEs or receiving services in DCCs are often prevented from accessing conventional dental care services due to their frail physical conditions. In view of this, the Government has launched a Pilot Project, in collaboration with NGOs for a period of three years starting from April 2011, to provide them with outreach primary dental care and oral healthcare services including dental check-up, polishing, pain relief and other emergency dental treatments. For those in need of follow-up curative treatments, such as denture-fixing or tooth-filling, participating NGOs will provide the necessary treatments and, where necessary, arrange to apply on their behalf for dental grants under the CSSA Scheme or to provide financial assistance to cases in need.

At present, 13 NGOs have enrolled on the pilot project to provide free dental outreach services to elderly people residing in subvented, contract, self-financing or private RCHEs or receiving care in DCCs. The participating NGOs also organize on-site talks and seminars for the eligible elderly and their carers to provide oral health education and promote the importance of oral hygiene. We expect that the pilot project could provide more than 100 000 attendances benefiting some 80 000 elderly people in RCHEs and DCCs. The Government will monitor the implementation of the pilot project and conduct a review on its effectiveness after accumulating experience on its operation.

Moreover, the Steering Committee on the Community Care Fund has reserved \$100 million for implementing a proposed programme to provide financial subsidies on dental services (including dentures) for eligible elderly. The Medical Sub-committee under it has set up a task group to devise the specifics of the programme, including target beneficiaries, scope and level of assistance, mode of operation, and so on, with a view to initiating the programme as soon as possible to provide services to the needy elderly. The Steering Committee on the Community Care Fund will announce details of the programme after they have been finalized.

Public dental services also include specialist oral maxillofacial surgery and dental treatment provided by the Oral Maxillofacial Surgery and Dental Units of the DH in seven public hospitals to in-patients referred by hospitals and patients with special oral healthcare needs or dental emergency. The relevant specialist services are open to members of the public through referrals by hospitals and general out-patient clinics under the auspices of the Hospital Authority or any registered dentists or medical practitioners. The dental clinics in question will arrange appointments for patients according to urgency of their conditions, and those in emergency, such as cases of dental trauma, will be offered immediate consultation and treatment.

The designated dental clinics and orthodontic clinics under the DH mentioned in part (c) of the question are tasked to provide dental services to civil servants/pensioners and their eligible dependents in fulfillment of their conditions of service and as part of the Government's contractual obligations. Such dental benefits are similar to medical benefits provided by other employers to their employees and do not form part of the public dental services.

At present, all appointment slots assigned for civil servants/pensioners and their eligible dependents in the government dental clinics have been fully taken up. Given the utilization of the consultation time slots, for the time being there is no spare capacity for the government dental clinics to be further opened up for public use.

**MR WONG YUK-MAN** (in Cantonese): *It has taken nine minutes and 11 seconds in total for this question to be raised and answered. While I have spent one minute 40 seconds raising the question, the Secretary has spent more than seven minutes answering it, though the information provided in his reply can actually be obtained through other channels. Hence, the oral questions raised in this Council have been reduced to a formality. It is simply impossible for problems to be solved with everyone here talking to himself. This question is raised in response to a request made by the elderly. It is mentioned in one of the paragraphs of the main reply that CSSA recipients, if certified to be disabled or in ill-health, may be granted financial subsidies under a special grant for dental treatments. We were talking about denture-fixing and tooth-filling, but the Secretary responded by saying that the healthcare voucher amount had been increased to \$500. President, have you ever sought denture-fixing or*

*tooth-filling treatment? How much did it cost you? Hence, please do not include all this in the main reply, or else it will become a formality, am I right? What is the point of saying that disabled CSSA recipients in ill-health may receive additional dental grants? They may submit applications, but that is actually a quota system. Basically, the applications will definitely be turned down. The second point raised by him is that the healthcare voucher amount has been increased by \$250 to \$500 to enable the elderly to meet the expenses of denture-fixing. Actually, such a reply can only make people laugh .....*

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

**MR WONG YUK-MAN** (in Cantonese): ..... *President, this is why I stated at the outset that such questions and answers have been reduced to a formality. We sincerely hope that problems can be solved .....*

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

**MR WONG YUK-MAN** (in Cantonese): ..... *so that assistance can be provided to the elderly because they have requested us to raise this question. As representatives of public opinion, we can see the elderly suffer from either eye diseases or toothaches every day .....*

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

**MR WONG YUK-MAN** (in Cantonese): ..... *my question concerns part (c) of the main reply in which it is mentioned that civil servants will not face such problems because there are dental clinics dedicated to providing services to them. However, the Secretary indicated that there is no spare capacity for these clinics to be opened up for public use, but I do not believe him. This is one of the remedial solutions to enable the authorities to explore whether or not there is spare capacity to provide dental services for the elderly with urgent needs. Is*

*the Secretary not suggesting that all the teeth of the elderly be left to decay, so that the problem can be resolved once their teeth are gone, for there will be no urgency anymore .....*

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

**MR WONG YUK-MAN** (in Cantonese): *..... what I mean is I wonder if the Secretary can promise me to be more simple and concise in preparing such replies in the future by excluding irrelevant information, so as to avoid wasting our time .....*

**PRESIDENT** (in Cantonese): Is this your supplementary question?

**MR WONG YUK-MAN** (in Cantonese): *..... secondly, will you please ask him on my behalf a question concerning civil servants .....*

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

**MR WONG YUK-MAN** (in Cantonese): *..... do the services provided by dental clinics to their dependents still have any spare capacity? Have the authorities consider expanding the scope of services to use the spare capacity to enable the elderly to access dental services?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, in general, a reply requires more time than a question. Given that Mr WONG has spent two minutes on his question, it should be considered normal for me to spend eight minutes, four times the time he spent, on my reply. In many cases, we can see Members at panel meetings spend four minutes 30 seconds, out of the five minutes allocated for a question and reply, to raise a question with only 30 seconds left for our reply.



**MR WONG YUK-MAN** (in Cantonese): *You ruled on my remarks but used a different approach in dealing with the Secretary's remarks.*

**PRESIDENT** (in Cantonese): Secretary, please answer the question raised by the Member direct.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): No, I was answering the first part of the supplementary question raised by Mr WONG just now. As he asked whether we could give a concise reply, I have to explain to him that I have often answered his question concisely. Whereas he spent four minutes 30 seconds to raise his question, I could only give a 30-second reply. He has left me with only 30 seconds. This is no exception on this occasion.

As for the second part of his supplementary question concerning whether there is spare capacity to open up the services provided by dental clinics, I have already explained clearly that these services, which are specified in the employment contracts for the recruitment of civil servants by the Government, have nothing to do with public services. Furthermore, civil servants also need to queue up and wait for the relevant services, with many of them being required to wait a couple of years before they can receive dental checkups. I believe this explanation is clear.

**MR WONG YUK-MAN** (in Cantonese): *I have another follow-up. Do you consider this supplementary question stupid? Is there a genuine need? If you do not think there is such a need, you should say your piece. Actually, there is a need to do so now, do you have other solutions? Besides raising the healthcare voucher amount from \$250 to \$500, as you pointed out just now, what other solutions do you have?*

**PRESIDENT** (in Cantonese): Mr WONG, you are expressing your view on the official's reply. You have raised your supplementary question, and the official has given his reply.

**MR TAM YIU-CHUNG** (in Cantonese): *President, the Secretary indicated in the main reply that the Steering Committee on the Community Care Fund has reserved \$100 million for implementing a proposed programme to provide financial subsidies on dental services (including dentures) for the elderly. I would like to declare here that I am a member of the Steering Committee. Nevertheless, I find it a bit regrettable that the Fund, especially the Medical Sub-committee set up under it, has spent quite a long time studying the specifics of the programme but unfortunately, no specific recommendations have been made so far. During the collection of views from the elderly, some of them pointed out that there was actually no need for the Government to make it so complicated. For instance, it may use a relatively simple and feasible method by offering elderly people aged between 65 and 70 half-rate subsidies for denture-fixing with a ceiling of \$7,000 and those aged above 70 full subsidies for denture-fixing subject to the same ceiling of \$7,000. Is this method simpler and more practicable without the need for repeated studies, in spite of which no specifics are forthcoming?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): According to my understanding, the membership of the Steering Committee on the Community Care Fund comprises a number of representatives of the dentist profession. They all share the view that there is a need to study this issue in detail, especially whether there is a need to provide services in respect of subsidized dental services, the costs involved, and so on, and a detailed analysis is required to ascertain whether the services are value-for-money before the objective can be met. Whether the services are provided through the Community Care Fund or public money, we hope to offer genuine and effective assistance to the elderly rather than purely providing them with a service, thereby enabling the relevant service providers to make an extra income. This also explains why we must be extra careful in dealing with the healthcare vouchers.

I would like to provide some additional information. Insofar as the Elderly Health Care Voucher Pilot Scheme is concerned, as of December 2011, 200-plus dentists have provided dental services and some 29 000 elderly persons have enjoyed the services. Furthermore, each of them has fully utilized their healthcare vouchers, with an average of five vouchers per person, in the course of using the services. It is thus evident that these vouchers can offer genuine assistance to the elderly.

As regards the quantity of other services required by the elderly and the provision of subsidies in the long run, I believe we have to leave all this to the task group for a decision. In my opinion, a balance must be struck at this stage by ensuring the oral health of the elderly on the one hand and achieving an even distribution of service capacity on the other. Only in doing so can the elderly be benefited.

**MR ALBERT CHAN** (in Cantonese): *President, as a medical practitioner, the Secretary should understand that eyes, ears, the mouth, the nose, limbs, and teeth are all parts of the body. If teeth are decayed or all the teeth have been extracted, it is tantamount to losing both arms, and artificial limbs will be required. Artificial limbs and dentures, which are essential, constitute good health.*

*The Government's existing policy can be described as particularly discriminatory to denture-fixing services. Owing to the high costs involved, the Government is reluctant to shoulder the responsibility and, as a result, many elderly people in Hong Kong are being discriminated against and victimized. As a medical practitioner, the Secretary ought to rectify this error rather than persistently distorting the facts and giving various explanations.*

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

**MR ALBERT CHAN** (in Cantonese): *President, I would like to provide some information to the Secretary. The United Kingdom offers universal protection to provide its people with free dental services. Recently, the Tainan City in Taiwan has also begun to provide elderly persons aged 65 or above with free denture-fixing services. Will the Secretary, being a professional, consider quashing the aforesaid discriminatory policy, so that justice can be done to the elderly?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, in the past couple of years, special arrangements have been made by the present-term Government to provide additional elderly healthcare services, including dental services. As explained by me just now, the healthcare vouchers are one of the key components. It is also a very important new initiative to provide people

residing in RCHEs or receiving care in DCCs, including 80 000 elderly people with special needs, with door-to-door services. The Government will definitely inject resources having regard to the demand for healthcare services, including the demand for care of the elderly, though a gradual and progressive approach must be taken in this respect. This is because we can see from the experience gained this time around that, even with additional resources, some service providers can still not recruit dentists within a short period of time because of their limited supply. Hence, depending on the progress, we shall make relevant decisions to complement the training or supply of healthcare personnel.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, the Secretary mentioned just now that 20 000-plus elderly people have used the healthcare vouchers to receive dental services, with each of them using five vouchers on average. This actually reflects that, despite the Government's constant emphasis on addressing the oral and dental problems through education and promotion, its efforts are not entirely effective. The elderly still face dental and oral problems, and their demand for dental services is still keen. Meanwhile, the Government advised that it is purely for the sake of the employer-employee relations that dental clinics are set up to provide services to civil servants, though such services are also fully booked. In other words, the demand for the services provided by dental clinics is indeed very keen. I have some queries and hope that the Secretary can answer them. Given that the Government is aware of such a keen demand, why does it not set up dental clinics in various districts with a view to benefiting the general public and assisting them in addressing their dental problems? Furthermore, if dental problems can be addressed at an early stage when one is young, then the problems will not aggravate when one grows old. The Government has all along failed to make vigorous efforts in setting up dental clinics in various districts. What are the reasons? Does the Government have long-term plans to tackle this issue? Regarding the Secretary's remark that there are insufficient dentists, will more university places in dentistry be offered to address this issue?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I have pointed out in the main reply just now that dental care services in Hong Kong are traditionally provided by the private sector and NGOs. Nevertheless, Members can also see that in the past couple of years, besides subsidizing the elderly to

seek private dental services through the healthcare vouchers, the Government has also allocated additional resources to subsidize NGOs to provide door-to-door services to the elderly. As I said just now, we will keep track of the response and demand on this front and provide additional resources.

Although the current-term Government has only several months left, I believe the next-term Government will continue to implement the aforesaid policy to provide additional services of this kind to the elderly. Meanwhile, we have also carried out studies on the dental health of Hong Kong people. As pointed out just now, a relevant study was conducted in 2001, and the second study has commenced since 2011. Through this study which is conducted every 10 years, we can gain a better understanding of the current dental health condition of Hong Kong people.

It is found from the findings of previous studies that the dental health of Hong Kong people is better than that in many advanced countries, especially among the children. A question was raised just now concerning whether it is better for preparations to be made at an early stage when people are young. We can see from the free dental care scheme implemented for primary students that the oral health of students enrolled on the scheme is basically among the top in the world.

**PRESIDENT** (in Cantonese): Secretary, is there any plan to set up dental clinics in various districts and offer more university places in dentistry?

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, as pointed out by me just now, we will conduct a review of the new services offered this time around before further providing additional services.

**PRESIDENT** (in Cantonese): We have spent more than 23 minutes on this question .....

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, the Secretary has not told us the reasons.*

**PRESIDENT** (in Cantonese): We have spent more than 23 minutes on this question. Please follow up through other channels. Third question.

### **Regulation of Residential Flats for Lease on Short-term Basis**

3. **MR JEFFREY LAM** (in Cantonese): *President, recently, I have received complaints from members of the public that some estate agents have posted advertisements offering residential flats for lease on a daily or short-term basis, and they suspect that some people lease out residential flats to Mainland tourists or pregnant women. Under the Hotel and Guesthouse Accommodation Ordinance, for any premises whose occupier, proprietor or tenant holds out that, to the extent of his available accommodation, he will provide sleeping accommodation at a fee for any person presenting himself with a tenancy term of less than 28 continuous days, a hotel/guesthouse licence must be obtained. Yet, according to the records of the Office of the Licensing Authority (OLA) under the Home Affairs Department (HAD), the premises listed on the aforesaid advertisements have not been registered as licensed guesthouses. It has been reported that some websites use home-stay lodgings as guise to lease out residential flats in Mong Kok, Yau Ma Tei, Tsim Sha Tsui, North Point and Sha Tin, and so on, on a short-term basis. In this connection, will the Government inform this Council:*

- (a) *of the number of complaints involving the operation of unlicensed guesthouses received by the authorities last year, and the respective numbers of cases in which prosecutions were instituted and the persons involved were convicted;*
- (b) *whether the authorities have proactively inspected the residential flats offered for lease on a short-term basis on the aforesaid websites, with a view to combating the operation of unlicensed guesthouses; if they have, of the outcome of such inspections; if not, the reasons for that; and*
- (c) *in respect of the aforesaid estate agents who posted advertisements to offer residential flats for lease on a daily or short-term basis, whether it knows if the Estate Agents Authority has proactively*

*investigated if the relevant practices contravene the code of ethics in respect of their practice; if it has, of the outcome of such investigations; if not, the reasons for that?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, I wish to thank Mr Jeffrey LAM for asking this question based on complaints he has received from the public.

The operation of hotels and guesthouses in Hong Kong is regulated by the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) (the Ordinance), which stipulates that any premises providing sleeping accommodation at a fee with a tenancy term of less than 28 consecutive days shall obtain a licence before commencing operation. The OLA under the HAD is responsible for the enforcement of the Ordinance. It is tasked with the issue of licences and enforcement work.

The OLA has spared no efforts in combating unlicensed guesthouses operation. Upon receipt of a complaint, it will conduct an inspection within eight working days, and, having regard to the circumstances of each case, will also collect evidence through various means, including conducting surprise inspections during and outside office hours (for example, at nights and during holidays, particularly long holidays) and posing as clients (commonly known as "snaking") to collect evidence when necessary. Upon investigation, if it shows that there is sufficient evidence indicating operation of unlicensed guesthouses in the premises, prosecution shall be instituted. Moreover, the OLA will conduct large-scale interdepartmental operations with other departments concerned.

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

- (a) In the past year, the OLA received a total of 696 complaints of suspected unlicensed guesthouses operation. The figure includes complaints that were directed against the same premises. Besides, according to the OLA's investigation, the premises in some complaint cases were beyond the purview of the Ordinance as they were let out on a monthly basis. After conducting inspections and collecting evidence, the OLA instituted 53 prosecutions. The OLA will continue to take an active approach by following up some of the

unsubstantiated cases. In the same year, there were 39 successful convictions.

- (b) Enforcement staff of the OLA read newspapers and browse webpages on a regular basis to collect information and monitor suspected unlicensed guesthouses which solicit business from tourists through websites or advertisements. They also conduct surprise inspections and take enforcement actions. As regards soliciting tourists by posting flats for short-term lease on intermediary websites to which this question refers, the OLA carried out proactive inspections in September 2011. Although no prosecution could be instituted, the OLA will continue to take an active approach in following up these cases and collecting evidence for enforcement purposes. In view of the fact that tourists are targets of "home-stay lodgings" on these websites, the OLA has relayed these cases to the Estate Agents Authority (EAA) and Travel Agents Registry for follow-up actions.
- (c) Under the Ordinance, unless with exemption, any person (including an estate agency practitioner) who operates, keeps, manages or controls a hotel or a guesthouse in Hong Kong has to obtain a licence.

The OLA has launched an investigation into the advertisements posted by the estate agents to which this question refers. The estate agents concerned, however, claimed that no residential flats were available for lease on a daily basis. The OLA has also conducted inspections on the two buildings mentioned in the advertisements. Notwithstanding no prosecution has been instituted, the OLA will continue to follow up these cases.

The Code of Ethics issued by the EAA stipulates that estate agency practitioners must refrain from activities which may infringe the law during their practice. The EAA will take disciplinary actions against practitioners found in breach of the Code of Ethics. The OLA has worked closely with the EAA to take enforcement actions on cases involving estate agency practitioners.



**MR JEFFREY LAM** (in Cantonese): *President, these are advertisements we can see outside the offices of some estate agents in Mong Kok: flat with two bedrooms, two sitting rooms with a floor area of 400 sq ft for lease at a daily rate of \$900; room with toilet for lease at a daily rate of \$450. When these advertisements are compared to a conviction case for operating an unlicensed guesthouse in which only \$10,000 is fined, do we not think that this fine of \$10,000 does not carry any sufficient deterrent effect?*

*In my opinion, if the Government does not do anything to combat this kind of flats offered for lease on a short-term basis, this will certainly affect fire safety and the structure of buildings. People from the districts have told us in the Economic Synergy that in districts close to the public hospitals, like Sha Tin and North Point, there are many flats offered for lease on a short-term basis and such practice is illegal. People who offer such flats for lease are doing this business in a very systematic manner and meals and even tours are offered. Many of these flats are used for the purpose of offering accommodation to pregnant women from the Mainland who come here for childbirth. If these flats illegally offered for lease on a short-term basis are allowed to continue their operation, it would imply that we are encouraging pregnant women from the Mainland to gatecrash our accident and emergency departments. Such a move will not only affect the quality of medical service used by the people of Hong Kong but may also cause some resistance or hostility among Hong Kong people against pregnant women from the Mainland .....*

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

**MR JEFFREY LAM** (in Cantonese): *Yes. Secretary, you have just said that you have done a lot of work. But we can still see this kind of advertisements, so does this not show that you have not done enough? How would you step up inspections and make the penalties stiffer in order to achieve a deterrent effect?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): *President, according to the existing punitive provisions, a contravention of the Ordinance by operating an unlicensed guesthouse may make the person involved liable to imprisonment for*

two years and a fine of \$200,000. Repeat offenders are liable to a fine which will increase on a daily basis.

What we are doing is to step up inspections and enhance our publicity efforts in order to make the Mainland visitors know that these unlicensed guesthouses are not registered in Hong Kong and the fact that they are unlicensed has already contravened the law in Hong Kong. We will also adopt a two-pronged approach, that is, to put in more efforts in enforcement and publicity.

With respect to publicity, the OLA has rolled out a Q-Mark service scheme for licensed guesthouses and all licensed guesthouses are required to affix labels on the entrances of the guesthouses as well as the doors of all the rooms. In addition, we will step up publicity efforts at every immigration checkpoint and black spots for suspected unlicensed guesthouses. We will post relevant posters in these places.

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

**MR JEFFREY LAM** (in Cantonese): *The part on penalties.*

**PRESIDENT** (in Cantonese): The Secretary has just explained the government policy on penalties.

**MR CHAN KAM-LAM** (in Cantonese): *President, the problem mentioned by Mr Jeffrey LAM is actually caused by social conditions and actual demand. He has said that there are pregnant women from the Mainland who rent and stay in these flats on a daily basis, however, it is also a fact that some visitors to Hong Kong will stay in these flats on a daily basis because hotel rates in Hong Kong are too expensive.*

*Will the Government conduct a review of the existing Ordinance in view of the social conditions and demand so that more flats which meet the requirements can do business in a lawful manner?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, there is really a problem of demand here in Hong Kong. In recent years, we have lent our great support to the building of more hotels in Hong Kong to meet the greater demand generated by an increasing number of visitors.

As Members know, starting from the year 2008-2009, the Government has launched on a trial basis land lots restricted to the building of hotels in its Land Sales Programme. In the Land Sales Programme for 2011-2012, five lots are listed as land for hotels. These lots have been sold. Of course, this is the policy portfolio of another Secretary and the supply of hotel rooms in recent years has also been on the rise.

As to the question of whether the Ordinance should be amended to further relax the relevant requirements, we think that the existing Ordinance mainly gives consideration to the safety aspect and provided that the structure of the guesthouse concerned is safe, and it can meet fire safety requirements and reach a basic sanitary level, we would issue a licence. So it is not that we want to outlaw hotels operating in a floor of a building or those which belong to the middle and lower ends, but we have to ensure that they meet the relevant safety requirements.

**MR IP KWOK-HIM** (in Cantonese): *President, the Secretary mentioned in his reply that efforts have been made to combat unlicensed guesthouses. However, he also mentioned in the main reply that after receiving a complaint, an inspection will be undertaken within eight working days. In part (b) of the main reply the Secretary has also said that the enforcement staff of the OLA read newspapers and browse webpages on a regular basis to collect information. Apart from taking such a passive approach, have the authorities adopted any more proactive approach to investigate these unlicensed guesthouses? Moreover, do the authorities have any better mechanism to enable residents living close to an unlicensed guesthouse or in the same building to make reports easily, thus enabling a more proactive approach to be taken to crack down on these unlicensed guesthouses?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, on the one hand the enforcement staff of the OLA will read newspapers and browse

webpages for the relevant advertisements before they take any action. And it is not true to say that they will take action only after receiving a relevant complaint. On the other hand, these staff will conduct an inspection and take follow-up action on each complaint received. The OLA certainly welcomes reports by the local resident. This is because the people can join in our efforts to monitor the situation and find out if there are any unlicensed guesthouses in the estate or building which they live. I think that if efforts can be made to outlaw this kind of commercial activities in accordance with the deed of mutual covenant, the owners' incorporation or the building management office concerned can resort to civil proceedings to stop such activities.

**MR PAUL TSE** (in Cantonese): *President, some Honourable colleagues have already pointed out that the problem now is that there are not enough hotels to meet the demand, or it can be said that there is a very serious problem of imbalance in demand and supply. But a more important point is, as the Secretary has just said, licensing is actually very lenient and the most important consideration to be made is whether or not the guesthouse concerned meets the requirements of the Fire Services Ordinance.*

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

*However, due to the fact that enforcement action has not been effective, evident in the relatively small number of prosecutions instituted, many of this kind of shadow or underground guesthouses have appeared. The fire hazards in these guesthouses are much greater for the visitors who stay there. In this regard, we have got into a so-called Catch-22 situation, meaning that we cannot do anything either way. Given such a situation, what measures does the Government have to address the problem? It is difficult because on the one hand the Government has to face up to the problem of a severe shortage while on the other it should not sweep the problem under the carpet and thus force people to run these illegal guesthouses. The Government must never think that this is for the sake of safety because it is even more unsafe. Secretary, what kind of initiatives do you have to address the problem?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, we have stepped up enforcement and also engaged in more publicity efforts. Visitors to Hong Kong are urged to stay only in registered and licensed guesthouses and hotels if they want to be smart consumers. As for prosecution figures, as Hong Kong is a place that upholds the rule of law, so a prosecution can only be successfully instituted when there is sufficient evidence. With respect to penalties, I said earlier in reply to the question raised by Mr Jeffrey LAM that the penalties now are sufficient in achieving deterrent effect. We must also bear in mind that it is up to the Judges to decide what verdict to hand down in a case.

**MR JEFFREY LAM** (in Cantonese): *Deputy President, the Secretary said in the main reply just now that some kind of "snaking" or undercover action will be taken from time to time. Even so, we can still see many of this kind of advertisements around us, so does this mean that enforcement has not been thorough? And those enforcement staff who should be doing this kind of snaking action have become snakes themselves and they have neglected their duty of checking and inspecting each and every one of the premises concerned?*

*In addition, we can also see attempts of covering up the true picture. That is to say, when the enforcement officers inspect the premises, all the things there are in good order and compliant with the regulations; but when the officers are gone, they will engage in some other activities. Will the officers come back again for a second inspection? Under what kind of circumstances will such inspections be conducted?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, such kind of "snaking" actions is really successful, and we can actually institute prosecutions as a result of these inspections. Therefore, it may not be a fair comment to say that the enforcement officers have loafed. Having said that, we can see that there are difficulties in carrying out such "snaking" actions. As some people from the Economic Synergy said in their representations to the government departments yesterday and also in writing some of the situations they have come across, there are some people staying on these premises who claim that they are the relatives of the owner. Since they have the keys to the premises, they say that they are not tenants. This is some of the things we have

found out during our "snaking" actions. Such are the difficulties we will meet in collecting evidence.

We can actually see this phenomenon, that is, on the one hand we are taking enforcement action while on the other there are some websites or estate agents who post these advertisements on some of this kind of unregistered and unlicensed guesthouses. But we can do nothing to prevent the appearance of this kind of websites. As a counter-measure, we can only enhance our efforts in publicity and we hope to enhance publicity efforts on the websites and at immigration checkpoints and such major black spots as Wan Chai, the Eastern District, Yau Tsim Mong, Tsuen Wan, and so on, telling visitors that they should only stay in registered guesthouses.

**MR PAUL TSE** (in Cantonese): *Deputy President, we should make reference to the approach taken by the ancient Chinese king Dai Yu in that a problem such as flooding which cannot be contained should be diverted. Since the Secretary has repeatedly emphasized the difficulties met in prosecution and enforcement, can he think of some methods to divert the problem such as devising certain incentive schemes as mentioned earlier or relaxing the requirements to a certain extent so that the shadow guesthouses can obtain a licence that they should have in an easier and faster way? Or can permission be granted to extend the venue specified in the relevant licence to more venues, so as to meet the demand at present? This is because what the Government is doing is in effect forcing the market to react and rebel against it and the problem can never be solved. Deputy President, with respect to this, can we have some kind of breakthrough in thinking to divert the problem instead of merely trying to contain it?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, the OLA is responsible for licensing and enforcement and it has also formulated some codes of practice which require it to complete the licensing procedures within a certain time frame. Of course, in such a process, we have to make sure that both the visitors and residents near these guesthouses are safe. We will never relax the safety standards.

**DEPUTY PRESIDENT** (in Cantonese): Fourth Question.

### **Reducing Risk of Student Suicide**

4. **MR CHEUNG MAN-KWONG** (in Cantonese): *President, the spate of student suicides which occurred one after another recently, with the youngest student involved being only 10 years old, has aroused concerns in various sectors of the community. According to the statistics compiled by the Hong Kong Jockey Club Centre for Suicide Research and Prevention of the University of Hong Kong (CSRP), two to five children aged below 15 took their own lives in each of the years between 2005 and 2009 in Hong Kong. In this connection, will the Government inform this Council:*

- (a) *of the number of suicide cases in the past five years which involved persons aged below 18, as well as the age profile of such persons and the possible causes of suicide involved;*
- (b) *whether it has focused on the trend of people committing suicide at a young age and conducted follow-up investigations into the suicide cases involving persons aged below 18, analysed the reasons why they committed suicide and taken preventive measures; if it has, how the Government assesses the recent cases of student suicide; if not, of the reasons for that; and*
- (c) *given that the CSRP's statistical analysis indicated that excessive examination pressure was a major risk factor for student suicide, whether the Government has reviewed the existing education and examination system and strived to reduce the study pressure on students; if it has, how the Government explains why recently, there were several cases of students suspected to have committed suicides due to study pressure; if not, of the reasons for that; given that the CSRP also conducted a research on the "Suicidality among Secondary School Students in Hong Kong", whether the Government will commission the CSRP to conduct similar surveys on primary school students with regard to the several suicide cases involving primary school students which occurred recently, so as to explore ways to lower the suicide rate of children effectively?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, my reply to Mr CHEUNG Man-kwong's question is as follows:

- (a) According to the latest information provided by the Census and Statistics Department (C&SD), the numbers of known suicide deaths involving persons aged below 18 each year between 2006 and 2010, broken down into age groups, are as follows:

<i>Age</i> \ <i>Year</i>	2006	2007	2008	2009	2010
0-4	-	-	-	-	-
5-9	-	-	1	-	-
10-14	2	5	4	3	6
15-17	12	5	8	9	11
Total	14	10	13	12	17

The C&SD does not have statistics on the causes of these suicide death cases.

- (b) The Social Welfare Department (SWD) launched a pilot project in February 2008 to review child death cases. The Review Panel of the Pilot Project on Child Fatality Review (the Review Panel) was set up to examine the practice and service issues pertaining to child death cases, and promote inter-disciplinary and inter-agency co-operation to prevent avoidable child death cases. The Review Panel comprises non-official members, including healthcare professionals, parents, academia, lawyers and social services providers.

Altogether 209 death cases involving children aged below 18 which occurred in 2006 and 2007 and had been reported to the Coroner were reviewed under the Pilot Project on Child Fatality Review. Of the 209 cases, 24 were suicide cases. Among the 24 cases, the most common reason (there could be more than one reason for each case) for child suicide, as identified in the investigation report of the police, was family relationship problems (11 cases), followed by schooling problems (seven cases). Relationship problems involving boyfriends/girlfriends (five cases) was the third most



common reason. Other reasons include mental problems and health problems, and so on.

The Review Panel made 16 specific recommendations to reduce the number of child suicide cases through enhancing identification of and assistance to children with suicidal intent, strengthening support for children facing academic or other problems and stepping up public education.

The Review Panel released its Final Report on the Pilot Project on Child Fatality Review in January 2011, and the Administration briefed the Legislative Council Panel on Welfare Services on the same in February 2011. Subsequently, the Administration established a standing child fatality review mechanism and appointed the Child Fatality Review Panel to continue to review child fatality cases which occurred in 2008 and beyond.

Furthermore, studies have also revealed that suicide risks may be higher in some districts and there is a possibility of the emergence of suicide clusters (including those among young people). Hence, with funding support from the Lotteries Fund, the SWD commissioned the CSRP in June 2011 to implement a pilot project on community-based intervention to suicide (the pilot project) in the North District and its surrounding areas. The three-year pilot project, launched in July 2011, targets mainly at youths aged 15 to 24 as well as persons with suicidal tendency in the local communities. Awareness of suicide prevention at the community level will be raised through public education and publicity, and the efficacy of various suicide prevention measures will be examined. With the application of a Geographic Information System for analysing and identifying areas and clusters with higher suicide risks, community-based collaborative networks will be set up to mobilize community resources in the provision of targeted educational, supportive and counselling services for the vulnerable to prevent suicide. We will maintain close liaison with the research team and follow up the outcome of the pilot project.

- (c) Research studies on suicide show that the causes of suicide are complex and involve multiple factors, including a person's biological, psychological and cognitive conditions, as well as a diversity of environmental factors. These factors interact with each other, and no single or isolated factor could be held responsible. In its report on "Suicidality among Secondary School Students in Hong Kong", the CSRP stated that "evidence based research indicated that suicide is caused by multiple interactions of many different suicidal risk factors. That is why we cannot say that a school or a particular academic environment directly leads to suicide." (This is cited from the contents of the report.)

The Government is very concerned about youth suicide. Mr CHEUNG mentioned examination pressure, citing the statistics of the CSRP. According to our understanding, apart from "severity of distress by daily life aspect", the CSRP also sets out in the report a host of factors which are significantly associated with adolescent suicidal ideation, including "serious interpersonal conflicts with family members", "chronic illness or pain" and "influence by reporting on suicide". Causes of suicide are complex and multi-dimensional. On the issue of suicide, the Education Bureau is of the view that the priority of work should focus on prevention and support. The Education Bureau is actively discussing with the CSRP plans for further collaboration.

Mr CHEUNG asked whether the Government has reviewed the existing education and examination system and strived to reduce the study pressure on students. Indeed, there are many factors that may bring stress to students. Apart from studies and examinations, stress may also come from students' excessive demands on themselves, or attitudes and expectations of schools, teachers or parents towards them. To alleviate the study pressure on students, the Education Bureau has clearly stated in its curriculum documents that curriculum, teaching strategy and assessment are inseparable. We encourage schools to focus on assessment for learning and conduct assessments as part of the daily learning and teaching activities, so as to avoid spending too much time on unnecessary tests and examinations. For students, school-based assessment

should be encouragement-oriented. For teachers, assessment should be a feedback tool through which teaching can address students' needs in a more targeted manner, so as to enhance teaching efficacy. Besides, the Education Bureau's curriculum documents and School Administration Guide have also provided guidelines on homework, stating that the quality of homework is more important than the quantity. We also encourage students to utilize their spare time by acquiring learning experiences in non-academic areas, including moral and civic education, community service, and various kinds of arts and sports activities to broaden their horizons.

Since 2009, the Education Bureau has, in collaboration with the Hong Kong Association for Career Masters and Guidance Masters, provided professional support to schools, developed many learning resources and organized workshops to help teachers promote career planning for students, encourage them to develop their own goals and reflect on themselves, so that students will have reasonable self-expectations. We hope that students, through the process of self-understanding, can identify their own interests, abilities and potentials, map out their way forward and foster a positive attitude towards life.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Deputy President, the statistics of the Government show an increasing number of students committing suicide in the past five years, but the Government's reply has kept on glossing over the fact that education and examination pressure is a major cause of student suicide. However, facts speak louder than words. In part (b) of the main reply, some government statistics show that at least seven of the 24 suicide cases that occurred between 2006 and 2007 were related to schooling problems. Besides, part (c) of the main reply also admits that studies and examinations are among the sources of stress on students. If we are not ostriches and we do not shirk responsibilities, we must at least admit a fact and that is, education and examinations are one of the causes of student suicide — I said that they are one of the causes.*

*The drilling of primary students for the Territory-wide System Assessment (TSA) has already spread to Primary One, which means that students will be*

*drilled once they are promoted to primary schools from kindergartens and worse still, even the time for extra-curricular activities is used for tutorial classes, and this has become a common practice. School-based assessment is also extensively conducted in secondary schools and will be fully implemented for 24 subjects in 2016. It is most unfortunate that the examination pressure on students and the number of student suicides have increased simultaneously in recent years. May I ask the Government whether it will consider abolishing the unnecessary TSA for Primary Three students and calling a halt to school-based assessments that have not yet started in secondary schools to reduce the examination pressure on students, so that examination pressure will not be a major cause of student suicide?*

**SECRETARY FOR EDUCATION** (in Cantonese): Yes, Deputy President. Mr CHEUNG mentioned that examinations have brought stress to students. As Secretary Matthew CHEUNG said in his main reply earlier on, assessment is actually inseparable from teaching and learning indeed. I think Mr CHEUNG also appreciates why we must conduct appropriate assessments in schools.

The Hong Kong Diploma of Secondary Education (HKDSE) Examination that Mr CHEUNG mentioned consists of two parts, namely, TSA and school-based assessment. Let me first give a reply on TSA. I think Members are aware that we have recently reached a consensus with the education sector that it will be carried out every other year in Primary Six. We have also decided that we will continue to look into whether there is a better way to ensure that the TSA can provide us with the necessary statistics without putting pressure on students. The TSA is actually conducted in an anonymous manner and so, students will not be affected by their TSA results in their further studies or in the allocation of school places. We hope that these statistics will enable the entire teaching system to receive an appropriate feedback. The education sector will need to forge a consensus and identify a better way, so that the statistics can be obtained while the needs of students taken care of.

With regard to school-based assessment, as Members will recall, the traditional education system is primarily based on open examinations, and such an education system has put quite a lot of pressure on students. We believe school-based assessment, if implemented smoothly, can take account of students' normal academic performance in school in the overall assessment. There is one point that we cannot dispute and that is, during the initial implementation of the

HKDSE, it takes time for all of us to adapt to the internal assessment in schools, and as the HKDSE is gradually taken forward, the culture of internal assessment will be gradually enhanced, and I encourage students and teachers to treat school-based assessment with equanimity. As a matter of fact, school-based assessment will not bring additional pressure to students and more importantly, with this arrangement in place, students will not be fully subject to the pressure of one open examination.

**MR LAU WONG-FAT** (in Cantonese): *Deputy President, as many local and overseas academics have agreed that extensive media reports on suicide cases will lead to a trend of copycat suicides, and some countries and regions have even set out guidelines on coverage of suicide cases. Will the Government consider encouraging the local media sector and organizations of media practitioners to take the initiative to explore the formulation of guidelines for these news reports?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, I thank Mr LAU for his supplementary question. We are also concerned about this, because these reports may cause some effects. But there are certain difficulties in imposing control and so, we must appeal to the media to uphold ethics in this respect. We hope that they will cover news based on the facts by all means and refrain from playing up such stories.

We have also conducted publicity to counteract the negative effects and promote positive messages, such as inculcating positive attitudes towards life, and developing positive energy and positive values. Last year, the SWD increased the vigour of measures and injected plenty of resources to put across these messages through the media. We have carried out a great deal of publicity work, such as producing short films on television particularly to promote messages of strengthening family and treasuring life. We have also produced many posters and pamphlets to promote positive attitudes towards adversities. This series of measures aims to convey positive messages, in order to give an encouragement to the vulnerable and people with suicidal tendency and provide assistance to them as early as possible.

**MRS REGINA IP** (in Cantonese): *Deputy President, I am very glad to hear that Under Secretary Kenneth CHEN has at least admitted that examinations are no doubt a source of stress on students, and that the Government has introduced examination reforms and the inclusion of school-based assessment.*

*As far as I understand it, many students feel a lot of pressure from examinations because, firstly, there are only limited places for them to further their studies and secondly, their fate is decided by one examination. May I ask the Secretary whether the Government has conducted studies to ascertain whether Hong Kong can follow the American system, such as the College Board system under which a student can sit the SAT for several times a year and there are also different levels of examinations, such as Subject Test, Common Test and Advanced Placement, allowing students at least three chances of examination in a year? The best scores of students will then be used for pursuing further studies or employment. May I ask the Secretary why this system cannot be adopted in Hong Kong?*

**SECRETARY FOR EDUCATION** (in Cantonese): I thank Mrs Regina IP for putting forward her views on open examinations just now. The reason is that the cultural background and school system vary from one place to another and so, it is difficult to copy wholesale a foreign system for implementation in Hong Kong.

However, while we look at the impact of an education and examination system on students in furthering their studies, we must appreciate that an absolutely fair system may be premised on the objective marks. But more often than not, in order to achieve good results in examinations, students may have expectations of themselves or their family may have expectations of them and pressure is thus created. If we adopt a system which allows more leeway and includes other factors for consideration apart from the examination results, different sectors of the community may have different views. If we include subjective factors for consideration, such as requiring students to attend an interview, this may be a possible option but it is necessary to maintain fairness in the examination system as well as the selection criteria for admission of students to university which is of great concern to the community.

The first HKDSE Examination will be held in 2012 and school-based assessment is already implemented for certain subjects. We do not just look at

the marks of students in one examination. We also look at their normal performance in schools. I have recently learnt from professors in some institutions who are responsible for student admission that many institutions have actually included an interview system, in the hope that they can understand the academic achievements and background of students from a diversity of perspectives.

The principles or ultimate objectives of the series of reform measures that we have introduced are actually the same as the view raised by Mrs Regina IP, in that we all hope to reduce the pressure of each examination on students from various angles. In this connection, after implementing the new system this year, we will definitely keep in close view the changes and developments of the entire system. We certainly hope to ensure fairness in the system, having regard to the pressure of studies on students.

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

**MRS REGINA IP** (in Cantonese): *Deputy President, I was not asking the Secretary to copy the systems of foreign countries ..... I believe the Hong Kong Examinations and Assessment Authority obviously knows that students can sit the SAT for a number of times a year and it is after they had conducted studies that they decided not to adopt this arrangement. My question is: Why is it impossible for Hong Kong to adopt this arrangement which allows students to take an examination for several times a year, in order to alleviate the pressure on students? If the Secretary does not have the information up his sleeves, he can perhaps give me an explanation in writing after the meeting. Will he do it?*

**DEPUTY PRESIDENT** (in Cantonese): Secretary, can you provide supplementary information in writing?

**SECRETARY FOR EDUCATION** (in Cantonese): Certainly. We will further give a detailed explanation to Mrs IP later. (Appendix I)

**MR LEUNG YIU-CHUNG** (in Cantonese): *Deputy President, in his reply to part (c) of the main question the Secretary said that the causes of suicide are complex and involve multiple factors, and that the Education Bureau is of the view that the priority of work should focus on prevention and support, adding that they are actively discussing with the CSRP plans for further collaboration. Of course, to address the problem of suicide, apart from targeting actions at the causes of suicide, including how the examination pressure can be reduced as mentioned earlier on, prevention and support are also very important. This, I agree.*

*May I ask the Secretary what he will do in terms of prevention and support? What will be done specifically to promote further collaboration with the CSRP? Will additional resources be provided to them, such as whether more school social workers and teaching assistants will be provided, in order to help and pay more attention to students with emotional and mental problems?*

**SECRETARY FOR EDUCATION** (in Cantonese): Mr LEUNG mentioned our work in respect of prevention and support, and such work is actually carried out in the following five areas.

First, in respect of school curriculum, we will include elements to enhance the psychological qualities of students, teaching students how they should deal with setbacks and various difficulties in life.

Second, in respect of schools, there are already professional teams (including student guidance teachers and school social workers) providing guidance service. In the latest Policy Address the Chief Executive also mentioned that the provision of guidance service for primary students will be enhanced and through the Student Guidance Service Grant, schools will be provided with additional resources for taking on student guidance teachers or procuring guidance service.

As regards teachers' training, we will keep in view and enhance this area of work. Since 2009 we have organized seminars jointly with the Hong Kong Association for Career Masters and Guidance Masters on a regular basis, and the diploma courses in guidance and discipline also provide the most updated approaches for teachers to help students handle the problems they face in life.



Moreover, the Education Bureau has provided additional guidelines and resources to schools in this respect. We have uploaded the tools and teaching kits to help teachers identify students who have encountered problems in life for intervention and follow-up actions at an early stage.

The last point that I wish to make is that we have provided support to various programmes through the allocation of grants under the Quality Education Fund. The latest programme is a mental health enhancement programme featuring the story character in "Little Prince is Depressed". The objective is to enhance students' resilience in the face of adverse life experiences and help building up their self-esteem, in the hope that their interests can be broadened such that they will be able to handle problems better in the face of difficulties.

**MR LEUNG YIU-CHUNG** (in Cantonese): *The Secretary has not answered my question, because I asked what specific measures are in place to provide support, such as providing resources to facilitate preventive and supporting work. This includes whether more school social workers will be recruited to provide support targeting students with emotional and mental problems.*

**SECRETARY FOR EDUCATION** (in Cantonese): In fact, as I have just mentioned, we will provide an additional Student Guidance Service Grant to public primary schools in 2012-2013. Take a primary school with 24 classes as an example. The amount of the grant received by it will increase from \$500,000 to \$600,000, while a primary school with 30 classes will receive an additional grant of as much as \$200,000. We hope that through the provision of this additional grant, we can help schools recruit student guidance personnel or procure such service. Moreover, we will also increase the provision of school-based educational psychologist service in schools. We hope that this service can be extended to cover all schools.

**DEPUTY PRESIDENT** (in Cantonese): Fifth question.

**Free Television Programme Service Licences**

5. **MR LEUNG YIU-CHUNG** (in Cantonese): *Deputy President, the Government indicated that vetting of the domestic free television service licence applications was expected to be finalized within the first half of 2011. While the year 2011 is already over and the Broadcasting Authority had already finished vetting the three licence applications and submitted its recommendations to the Chief Executive in Council for consideration, yet no further news has been released so far. In this connection, will the Government inform this Council:*

- (a) *whether the reason for the authorities to postpone announcement of the vetting result is that they are still dealing with the appeal regarding the issuance of new licences lodged with the Chief Executive in Council by Asia Television Limited; if not, of the actual reasons for that; given that the authorities have indicated to this Council that it has opened up the domestic free television programme service market as it is the Government's established policy to promote the sustainable development of the local broadcasting industry, and encourage competition, investment and adoption of innovative technologies by the industry, thereby leading to the provision of more choices of quality programmes to the public, whether the reason why no decision has been made after a long time is that the Government has changed its original thinking and is inclined to maintain the status quo; and*
- (b) *given that the three companies which submitted applications for the new licences have undertaken that they will invest a considerable amount of funds and recruit employees after obtaining the service licences, so as to make contributions in boosting the local economy and promoting employment, whether the Government has assessed what impact its postponement of making the decision will bring to the community?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, I would like to briefly explain the application procedures for domestic free television programme service licences before replying the question from Mr LEUNG Yiu-chung. Under the existing

Broadcasting Ordinance (BO), the Broadcasting Authority (BA) shall consider applications for a domestic free television programme service licence or a domestic pay television programme service licence and make recommendations thereon to the Chief Executive in Council. After considering the recommendations made by the BA, the Chief Executive in Council may grant a domestic free television programme service licence, subject to such conditions as he thinks fit specified in the licence.

According to the BA's Guidance Note on licencing, an applicant should provide detailed information including the financial status of the corporation, the investment and management plan of the proposed broadcasting service, the proposed technology to be adopted, the variety, quantity and quality of programmes to be offered, time required for service rollout, and so on. Based on the information received, the BA will make an assessment on the application, including whether the proposed broadcasting service is technically feasible, complies with the relevant statutory requirements, and can bring benefit to the local broadcasting industry and the economy as a whole. The BA will assess the application in accordance with the BO and established procedures, and then make recommendations on the application to the Chief Executive in Council.

My reply to the two-part question raised by Mr LEUNG Yiu-chung is as follows:

- (a) City Telecom (Hong Kong) Limited, Fantastic Television Limited and Hong Kong Television Entertainment Company Limited have each submitted an application for a domestic free television programme service licence. The BA has assessed the three applications in accordance with the BO and established procedures, taking into account a number of relevant factors. As I have just mentioned, such factors include the BO's requirements (these are also applicable to the two incumbent licensees), assessment criteria set out in the BA's Guidance Note for Those Interested in Applying for Domestic Free Television Programme Service Licences in Hong Kong, public opinion and possible impact of new licences on the local television programme service market. To collect public views on the three applications, the BA conducted a public consultation exercise from July to September 2010 pursuant to the requirement under the BO. We understand that the BA received a total of 256

submissions during the consultation period, covering a large number of areas such as the variety and quality of programmes, technical soundness, commitment to investment and impact on the broadcasting industry and the viewing audience, and so on. The BA gave due regard to these views when formulating its recommendations, and has submitted a summary of views received to the Chief Executive in Council for consideration.

The BA has already completed the assessment and made recommendations on the three applications to the Chief Executive in Council in accordance with the BO. The appeal lodged by Asia Television Limited (ATV) against the BA's recommendations was considered by the Chief Executive in Council on 8 November 2011. The Chief Executive in Council had replied ATV and the BA. The Government is processing the applications. The outcome will be announced as soon as possible after a decision is made by the Chief Executive in Council.

It is the Government's established policy to promote the sustainable development of the local broadcasting industry and encourage competition and investment as well as the adoption of innovative technologies by the industry, thereby leading to the provision of more choices of quality programmes to the public. Under the BO, there is currently no pre-set limit on the number of free television programme service licences to be issued. Any interested and eligible organizations may apply to the BA for such licences. The BA will assess all applications in accordance with the BO and established procedures as set out in the Guidance Note for Those Interested in Applying for Domestic Free Television Programme Service Licences in Hong Kong, and then submit its recommendations to the Chief Executive in Council. The decision on whether to grant a licence rests with the Chief Executive in Council.

- (b) As an independent regulatory body established by statutes, the BA will handle all applications for free television programme service licences in an independent, fair and impartial manner strictly in accordance with the BO and established procedures, having due

regard to the impact of the proposed services on the free television programme service market, with a view to ensuring a level playing field for broadcasters to serve the viewing public. The BA adopts a market-driven approach and always encourages competition among broadcasting service providers so that they will adjust their services according to market demand and offer more choices to the public. When assessing applications, the BA will consider the benefit that the proposed broadcasting service can bring to the local broadcasting industry and the economy as a whole. The Chief Executive in Council will take into account all relevant factors and be guided by public interest in deciding whether to grant a licence.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Deputy President, as I said in the main question, the three companies which submitted applications have undertaken that they will invest a considerable amount of capital to upgrade the technology and recruit employees after obtaining the service licences. As we all know, the economic conditions will not bode well in the future and it is likely that the unemployment rate will be soaring. The earlier the licences are issued, the more conducive to these conditions it will be.*

*In paragraph (a) of the main reply, the Secretary said that the consultation had been completed in September 2010. It has already been 16 months now. Furthermore, the Government has undertaken that a reply concerning which company will be granted a licence will be given in the first half of 2011. It has also been more than six months now. May I ask the Secretary why he has been dragging? For how long should the delay last before the issuance of licence can be formally announced? I hope the Secretary can explain the reasons in detail.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, I would like to reiterate that the results of the licence applications will have far-reaching impacts on the free television programme service market. The BA and the Bureau have been handling licence applications expeditiously and carefully in accordance with legal requirements and established procedures. As I have pointed out in the main reply, the BA, in making its recommendations, should assess the three applications in accordance

with the BO and established procedures, taking into account a number of relevant factors. Such factors include the BO's requirements and assessment criteria set out in the BA's relevant Guidance Note, public opinion and impact on the local television programme service market.

As far as I know, the Chief Executive in Council has completed the processing of ATV's complaint against the BA's recommendation. The Government will take appropriate steps to handle the BA's recommendations speedily before the Chief Executive in Council will consider all relevant factors so as to determine whether a licence should be granted expeditiously. In making such a decision, the Chief Executive in Council will be guided by public interest. Deputy President, in fact, all parties have been dealing with the issues related to the applications expeditiously and there is absolutely no dragging in the handling of applications. We will deal with it expeditiously and a decision will be announced once it has been made.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): *He has not answered this point. As the consultation has been completed for 16 months and the Government has also undertaken to make an announcement in the first half of 2011, but it has been postponed for six months, he has not explained why .....*

**DEPUTY PRESIDENT** (in Cantonese): Mr LEUNG, please indicate which part of your supplementary question has not been answered.

**MR LEUNG YIU-CHUNG** (in Cantonese): *He has not explained the reasons at all. Deputy President, according to the main reply, the process has been completed. And my supplementary question is: After the process has been completed, what specific reasons have led to delays by the Government? It may be justified if the process has not yet been completed. But since it has been completed in accordance with the procedures .....*

**DEPUTY PRESIDENT** (in Cantonese): Mr LEUNG, please sit down.

**MR LEUNG YIU-CHUNG** (in Cantonese): ..... *I do not know what we are waiting for .....*

**DEPUTY PRESIDENT** (in Cantonese): Mr LEUNG, please sit down. Secretary, do you have anything to add? Please explain why it has been postponed instead of being handled.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, in fact, the process has not yet been completed because under section 9(2) of the BO, the BA shall make recommendations to the Chief Executive in Council for its consideration and decision. As the process is still ongoing, it will be completed expeditiously.

**MR WONG TING-KWONG** (in Cantonese): *Deputy President, local television stations are facing a serious challenge from their counterparts in the Mainland. With a vast market coupled with an increasing production budget for television programmes in the Mainland, artistes, especially Hong Kong artistes, are attracted to participate in the programme production in the Mainland. For the brain drain problem faced by the industry, the Government has indicated that it will promote the sustainable development of the local broadcasting industry, thereby leading to the provision of more choices of quality programmes to the public. That being the case, do the authorities have any plan to assist the local industry in meeting the challenges of the Mainland; if so, what are the details? If not, what are the reasons for that?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, thanks to Mr WONG Ting-kwong for his supplementary question. He was right in saying that the Government's broadcasting policy seeks to promote the sustainable development of the local broadcasting industry and encourage fair competition and investment as well as

the adoption of innovative technologies by the industry, thereby leading to the provision of more choices of quality programmes to the public. By adopting a market-driven approach, we promote the sustainable and thriving development of the broadcasting industry by encouraging competition among broadcasting service providers so as to speed up its development.

The sustainable development of the broadcasting industry can help promote the cultivation of local creative talents and performing arts professionals such as artistes, script writers and directors so as to meet the development needs of the industry. We note that the television industry will enjoy preferential treatment under the CEPA framework, including a myriad of measures in Supplements II to V to CEPA. These measures will offer local television talents a lot of room for development and opportunities of exploring the Mainland market, thereby providing plenty of employment and business opportunities to them.

Deputy President, through the exchanges and co-operation between Hong Kong and the Mainland, the television industry can enjoy upgrading and development at the same time. The superior and strong underlying quality of culture and rich resources in terms of talents and audience on the Mainland will also help Hong Kong enhance its standard of television programme production, thus benefitting the television industry. Apart from constituting a challenge to us, the development of television industry on the Mainland will, to a great extent, also be conducive to the development of industry practitioners in Hong Kong. Apart from the support provided by measures under CEPA, it has been prescribed in the Charter signed between the Government and Radio Television Hong Kong (RTHK) that RTHK, as Hong Kong's public service broadcaster, should adopt programme directions and measures which will encourage creativity and help nurture talents, particularly production of programmes on its own, hiring external producers for programme production and purchasing independent and original content production for the public. This will also be conducive to the development of an independent television industry. I would like to mention in passing that the CreateSmart Initiative under CreateHK also provides support to the creative industries, thereby helping promote Hong Kong's creative industries, including the development of the local television industry.



**MR WONG YUNG-KAN** (in Cantonese): *Deputy President, when watching television programmes by the China Central Television or other local television stations in Mainland hotels, we will often see many television series cast by Hong Kong artistes and produced in the Mainland. May I ask the Government why Hong Kong's television stations seldom hire Mainland artistes as cast in television series in Hong Kong? When asked why they did not like to watch television series produced in Hong Kong, many people on the Mainland replied that they gradually disliked watching these programmes which were always cast by a handful of artistes and thus they switched to Mainland channels. As a result, the Mainland can recruit more Hong Kong artistes.*

*May I ask the Government what measures it has to nurture and develop more television personnel and artistes so as to enhance the quality of television programmes?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Thanks to Mr WONG Yung-kan for his supplementary question. As I have mentioned in my reply to the Mr WONG Ting-kwong's supplementary question, there are many exchanges between Hong Kong and the Mainland, apart from the preferential treatment under CEPA which is highly conducive to the development of both sides. Just now Mr WONG Yung-kan mentioned the quality of television programmes. We have also noticed that as Hong Kong is a pluralistic society, the public may have different expectations on the quality of television programmes. It is difficult to define the quality of a good television programme. RTHK has conducted the Hong Kong Television Programme Appreciation Index Survey together with the Television Broadcasts Limited, ATV and Cable TV so as to understand Hong Kong viewers' appreciation for a television programme and how the programme quality of Hong Kong's television industry as a whole can be enhanced.

I have noticed in recent years that such indices and viewing rates are regarded as very important professional indicators, through which television stations can understand the public's expectations and needs. Certainly, I understand that a television station, as a commercial organization, will pay close attention to the audience's tastes in order to determine what programmes to be produced. However, we cannot rely solely on the viewing rates to determine the quality of a programme. The Government has specified its broadcasting policy

objectives, such as widening programming choice to cater for the diversified tastes and interests of the community. There are also provisions in our current free television programme service licences requiring the licensees to provide a certain amount of artistic and cultural programmes so as to cater for the tastes and needs of different people. We will closely monitor developments in this aspect with a view to upgrading the programme quality.

**MR PAUL TSE** (in Cantonese): *Deputy President, in part (b) of his main question, Mr LEUNG Yiu-chung mentioned the impact of the Government's postponement of making the decision. Unfortunately, it seems that the Secretary, in his main reply, has simply elaborated the general measures rather than answering this part of the question or pointing out the impact. I have particularly noticed that although the three licence applicants are the City Telecom (Hong Kong) Limited, Fantastic Television Limited and Hong Kong Television Entertainment Company Limited, the Secretary mentioned in the second last paragraph of part (a) of the main reply that ATV has lodged an appeal. Perhaps owing to my ignorance, I do not understand the relationship between ATV's so-called appeal and the three companies which have submitted applications for licences. According to what procedure has the appeal been lodged? Will this lead to an appeal lodged by another television station in order to drag the assessment process? Is transparency totally lacking in this aspect? What has actually happened, Deputy President?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Thanks to Mr Paul TSE for his supplementary question. In part (a) of his main question, Mr LEUNG Yiu-chung mentioned that the authorities had postponed announcement of the vetting result. As I mentioned just now, no postponement has been made and the process will be handled expeditiously. As to whether the progress of assessment has been affected by the need of handling ATV's licence, Deputy President, I have responded in the main reply that the handling of the appeal was completed on 8 November last year.

**MR PAUL TSE** (in Cantonese): *Can a higher degree of transparency be displayed in relation to this appeal so that we will know a little bit more about what has happened and why this appeal is related to the licence application?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, as this appeal was lodged by ATV, the contents of the appeal will not be disclosed without ATV's approval.

**DEPUTY PRESIDENT** (in Cantonese): Last oral question.

### **Self-financing Top-up Degree Programmes**

6. **MRS REGINA IP** (in Cantonese): *President, it has been reported that the City University of Hong Kong (CityU) will substantially reduce the number of self-financing articulation places for sub-degree holders from 692 in this academic year to 90 in the next academic year. In this connection, will the Government inform this Council:*

- (a) *whether it knows the details of the CityU's substantial reduction in self-financing articulation places; whether it has assessed the impact on the students of sub-degree programmes articulating to degree programmes; whether the existing policy allows tertiary institutions to decide completely on their own the reduction in self-financing articulation places without consulting the education authorities in advance;*
- (b) *given that the CityU has not officially announced the aforesaid decision, and the prospectus on some of its sub-degree programmes still states that articulation to those degree programmes which will reduce the number of places is possible, whether the authorities regulate the dissemination of information relating to university programmes; how they deal with dissemination of misleading information by the universities; and how they protect the affected students; and*
- (c) *given that the CityU will set up a school of veterinary medicine (vet school) and run veterinary degree programmes on a self-financing basis, and while the CityU claims that other programmes will not be affected, some students have pointed out that some floors of Academic 2 and To Yuen Building will be converted into facilities for the vet school, which in effect will reduce the space for other*

*faculties, whether the authorities will request the CityU to clarify if the establishment of the vet school and reduction in self-financing articulation places are related; given that the resources required for the provision of the existing self-financing articulation places are far less than those for the places of the vet school, thereby enabling more young people to have the opportunity to receive tertiary education, whether the authorities will request the CityU to review afresh its policy on resource allocation?*

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

(a) and (b)

Same as other tertiary institutions funded by the University Grants Committee (UGC), the CityU is an independent statutory body that enjoys academic freedom and high autonomy in academic planning and internal resource allocation. There are established in-house mechanisms for such matters as the monitoring of self-financing programmes and quality assurance in these institutions.

We have enquired about the CityU's decision to reduce the intake places of self-financing top-up degree programmes. According to the CityU, one of the academic goals set out in its "2010-2015 Strategic Plan", its long-term development blueprint, is (I quote) "to control (its) non-UGC undergraduate enrolment to ensure quality and to fulfil (its) commitments of accountability to (its) undergraduate students so that available resources are sufficient to provide them with an outstanding educational experience". (unquote) The CityU has been progressively reducing the number of intake places for its part-time self-financing top-up degree programmes from 934 in the 2007-2008 academic year to 60 in 2012-2013 academic year. For self-financing full-time programmes, the number of intake places has remained at some 200 since 2007-2008 academic year. It would be reduced to 30 in 2012-2013 academic year following the CityU Senate's decision in late October 2011. The aim is to focus its self-financing degree programmes only on selective academic areas which will be critical to the further

development of Hong Kong society and the CityU's professional education.

The CityU has advised that it announced the information about the 2012-2013 self-financing top-up degree programme offerings and uploaded the programme details onto its official website on 7 November 2011, following the Senate's approval of the proposal to reduce the number of self-financing undergraduate places in late October 2011. The Community College of the City University of Hong Kong (CCCU) also advised that the admission information about the 2012-2013 sub-degree programmes was updated and uploaded onto its website in early December 2011. In addition, the CCCU management held a meeting with its Associate Degree student representatives on 25 November 2011 to inform them of the planned reduction in the CityU's self-financing top-up degree places. The CCCU also introduced other top-up degree programmes to the students in an effort to widening their articulation opportunities.

We appreciate the public's concern over the CityU's reduction in self-financing top-up degree programme places. In fact, according to the UGC Notes on Procedures, institutions enjoy academic freedom and considerable institutional autonomy but this does not exempt them from public interest and criticism. Therefore, while enjoying high autonomy in academic planning and internal resource allocation, institutions should also be mindful of students' and public's interests, duly consider stakeholders' views and be held accountable for their decisions. As such, the Government and the UGC will relay public concern to the CityU, and urge it to take into account the interests of students and the public, consult stakeholders before making any decision in the future to expand or scale down its self-financing programmes, and disseminate relevant information promptly. In addition, to help students affected in the present case, the CityU should strengthen career counselling and support services for these students, maintain close communication with them and address their concerns properly.

Regarding articulation for sub-degree holders, I must point out that a sub-degree qualification is a worthwhile standalone qualification

which prepares students for both further studies and employment. The Government will continue to promote the parallel development of the publicly-funded sector and the self-financing sector, with a view to providing multiple study pathways for sub-degree holders, while ensuring both quality and quantity. In addition to doubling UGC-funded senior year undergraduate intake places to 4 000 each year, we also implement a basket of measures to support the development of the self-financing postsecondary sector. As a result, despite the reduction in the CityU's self-financing top-up degree places, it is expected that the total number of full-time locally-accredited self-financing top-up degree intake places will increase from about 3 900 in the current academic year to over 5 000 in the 2012-2013 academic year.

- (c) According to the CityU, the establishment of a School of Veterinary Science (vet school) and the provision of degree programmes in veterinary science on a self-financing basis are still at the planning stage, hence details such as location have not yet been decided.

The CityU submitted a proposal to the UGC in August 2009 to launch publicly-funded degree programmes in veterinary science. Based on the information provided by the CityU at that time and after consulting the Administration, and having examined the academic, clinical and accreditation prospects as well as the financial aspects of the proposal, the UGC concluded that it would not support the CityU's proposal to set up a vet school in Hong Kong with public funds. Regarding the CityU's intention to set up a vet school on a self-financing basis, the UGC noted that the considerations concerning the viability of a publicly-funded vet school also applied to a self-financing operation. As with all self-financing programmes, the UGC will ask the CityU to ensure that self-financing activities do not detract from its core work, particularly the preparation for the implementation of the "3+3+4" new academic structure. The UGC will also remind the CityU of the need to have distinct separation of resources from publicly-funded programmes.

In addition, the Government has made it clear that UGC-funded activities should have priority in the use of teaching facilities provided with public funds. As regards the CityU's Academic 2, it

is a new teaching block constructed on the Kowloon Tong campus with a loan provided under the Start-up Loan Scheme and is to be used primarily by CCCU students. The use of this new block does not include the provision of degree programmes in veterinary science. If the CityU wishes to provide programmes in veterinary science in this new block, it must obtain the prior approval of the Education Bureau.

In fact, the UGC takes interest in all building development projects of UGC-funded institutions, irrespective of their funding sources, to ensure that these projects are in line with the master development plan of the campus and consistent with the roles and missions of institutions as agreed with the UGC. Furthermore, it is necessary to ensure that the development projects will not become a burden to the institution and eventually to the UGC and the Government. Institutions are therefore required to inform the UGC of any wholly privately funded projects before their commencement.

As with all self-financing activities, we expect institutions to ensure that self-financing programmes do not detract from the core work of institutions, have distinct separation of resources from publicly-funded programmes, and are financially viable and sustainable. The CityU has assured us that it will fully comply with the UGC's requirement of no cross-subsidization of the vet school using UGC resources.

Lastly, as advised by the CityU, the institution already planned to reduce its self-financing undergraduate places back in the 2007-2008 academic year in order to enhance teaching quality by pooling resources. At that time, there was no plan to set up a vet school yet.

**MRS REGINA IP** (in Cantonese): *Deputy President, the Secretary pointed out that the CityU had announced on 7 November the information about the substantial reduction of self-financing articulation places in the 2012-2013 academic year. May I ask the Secretary whether he knows the number of students affected by such a substantial reduction? I mean those students enrolled on the sub-degree programmes two years ago paying a tuition fee of*

*\$40,000 to \$50,000 only in the hope of applying for top-up degree programmes in future. How many do they number actually? Besides, as their chance for articulation has now been substantially undermined, what arrangements will the CityU make to look after or compensate them?*

**SECRETARY FOR EDUCATION** (in Cantonese): Deputy President, the CityU announced such information on 7 November, following the Senate's approval of the reduction of self-financing undergraduate places in the end of October. In fact, the students had no knowledge of such changes when they applied for the sub-degree programmes, but the CityU added that it had put forward a strategic direction for this long-term goal back in 2007 and 2008. Nevertheless, we also know that the CityU has met with the affected students to explain different options for further studies.

As far as we know, the CityU also offers funded programmes in the subject areas involved in the three full-time self-financing top-up degree programmes of which intake places have been reduced. The CityU has briefed the students concerned. We know as well that, in addition to the CityU, other institutions also offer similar programmes. As I pointed out in the main reply, the total number of intake places for full-time locally-accredited top-up degree programmes in Hong Kong will increase from the present 3 900 to 5 000. Publicly-funded senior year intake places will also gradually increase in the next few years to 4 000 per year. Therefore, in addition to encouraging the CityU to maintain close communication with students and provide them with appropriate counselling, I hope as well that the students will take other alternatives having regard to the total number of articulation places territory-wide.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Deputy President, the CityU's sudden and substantial reduction of self-financing articulation places has affected sub-degree graduates' opportunities of further studies. From the perspective of the morality required of a university, the CityU is liable to condemnation. Whether or not the CityU will further damage the interests of students and the public hinges on two factors: how the CityU makes use of the accumulated surplus of the CCCU and how it makes use of the teaching block of the CCCU. Will the Government publish the amount of accumulated surplus that the CCCU has earned from students by offering them sub-degree*



*programmes over the years? Furthermore, will the Government monitor the use of such surplus in order to prevent the CityU from siphoning the money off into its mini-treasury and then investing it in the vet school? Meanwhile, will the CityU do a covert swap by converting the teaching block originally intended for sub-degree students into a building for the vet school? Will the Government protect the interests of students by ensuring that the accumulated surplus generated from the tuition fees paid with their hard-earned money will not become a reserve for the vet school, and that the teaching block constructed with the tuition fees paid by them will be used on them and not be snatched by the vet school? Will the Government caution the CityU and reject its hocus-pocus of setting up the vet school, so as to strip it of the possibility to act against the interests of sub-degree students?*

**SECRETARY FOR EDUCATION** (in Cantonese): Deputy President, Mr CHEUNG Man-kwong has raised three points. The first point is related to the charges and surpluses of self-financing institutions. We have also had discussions in the meetings of the Panel on Education. We are now gathering relevant information from the institutions and will revert to the Council as soon as possible. We have also proposed to establish a new Committee on Self-financing Post-secondary Education, hoping that it can provide a platform for the self-financing post-secondary education sector to review issues of common concern, including tuition fees and the planning of self-financing programmes.

The second point raised by the Member is the teaching block. In fact, this teaching block was constructed with a loan provided by the Start-up Loan Scheme, and it should be used primarily by CCCU students. The CityU must obtain the approval of the Education Bureau before changing its use. As I pointed out earlier, I have told Members on various occasions that we and the UGC have written to the CityU raising a series of questions on its introduction of self-financing veterinary programmes, including the location and other operational details. As I explained just now, we will not grant the CityU full discretion to decide what to do just because it intends to run the programmes on a self-financing basis. The CityU must fully explain that the introduction of veterinary programmes will not affect its core work of providing education to students.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Deputy President, I request the Government to state clearly whether it will, following the investigation, officially publish .....*

**DEPUTY PRESIDENT** (in Cantonese): Mr CHEUNG, you can only follow up the part that the Secretary has not answered. Please point out the part that has not been answered.

**MR CHEUNG MAN-KWONG** (in Cantonese): *It is exactly this part. Will the Government publish the amount of cumulative surplus earned by the CityU's CCCU over the years? This is my question just now.*

**SECRETARY FOR EDUCATION** (in Cantonese): Deputy President, as I mentioned earlier, we need to gather information first. In addition, we have indicated in the meetings of the Panel on Education that we will give a full account to Members.

**MS STARRY LEE** (in Cantonese): *Deputy President, the CityU's sudden reduction of intake places for self-financing articulation programmes really drives the current sub-degree students into despair, because, before enrolment, the students expected an easier path to further their studies in the self-financing top-up degree programmes offered by the same university. However, on this matter, the Government's reply in part (a) reads: "There are established in-house mechanisms for such matters as the monitoring of self-financing programmes and quality assurance in these institutions." Regarding this complaint, the Government has also said that it will revert to the CityU to "urge it to take into account the interests of students and the public before making any decision in the future to expand or scale down its self-financing programmes". The reply clearly indicated that the Government would neither play any role nor be able do anything to protect the interests of students, other than pressing the CityU to communicate with various stakeholders.*

*May I ask the Secretary whether it is obsolete to adopt a laissez-faire policy towards self-financing programmes as the Government presently does?*

*Will the Committee on Self-financing Post-secondary Education mentioned by the Secretary just now play a practical role in monitoring such self-financing programmes in this transitional period?*

**SECRETARY FOR EDUCATION** (in Cantonese): Deputy President, self-financing institutional places form part of the academic planning and resources allocation. In fact, the institutions enjoy a high degree of autonomy, but it does not mean that we do not monitor the self-financing programmes at all. Our monitoring is squarely targeted at quality. While there are established in-house mechanisms in these institutions, there is likewise the Quality Assurance Council in the UGC. On the other hand, the Hong Kong Council for Accreditation of Academic and Vocational Qualifications was established also with the aim of ensuring the quality of self-financing degree and post-secondary programmes. Hence, in the context of quality, we do effect monitoring.

Regarding Members' persistent concern about the overall development and planning of self-financing post-secondary education, we intend to set up a Committee on Self-financing Post-secondary Education, as recommended in the UGC's Higher Education Review Report, to provide a platform for discussion with the self-financing sector on some strategic issues, including the issues of tuition fees and number of places for degree programmes as mentioned earlier.

**MS AUDREY EU** (in Cantonese): *Deputy President, we certainly acknowledge the autonomy of universities. There would be some variation in the number of intake places; this we also understand. However, the case that we are talking about involves a reduction of 90% as revealed in the figures presented in the reply, that is, the total number of articulation places for part-time and full-time self-financing undergraduate programmes has been reduced from 1 134 to 90.*

*The most ridiculous part of the Secretary's reply is his claim that he had made enquiries with the CityU. How did the CityU reply? The CityU told the Government that according to its Strategic Plan and starting from the 2007-2008 academic year, the CityU had to control non-UGC undergraduate enrolment to*

*ensure quality so that available resources were sufficient to provide students with an outstanding education experience.*

*Secretary, can this be considered much of a reply? If this reply holds water, is it because of poor quality, insufficient resources and a failure to provide students with an outstanding education experience that thousands of places have now been slashed? Have they been cut for these reasons? Is it fair to those students enrolled on sub-degree programmes? To those students who aim for top-up degree programmes, what explanation did the CityU give? It said, "The aim is to focus only on selective academic areas which will be crucial to the further development of Hong Kong society and the CityU's professional education." Again, what sort of reply is this? Secretary, do you "buy" such a reply? Obviously you have "bought" it, because you only said that the institutions should not disregard public interest, you will relay the concern to the CityU, and in the future .....*

**DEPUTY PRESIDENT** (in Cantonese): Ms EU, please ask your supplementary question. You have spent a lot of time explaining the background.

**MS AUDREY EU** (in Cantonese): *Deputy President, I have already asked the supplementary question. I wish to point out that those ridiculous explanations given by the CityU ..... He has not answered my question at all, saying only that he will relay the concern to the CityU and urge it to fully consult the students in future. May I ask the Government how it can "buy" such replies? Is it fair to those students currently enrolled on sub-degree programmes? Is it fair to those students who expected more articulation places?*

**SECRETARY FOR EDUCATION** (in Cantonese): Deputy President, I just heard that Ms Audrey EU also agreed to the principle of "institutional autonomy". I think this principle is essential. The institutions are also statutory bodies, which are required to operate and exercise their autonomy in accordance with the relevant regulations and established procedures.

Ms Audrey EU also mentioned just now that a variation in the number of places is, to a certain extent, understandable. Academic planning and allocation

of resources in the institutions definitely fall within the scope of autonomy. However, both Members and students have expressed concern about how the CityU deals with the reduction of full-time self-financing articulation places. We are very concerned, too. We have also reflected the identified problems to the CityU. Most importantly, we hope to secure articulation opportunities for the current students. As I said earlier, both the publicly-funded senior year places and the full-time self-financing places across the sector have increased at the same time. Moreover, we know that the CityU is also making some efforts with a view to counselling students on how to properly select other programmes. The CityU also offers other programmes for students' selection. We hope that, through the series of measures just mentioned, we can address the concerns of students and society about this matter.

**MS AUDREY EU** (in Cantonese): *Deputy President, he has not answered my supplementary question. Deputy President, my supplementary question is very simple. He made an enquiry with the CityU, and the latter gave him such explanations, which he just read out. I asked whether the Government "buys" it.*

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

**SECRETARY FOR EDUCATION** (in Cantonese): Deputy President, the decision on the expansion or reduction of degree places is part of academic freedom. As I pointed out earlier, we also expect the institutions to address the concerns of society and take into account the overall interests of society while they enjoy academic freedom. We will continue to examine with the CityU how best to deal with the problems currently identified.

**DEPUTY PRESIDENT** (in Cantonese): We have spent more than 25 minutes on this question. Oral questions end here.

**WRITTEN ANSWERS TO QUESTIONS****Proposed Health and Medical Research Fund**

7. **MR PAUL CHAN** (in Chinese): *President, the Food and Health Bureau has proposed to merge the Health and Health Services Research Fund (HHSRF) and the Research Fund for the Control of Infectious Diseases (RFCID), which are currently managed by the Food and Health Bureau, into a new Health and Medical Research Fund (HMRF). Yet, the structure of HMRF's secretariat cannot be streamlined after the merger, as the authorities have explained that the funding scope of HMRF will be expanded, and at the meeting of the Finance Committee held in December last year, the authorities also indicated that 10 additional secretariat staff would be required, as many procedures would be involved in vetting and approving research projects, and quarterly interim reports were to be submitted and overall assessments had to be made upon the completion of projects. In this connection, will the Government inform this Council:*

- (a) *of the differences between the specific procedures for vetting and approving research projects under the HHSRF and RFCID, and those under the HMRF which will be set up shortly; whether it has assessed if there is any inadequacy or loophole in the vetting and approving procedures under the HHSRF and RFCID; whether the vetting and approving procedures under the HMRF are formulated after making reference to the experiences of other similar funds; if so, of the details; if not, how the vetting and approving procedures are drawn up;*
- (b) *whether submission of quarterly reports and overall assessments upon the completion of projects are required under the HHSRF and RFCID; if so, how such requirements differ from those under the HMRF, and how the authorities assessed the manpower requirements involved;*
- (c) *given that the administrative expenses on the operation of the HMRF will mainly be borne by the Food and Health Bureau, of the amount to be involved each year; whether there are similar funds the*

*administrative expenses of which are mainly borne by the Food and Health Bureau; if there are, of the names of such funds and the respective amounts involved each year;*

- (d) given that the authorities have estimated that other administrative expenses directly incurred in operating the HMRF, which represent about 1.4% of the fund's total value, will be borne by the HMRF itself, of the specific distribution of the expenses involved; how such distribution of expenses compares with the relevant situation under the HHSRF and RFCID;*
- (e) of the annual additional expenses involved in the provision of additional secretariat staff for the HMRF; the respective amounts of such expenses to be borne by the Food and Health Bureau and the HMRF; and*
- (f) whether it has assessed the economic benefits to be brought by the HMRF in promoting the medical industry in Hong Kong; if it has, of the specific details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, the Food and Health Bureau has proposed to set up a new HMRF, which aims to encourage, facilitate and support local health and medical research to inform health policies, promote population health, strengthen the health system, enhance healthcare practices, advance standard and quality of care, and promote Hong Kong's position as a centre of clinical excellence in the region, through generation and application of evidence-based scientific findings derived from local research in health and medicine.

The existing HHSRF and RFCID administered by the Food and Health Bureau will be consolidated into the HMRF, with an additional injection of \$1,000 million to broaden the funding scope for local health and medical research. Apart from the research projects currently supported by the two Funds, the HMRF will also fund health and medical research in other specific areas in order to provide comprehensive and dedicated support for health and

medical research activities, research infrastructure and research capacity building in Hong Kong.

The consolidated HMRF will continue to be managed by the Food and Health Bureau under the established governance mechanism of the existing Research Funds. The mechanism was developed with reference to the experience of other places in managing similar funds. This includes a Health and Medical Research Council chaired by the Secretary for Food and Health and comprising leading professionals in the local medical and academic sectors. The Research Council will be responsible for overseeing the direction, strategy and scope of health and medical research projects funded by the HMRF.

To cater for the broadened funding scope, the Administration plans to further strengthen the governance mechanism of the HMRF, including engaging more renowned local and overseas experts and setting up a series of Expert Advisory Panels on relevant fields for individual research areas, with a view to providing expert advice on the direction, strategy and operation of the HMRF and overseeing the outcome evaluation of the funded research projects on relevant fields.

My replies to the various parts of the question are as follows:

- (a) The procedures of the HMRF for vetting funding proposals will follow the established vetting mechanism of the existing HHSRF and RFCID, which was developed with reference to the experience of other places in managing similar funds. All proposals for research funding will be subject to a stringent two-tier peer review process established following international practices: first by a Referee Panel comprising overseas referees chosen for their expertise in relevant research areas; second by the Grant Review Board (GRB) comprising a multidisciplinary panel of local experts with technical skills and experience in a wide spectrum of health sciences. Based on objective vetting criteria, they assess the scientific merits of the research projects, applicability to local context and other considerations, such as research ethics and "value for money" of the projects. The GRB will make funding recommendation to the Research Council for consideration and approval.



- (b) The research projects funded by the HMRF after review will be subject to monitoring and evaluation. The relevant mechanism will follow the established procedures of the existing HHSRF and RFCID. The principal applicant of an approved project is required to submit progress reports and certified financial statements at regular intervals. Upon completion of the project, a final report and audited account should be submitted. The final report will also be subject to the stringent two-tier peer review process. The impact of the research funding will be evaluated by the Research Fund Secretariat after completion of the study using a standardized evaluation questionnaire formulated in accordance with internationally recognized measure of health research activities. The questionnaire describes the research outcomes and outputs in terms of knowledge generation, capacity building, engagement with peers and the public and benefits derived. Research reports of successfully completed projects will be disseminated to the community via promulgation by the Food and Health Bureau on its website <<http://www.fhb.gov.hk/grants>> and publication in the Hong Kong Medical Journal which is distributed to relevant healthcare professionals. The Food and Health Bureau will report regularly to the Legislative Council on the utilization of the HMRF. For the manpower requirements involved, please refer to the ensuing parts of the reply.

- (c) to (e)

The current Research Fund Secretariat of the Food and Health Bureau comprising eight staff of various levels and expertise is directly responsible for the management of the HHSRF and RFCID under the Food and Health Bureau and the provision of administrative and technical support services, including initial screening of applications, liaison with applicants, assignment of referees, preparation of documents for Research Council and GRB meetings, as well as monitoring and assessing funded research projects, and so on. The annual recurrent cost of about \$7 million is absorbed by the Food and Health Bureau's provisions.

With the increased commitment and expanded funding scope (to cover advanced medical research in specific fields including paediatrics, neuroscience, clinical genetics and clinical trials) of the HMRF, we expect the workload of the Research Fund Secretariat will increase correspondingly. Based on the funding experience of the existing Research Funds, the annual funding amount to be committed for research under the HMRF is expected to increase to about \$250 million per year on average (about three times the current average annual amount), and the number of applications to be received and processed is correspondingly expected to increase three-fold (from about 300 applications per year to 900 applications per year). To cope with the expected increase in workload, we plan to augment the Secretariat by seven new non-directorate non-civil service staff supporting the operation of the HMRF on a full-time basis and three non-directorate civil servants providing executive and clerical support for the Research Office of the Food and Health Bureau including the Research Fund Secretariat. The additional annual recurrent cost required for the operation of the HMRF is estimated to be \$9 million from 2012-2013 to 2016-2017. This will be absorbed by the Food and Health Bureau's provisions.

The direct operation costs for the HMRF, estimated to be about \$4 million per annum, will be charged to the HMRF. These include, for instance, meeting costs of the Research Council and its constituent panels, boards and committees for members' technical and advisory input to the HMRF; publication of research dissemination reports; maintenance of the operating system and website of the HMRF; publicity, training workshops and seminars; and expenses for other activities necessary to support the operation of the HMRF under the direction of the Research Council.

The details of the breakdown of existing and future staff composition, the annual recurrent costs and the direct operation costs are set out below.

	<i>Existing Research Fund Secretariat (based on past experience)</i>	<i>Future HMRF Secretariat (estimates)</i>
Staffing complement	One Consultant <sup>(1)</sup> One Scientific Review Director <sup>(2)</sup> Two Senior Grant Management/Secretariat Executive <sup>(2)</sup> Three Secretariat Executive <sup>(3)</sup> One Secretariat Assistant <sup>(4)</sup>	Staffing of existing secretariat plus the following additional staff: One Chief Scientific Review Director <sup>(5)</sup> One Chief Grant Management Executive <sup>(5)</sup> Two Senior Grant Management/Secretariat Executive <sup>(2)</sup> Three Grant Management/Secretariat Executive <sup>(3)</sup> The following additional civil service staff will be supporting finance and administration of Research Office of the Food and Health Bureau including the Research Fund Secretariat: One Senior Executive Officer One Executive Officer II One Assistant Clerical Officer
Annual recurrent costs	\$7 million	additional \$9 million
Direct operation costs	\$1.3 million per annum on average	\$4 million per annum on average

Notes:

- (1) Non-civil service position equivalent to Point D1 on the Directorate Pay Scale.
- (2) Non-civil service position equivalent to Senior Executive Officer level.
- (3) Non-civil service position equivalent to Executive Officer I/II level.
- (4) Non-civil service position equivalent to Assistant Clerical Officer level.
- (5) Non-civil service position equivalent to Chief Executive Officer level.

- (f) Health and medical research and development is a key element of the healthcare system. Health and medical research allows better insight into the disease, maximizes treatment outcome, improves quality of care and promotes public health. The initial investment in research leads to a return in terms of less disease, improved population health and in turn enhanced work productivity. Investment in local health and medical research and development and availability of facilities and resources for such purposes are also key factors that help attract and retain talents, both local and overseas, essential to the development of a hub for medical research and clinical excellence, and supportive of a quality medical service sector. This would in turn engender a positive impact on the development of medical services as one of our local industries.

### **Redevelopment of Ferry Pier at Pak Kok Tsuen**

8. **MR TAM YIU-CHUNG** (in Chinese): *President, the pier at Pak Kok Tsuen on Lamma Island (the pier) was built in the 1950s by the villagers with funds collected among themselves, and was redeveloped in the 1970s with the funds sought by the villagers. In the 1990s, the pier, which used to be a jetty used by the villagers for travelling to and from the island as well as transportation of goods, was already transformed into a ferry pier for the "Yung Shue Wan — Pak Kok Tsuen — Aberdeen" route, and the current number of passengers using the pier has reached a few hundreds per day or over a thousand during holidays. In the past 10-odd years, quite a number of the local people from Lamma Island had relayed to me and government departments their request to redevelop the pier into one which is up to standard, safe and is equipped with adequate facilities. I had written to the Development Bureau in 2008 requesting it to follow up on the redevelopment of the pier, and the then District Officer (Islands) replied that he would study and examine the feasibility of redeveloping the pier with the Transport Department and other relevant government departments, but the authorities have not given any reply so far. In this connection, will the Government inform this Council whether the authorities have any plan to redevelop the pier; if they have, of the details (including when the plan commences, the costs to be incurred for the works, as well as the time required for the whole works project counting from its commencement to commissioning of the pier, and so on); if not, the reasons for that; whether the*

*authorities have any measure to improve the safety facilities at the pier, so that they will meet the safety standard for passengers boarding and alighting the ferries?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President, the pier was constructed with funds collected by the villagers in the early years. In 2007, residents of Lamma Island and the Lamma Island (North) Rural Committee proposed that the pier should be reconstructed. As reconstructing the pier or building a new one involved the functions of a number of government departments, the Islands District Office (IsDO) referred the proposal to relevant departments for consideration.

In 2008, IsDO conducted limited repair works at the pier at the request of the local residents, which included repair to the foundation and concrete landing steps and replacement of the rubber fender. The Civil Engineering and Development Department was the works agent and the relevant expenses were paid out of the Rural Public Works Programme. In 2011, to ensure the safety of users, IsDO also carried out repair works to the landing steps of the pier.

In July 2010, the Transport Department conducted a survey on the usage of the pier and the result revealed that the usage was low. The Government had therefore no plan to reconstruct the pier or build a new pier at Pak Kok Tsuen at the time. The Government will continue to monitor the usage of the pier and study the feasibility of reconstructing the pier if the situation so warrants.

### **Regulation of Banking Institutes Engaging in Sale of Endowment Insurance Products**

9. **MR LEUNG KWOK-HUNG** (in Chinese): *President, recently, I have received complaints from members of the public that the sale of endowment insurance by some banking staff to elderly clients has involved practices of unauthorized transfer of personal data and frauds, and so on. In this connection, will the Government inform this Council:*

- (a) *whether the authorities have assessed if the misuse of the clients' personal data by banking staff in the sale of endowment insurance*

*constitutes a breach of the privacy legislation; if they have, of the findings of the assessment;*

- (b) given that under the existing legislation, clients are required to fill out investment profile questionnaires prior to the purchase of investment products from banks, whether this requirement covers endowment insurance;*
- (c) given that the family members of an elderly person complained that although the banking staff clearly knew that the elderly person concerned had already taken out a number of endowment insurance policies, the banking staff still persuaded the elderly person to take out a new endowment insurance policy, and both the Securities and Futures Commission and the Office of the Commissioner of Insurance (OCI) refused to handle the complaint, how the Government prevents occurrence of similar incidents; and*
- (d) given that some complainants have pointed out that while the commissions on the sale of endowment insurance products are very high, some of such products also carry high risks, of the Government's regulation of this kind of products at present?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, my reply to the question is as follows:

- (a) The Hong Kong Monetary Authority (HKMA) expects that authorized institutions (AIs) should at all times comply with the Personal Data (Privacy) Ordinance (the Ordinance) in the collection, use and holding of customer information. They should also comply with any relevant codes of practices issued or approved by the Privacy Commissioner for Personal Data giving practical guidance on compliance with the Ordinance. Generally speaking, whether it is an abuse of the use of customers' personal data if a bank uses such data for marketing endowment insurance products to customers depends on whether the bank has followed the Ordinance and notified the customer the purpose for which the data are to be used, including marketing of insurance products.

- (b) According to the requirements of the Code of Practice for the Administration of Insurance Agents issued by the Hong Kong Federation of Insurers (HKFI), insurance agents and their technical representatives (including bank employees), in the course of marketing life insurance products, are required to conduct needs analysis for their customers and assist them in the completion of "Needs Analysis Form". They should make every reasonable effort to ensure that the policy proposed is suitable for the needs and resources of the potential policy holder as disclosed in the "Needs Analysis Form". They should also explain the cover afforded by each policy recommended to ensure that the potential policy holder understands what he/she is buying.

In addition to the above requirements, potential policyholders are required to complete "Risk Profile Questionnaire" when procuring investment-linked insurance products to ensure that the products they purchase will match their risk-bearing level.

In its circular "Enhanced Regulatory Requirements on Selling of Investment-Linked Assurance Scheme (ILAS) Products" issued on 14 March 2011, the HKMA also reiterated that AIs should perform needs analysis and risk profiling for their customers prior to making any solicitation or recommendation in respect of any ILAS products.

- (c) All life insurance products (including endowment insurance) provide a cooling-off period of 21 days. If policyholders consider the policy purchased not suitable, they have the right to cancel it within the cooling-off period and obtain a full refund of the insurance premium (less a market value adjustment where applicable). In this connection, the HKMA requires that when selling ILAS products, AIs should draw to the attention of their customers their right to cancel the policy in accordance with the cooling-off period arrangement, how they may exercise the right and how the refund will be calculated.

Meanwhile, with a view to enhancing protection for customers who purchase investment-linked insurance products, the OCI and HKFI

have introduced a series of control measures for the sale of these products, including:

- (i) strengthen information disclosure;
- (ii) conduct product suitability assessment for customers;
- (iii) enhance training and examination requirements for insurance intermediaries;
- (iv) require post-sale follow-up (including follow-up call to customers to confirm their understanding of the products and associated risks, as well as audio recording of the telephone call) for vulnerable customers (that is, the elderly, persons with primary education level or below, or those with unstable income);
- (v) restrict gifts for sale promotion; and
- (vi) strengthen consumer education on investment-linked insurance products.

Under the current self-regulatory regime of insurance agents, the Insurance Agents Registration Board (IARB) is responsible for handling complaints against insurance agents. Where an insurance agent is in breach of the requirements under the Code of Practice for the Administration of Insurance Agents, the IARB will take appropriate disciplinary action against the insurance agent. This may include issuance of written reprimand, suspension or termination of the appointment of an insurance agent.

The HKMA has provided additional guidance to AIs on the control measures which should be adopted when selling ILAS products. AIs should take all reasonable steps to ensure that the recommended ILAS product is suitable for a customer having regard to the customer's circumstances, such as investment objectives and horizon, investment experience, risk tolerance level, affordability, asset concentration, and so on. AIs should not recommend ILAS



products where a customer indicates that he/she does not need/want insurance/investment products. The HKMA has also required AIs to implement the following additional safeguards when selling ILAS products to elderly customers:

- (i) AIs should alert elderly customers of the relatively long lock-in period and ensure that the product is suitable for the customers. AIs should allow sufficient time for these customers to consider the product or seek advice from their relatives or friends where necessary; and
- (ii) AIs should exercise extra care in selling ILAS products to elderly customers. More than one front-line staff member should handle the sale to such a customer (unless the customer opts out of this arrangement whilst proper audit trail is maintained on this opt-out decision).

The HKMA requires AIs to monitor and put in place stringent control procedures to handle high-risk areas and special circumstances related to the sale of ILAS products, such as transactions with the elderly or other vulnerable customers, tenor and/or risk mismatch transactions, affordability issues or high asset concentration. AIs should also use "mystery shopper" programme to test the ILAS product selling process.

- (d) Insurance agents have to comply with all the relevant requirements of the IARB when they sell life insurance products (including endowment insurance). These requirements include conducting needs analysis for their customers, following the relevant illustration standard on policy benefits, complying with the Code of Practice for Life Insurance Replacement, and following the requirement for cooling-off period. Where an insurance agent is in breach of the requirements under the Code of Practice for the Administration of Insurance Agents, the IARB will take appropriate disciplinary action against the insurance agent.

The OCI has all along been taking a close interest in the sales behaviour of insurance agents (including bank employees).

Whenever the OCI receives a complaint in this regard, it will not only refer the case to the IARB, but will also follow up the matter with the insurance company concerned.

### **Industrial Accidents in Construction Industry**

10. **MR CHAN KIN-POR** (in Chinese): *President, a serious industrial accident occurred recently at a works site of the Government's Water Supplies Department (WSD) where a worker was killed in an explosion on his first day of work. Industrial accidents occurred frequently in Hong Kong's construction industry in recent years and just last month, a worker was crushed to death by a crane at a hospital's construction site, and the body of a worker was pierced through by two steel reinforcement bars in another accident, and so on. Fatal industrial accidents involving construction workers in Hong Kong last year surged by 144% as compared to those in 2010, and the fatal accident rate per 1 000 construction workers was as high as 0.4, which was nearly 17 times the rate of only 0.024 in the United Kingdom in 2010. In addition, the accident rate per 1 000 construction workers in Hong Kong in 2010 was 52.1, which was also higher than the rate of 40 in the United States in the same year by over 30%. Following the commencement of a number of major infrastructure projects (including the Hong Kong-Zhuhai-Macao Bridge, and so on) one after another in the coming year, as well as the implementation of the mandatory requirements for inspection of old buildings, the number of renovation and repair and maintenance works will increase, with regard to enhancing the safety of construction workers in Hong Kong, will the Government inform this Council:*

- (a) *of the reasons why the accident/injury rates per 1 000 workers in the construction industry in Hong Kong are still much higher than those in foreign countries;*
- (b) *given that in the first three quarters last year, the Labour Department (LD) had stepped up its special enforcement efforts whereby the number of inspections conducted and the number of warnings issued increased respectively by about 10% and 20% when compared to those in the same period of 2010, of the reasons why the number of fatal accidents in the construction industry still increased substantially, and whether such reasons include the*

*current enforcement efforts not being fast enough, broad enough and sufficiently in-depth;*

- (c) given that at present there is no regulation of workers' overtime work and employers and employees are left to work it out between themselves, and it has been reported that the aforesaid accident of a worker being seriously injured by steel reinforcement bars piercing through his body was suspected to be related to the worker having to working overtime for a long period and he did not have enough rest, whether the authorities will consider amending the labour law to regulate the overtime working hours for workers engaged in high-risk industries, so as to ensure that workers can have enough rest; and of the respective numbers of industrial accidents resulting in injuries and deaths in the construction industry last year which occurred when the workers were working overtime;*
- (d) given that the construction industry has engaged many foreign workers in recent years, and a worker who died after being hit on the head by a falling stone at an MTR construction site last year was a Nepalese, while a bar bender who slipped and fell to his death at a construction site in Ma On Shan was a Vietnamese, whether the authorities have reviewed if the occupational safety support provided to foreign workers in the construction industry at present is adequate;*
- (e) given that among the types of industrial accidents in the construction industry, the numbers of those caused by "slip, trip or fall on same level" and "stepping on object" are increasing of substantially, whether the authorities will put forward effective improvement measures as soon as possible; and*
- (f) given that under the existing Construction Sites (Safety) Regulations (Cap. 59 I), workers are not required to conduct tests for underground gases before carrying out general excavation works, whether, after the aforesaid serious industrial accident at a works site of the WSD resulting in a worker killed and three others injured, the authorities have reviewed if there is any inadequacy in the Regulations?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, my reply to Mr CHAN Kin-por's question is set out below:

- (a) Different countries/regions have different definitions of construction industry, calculations of the construction workforce and requirements for accident reporting. For example, in some countries, the definition of construction industry only includes those construction projects with contract sums exceeding a specified amount, construction workers do not include imported workers, or reporting of industrial accidents is not a statutory requirement. It is therefore inappropriate to compare Hong Kong's industrial accident figures or accident rate of the construction industry with those of other countries/regions. Indeed, in the past decade (between 2001 and 2010), there had been a continuous improvement to the safety performance of Hong Kong's construction industry. The number of industrial accidents in the construction industry dropped from 9 206 to 2 884 (a decline of 68.7%) and the accident rate (per 1 000 workers) from 114.6 to 52.1 (a decline of 54.5%)
- (b) We are very concerned about the increase in construction industry accidents in 2011. The number of industrial fatalities was 22, compared with nine in 2010. We noted that the commencement of major infrastructure projects as well as the forthcoming implementation of mandatory requirements for the inspection of old buildings would pose challenges to the occupational safety and health performance of the construction industry. The LD has stepped up inspections and enforcement actions since early 2011. In addition to 40 000-plus regular inspections each year, the LD launched in 2011 a total of six territory-wide special enforcement operations focusing on new works as well as repair, maintenance, alteration and addition (RMAA) works, with around 8 200 workplaces inspected, about 410 Suspension Notices/Improvement Notices issued (an increase of about 93% over 2010), and some 290 prosecutions initiated (an increase of about 34% over 2010). Through these special enforcement operations, the LD has put across the clear message to the industry that the LD's inspecting officers would take immediate enforcement action without warning upon

discovery of breaches of the occupational safety legislation which could result in injuries or death of workers.

Regarding the commencement of major infrastructure projects, the LD has established a special task force to step up inspections and enforcement action, urge contractors to implement safety management systems on construction sites and integrate occupational safety and health elements into their method statements through participating in project preparatory meetings and site safety committees meetings. In addition, the LD has stepped up area patrols and inspections of RMAA works during non-office hours to deter contractors from adopting unsafe work practices.

- (c) To protect the occupational safety and health of employees, the LD has issued a "Guide on Rest Breaks" to remind employers and employees of the importance of rest breaks. Since no single pattern of rest break arrangement can suit the divergent operations of various trades and businesses, the guide encourages employers, in consultation with employees, to work out rest break arrangements suitable for the employees as well as meeting operational needs of the business. The LD has been publicizing the guide through different channels (including Internet) and promotional activities. The LD does not compile separate statistics on the number of industrial accidents which occurred when the workers were working overtime.
- (d) To enhance the occupational safety and health awareness of foreign construction workers, the LD has produced construction safety and health publications and promotional materials in Urdu, Bahasa Indonesia, Hindi, Thai, Nepali and Filipino, in addition to Chinese and English for free distribution to ethnic minorities. The publications are uploaded to the LD's homepage. The LD has also collaborated with the ethnic minorities services centres, non-government organizations, trade associations and unions to organize seminars, talks, workshops and other promotional functions, as well as visits to construction sites to convey safety message directly to ethnic minorities workers.

- (e) The LD has analysed the accident statistics of last year and will strengthen enforcement, publicity and promotion this year, targeting the high-risk processes at construction sites such as work-at-height and lifting operations. The number of accidents related to "slip, trip or fall on same level" and "stepping on object" in the first half of 2011 were higher than the average figures over the same period in the past five years by 14.5% and 12.7% respectively. Most of these accidents involved minor injuries and were mainly due to improper housekeeping at construction sites. The LD will strengthen relevant publicity and enforcement efforts this year.
- (f) The safety of excavation work on construction sites is governed by the Factories and Industrial Undertakings Ordinance (FIUO) (Cap. 59) and its subsidiary regulations, Construction Sites (Safety) Regulations (Cap. 59 I). According to section 6A of the FIUO, contractors and employers have the obligation to provide and maintain a safe system of work for hazardous work processes. Contractors therefore have the duty to conduct assessments of risks associated with electric power, explosive or flammable gases, pressurized pipes, and so on, formulate safe method statements and implement relevant safety measures before engaging in excavation works.

### **Tenants Purchase Scheme**

11. **MR WONG KWOK-KIN** (in Chinese): *President, the authorities implemented the Tenants Purchase Scheme (TPS) to assist public rental housing (PRH) tenants in purchasing their own homes from 1998 to 2002. Quite a number of PRH tenants have relayed to me that they wish the authorities would re-launch TPS, and they also pointed out that it was rumoured at that time that their residing PRH estates had been included in TPS by the authorities, but this was dropped due to a change in the Government's housing policies in November 2002. In this connection, will the Government inform this Council:*

- (a) *of the total number of residents in each of the 39 public housing estates with flats sold under TPS at present, and the respective*

*numbers and percentages of persons residing in rental flats and ownership flats;*

- (b) of the number of ownership flats in each TPS estate which had been resold in the past five years; the percentage of such number in the total number of ownership flats in that estate; whether any of these flats had been resold more than once; if so, of the number of such flats and the times they had been resold;*
- (c) in November 2002, when the then Secretary for Housing, Planning and Lands announced the "Statement on Housing Policies" of the Government, apart from Phase 6 TPS which was launched in 2003, of the number of PRH estates which had been included in TPS but yet to be officially announced or of which the studies on the sale of these estates had commenced, together with a list of the names and types of such estates and the years in which they were originally scheduled for sale; and*
- (d) given that quite a number of residents claimed that they were willing to accept flat allocation at or transfer to new PRH estates of higher rental at that time mainly because it was rumoured and some staff of the Housing Department (HD) even hinted that the authorities would sell the flats of the estates concerned, but their hope of home ownership was dashed due to the subsequent change in government policies, whether the authorities will consider selling the PRH flats which had been included in TPS at that time but yet to be announced or the PRH flats on which preparatory studies on the sale of them had commenced, so that residents who have moved into such flats with the hope of home ownership through TPS can purchase the flats they live in; if not, of the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, the Hong Kong Housing Authority (HA) introduced the TPS in 1998 to enable PRH tenants to buy their flats at discounted prices, thereby helping to achieve the then policy objective of attaining a home ownership rate of 70% in 10 years' time.

In 2002, the Government re-positioned the housing policy and decided to continue with the provision of PRH to low-income families who cannot afford

private rental accommodation, with a target of maintaining the average waiting time (AWT) for general Waiting List (WL) applicants for PRH at around three years. The target home ownership rate was dropped. In line with this policy, the HA decided to halt the TPS.

My answer to the four-part question is as follows:

- (a) According to the record of the HD, there were 176 000 authorized persons living in the rental flats of TPS estates as at end September 2011. Relevant statistics are at Annex A. We do not have overall statistics on those residing in the sold flats of TPS estates.
- (b) In the past five years, among the 39 TPS estates, the transaction volume among the sold flats varies between 370 to 600 transactions per year, including transactions under the Secondary Market and the Open Market. Relevant statistics are at Annex B. We do not have a breakdown of statistics by individual flats and the number of times that the flats were resold.
- (c) and (d)

When the TPS was launched, the HD conducted research into the feasibility of putting up PRH estates for sale in order to draw up proposals for consideration by the HA. Upon submission of proposals on sale arrangements and subsequent approval by the HA, the sale arrangements, including the list of estates to be included in the TPS, were then publicized. In line with the government policy, the HA later decided to cease the sale of PRH flats under the TPS except for those under Phases 6A and 6B which had already been approved and announced. The HD also ceased studies into the feasibility of putting up other PRH estates for sale.

Recovered PRH flats are an important source of supply for WL applicants. PRH flats, once sold to the tenants, cannot be reallocated, thereby affecting the turnover and supply of PRH flats and undermining the HA's ability to maintain the AWT of general WL applicants at around three years. There are currently over 165 000 WL applications for PRH. Any measure that affects PRH allocation by the HA to WL applicants is undesirable.



Moreover, since the introduction of the TPS, the management of some estates has become complicated. The HA's estate management policies cannot be fully implemented in the TPS estates, resulting in tenants of the TPS and PRH estates being subject to regulation under different sets of management measures. This is an unsatisfactory situation. For example, the Marking Scheme for Estate Management Enforcement in Public Housing Estates is not implemented in the common areas of the TPS estates at present. The HA can only deal with the misdeeds committed in rental flats, and hence cannot exercise comprehensive and effective control over the environmental hygiene of the TPS estates.

In view of the above reasons, we do not intend to re-launch the TPS. That said, under the current policy, the sitting tenants of the TPS estates can still opt to buy the flats in which they are residing. PRH residents who are interested in home ownership may also buy TPS and HOS flats under the Secondary Market where the premium of flats has not yet been paid.

## Annex A

Authorized population in rental units in TPS estates  
(as at end September 2011)

<i>Name of Estate</i>	<i>Authorized population*</i>
Cheung Fat Estate	3 400
Cheung On Estate	4 000
Cheung Wah Estate	6 100
Choi Ha Estate	1 500
Chuk Yuen (North) Estate	4 000
Fu Heng Estate	5 500
Fu Shin Estate	7 200
Fung Tak Estate	3 000
Fung Wah Estate	1 100
Heng On Estate	3 300
Hin Keng Estate	2 600

<i>Name of Estate</i>	<i>Authorized population*</i>
Hing Tin Estate	1 700
Kin Sang Estate	1 800
King Lam Estate	3 800
Kwai Hing Estate	900
Kwong Yuen Estate	3 800
Lei Cheng Uk Estate	3 500
Lei Tung Estate	6 800
Leung King Estate	8 600
Long Ping Estate	14 000
Lower Wong Tai Sin (I) Estate	4 400
Nam Cheong Estate	2 100
Po Lam Estate	6 200
Pok Hong Estate	3 700
Shan King Estate	17 000
Tai Ping Estate	1 300
Tai Wo Estate	6 000
Tak Tin Estate	4 500
Tin King Estate	3 300
Tin Ping Estate	4 200
Tsing Yi Estate	2 100
Tsui Lam Estate	5 800
Tsui Ping (North) Estate	7 800
Tsui Wan Estate	1 700
Tung Tau (II) Estate	6 100
Wah Kwai Estate	2 700
Wah Ming Estate	5 500
Wan Tau Tong Estate	1 800
Yiu On Estate	3 600
Total	176 000

Note:

\* Figures are rounded to the nearest hundred and may not add up to the total due to rounding.

## Annex B

## Transaction record of sold flats under TPS (as at end September 2011)

<i>Year</i>	<i>Transactions under the Secondary Market Scheme</i>	<i>Transactions in the Open Market</i>	<i>Total</i>	<i>Proportion of number of transactions to number of sold flats in the TPS estates</i>
2007	226	145	371	0.32%
2008	202	183	385	0.33%
2009	190	206	396	0.34%
2010	229	371	600	0.51%
2011*	168	214	382	0.32%

Note:

\* Figures as at end September 2011

### Installation of CCTV Cameras in MTR Train Compartments

12. **MR WONG SING-CHI** (in Chinese): *President, it has been reported that the first Mainland-assembled train of the MTR Corporation Limited (MTRCL) came into service at the end of 2011, which is equipped with a closed circuit television (CCTV) monitoring system with four cameras on each train car and a total of 32 cameras in the whole train. According to the Office of the Privacy Commissioner for Personal Data (PCPD), it has not received any written enquiry about the use of CCTVs from the MTRCL. In this connection, will the Government inform this Council if it knows:*

- (a) *whether the MTRCL has informed the PCPD of and made enquiry about the CCTV monitoring system in its first Mainland-assembled train or other trains in service in the past or at present; if it has, of the details; if not, the reasons for that; whether at present there is any procedure or guideline regulating the installation and use of CCTVs on public transport vehicles (for example, whether the relevant government departments or the PCPD must be notified);*

- (b) *from 2007 onwards, the number of trains in service on each MTR rail line in each year and among them, the number and percentage of trains with CCTV monitoring system installed (list by year and rail line); whether the MTRCL has any plan to install CCTV monitoring system on train cars which are not yet equipped with such system; if it has, the details; if not, the reasons for that;*
- (c) *the selection mechanism adopted and the conditions taken into account by the MTRCL in acquiring trains; if CCTV is a necessary condition;*
- (d) *given that the MTRCL has indicated that the CCTV monitoring system is mainly used for coping with emergency incidents, and the recorded images will be erased weekly according to the usual practice, while access to these images is restricted to certain categories of staff, yet according to the PCPD, organizations which plan to use CCTVs should first consider other less privacy-intrusive alternatives, post clear notices near CCTV cameras to inform the public of the CCTV monitoring and the reasons for such monitoring, as well as erase the recorded images according to a schedule and ensure safe custody of the records, how the MTRCL defines the use for coping with emergency incidents; what mechanism has been put in place by the Government and the MTRCL to ensure that the CCTV monitoring systems will not be used beyond the original scope and extent, and to prevent any misuse or abuse of the CCTV monitoring systems; whether the MTRCL has considered alternative means, and whether it has posted notices;*
- (e) *as it has been reported that according to the results of an online survey conducted earlier by a concern group for sex crimes occurred on public transport vehicles to collect public views on the MTRCL's measures against sexual violence, most respondents consider that the MTRCL should step up monitoring measures such as installing CCTVs in train compartments, whether the MTRCL will use the CCTV monitoring system to curb sex crimes; and*
- (f) *whether CCTVs are installed in the train cars or compartments of various kinds of public transport vehicles in Hong Kong; if so, of the*

*details, together with the respective numbers of compartments in various categories of public transport vehicles which are equipped with CCTVs and the percentages of such numbers in the total number of train cars or compartments of the respective categories; whether the operators of these public transport vehicles have enquired the PCPD in respect of the installation of CCTVs; if they have, of the details; if not, the reasons for that; whether public transport operators which have not installed CCTVs on their vehicles have any plan to install such devices?*

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

- (a) According to the Constitutional and Mainland Affairs Bureau, the Personal Data (Privacy) Ordinance (PDPO) does not require public transport service providers which intend to install CCTV system in their facilities to submit their proposal to the PCPD for consideration.

Where the use of a CCTV system involves compilation of personal data, the data user would be required to comply with requirements under the PDPO. In this connection, the PCPD has issued "Guidance on CCTV in Surveillance Practices" to organizations of various sectors in July 2010, which provides practical guidance on matters such as proper consideration to be given in deciding whether or not to install CCTV system, how it may be installed to minimize intrusion into personal data privacy, and the proper handling of images recorded.

The main purpose for the MTRCL to install CCTV system in MTR train compartments is to enable the train captain to immediately understand the situation in the train compartment through the CCTV system and provide prompt assistance, when passengers activate the in-train intercom where necessary. Notices have been put up in train compartments to inform passengers that the CCTV system has been installed on trains.

According to the MTRCL, the relevant principles for compilation of personal data under the PDPO have been taken into consideration when installing CCTV in train compartments. At the same time, the MTRCL has stringent regulatory procedures in place allowing only authorized persons to review CCTV recordings when necessary.

- (b) The existing number of trains in service on each MTR line and the number of trains installed with CCTV system are set out in the Annex.

The MTRCL does not have plan to install CCTV system in trains currently without CCTV.

- (c) The new trains purchased by the MTRCL have been designed according to international safety standards and the MTRCL's usual stringent requirements for performance and safety. All of the trains' systems and their integrated operation are professionally designed to ensure compatibility with the fail-safe operation of the existing MTR system. The MTRCL will also introduce appropriate facilities with the advancement of technology when purchasing new trains to enhance operational efficiency and service quality.

Currently, CCTV equipment is installed on all new trains purchased by the MTRCL. As a matter of fact, other international railway operators also include CCTV as a standard technical specification when purchasing new trains for urban railway systems.

- (d) and (e)

Under emergency circumstances, train captains can immediately understand the situation inside train compartments to provide assistance should passengers activate the in-train intercom system.

If recording function is available in the CCTV system installed in train compartments, recordings are made in a continuous loop, with old images automatically being covered up by new recordings after a certain number of days, and old images are automatically removed.

At the same time, the MTRCL has in place stringent regulatory procedures to ensure only authorized persons can review the CCTV images when necessary. Under special circumstances, such as cases involving crime or personal safety of passenger, the MTRCL will provide video clips on request from the police or other law-enforcement agencies for investigation purposes. At present, notices are put up in train compartments to inform passengers that CCTV system has been installed.

- (f) At present, there are around 5 800 franchised buses in Hong Kong, of which around 1 580 buses (that is, about 27%) have been installed with CCTVs in their compartments to facilitate bus captains to monitor the safety and alighting of passengers. As long as the CCTVs installed will not affect the structure or safety of the franchised buses, franchised bus companies may install such devices without the need to make prior application to the Transport Department (TD). The TD will inspect the CCTV installation during the routine vehicle examination, so as to ensure that the installation will not affect driving safety.

As for taxis, the taxi trade may, subject to their own operating conditions, decide whether to install CCTV system inside the taxi compartments without making prior application to the TD. According to the TD, the trade's installation of CCTVs in taxi compartments is not common. However, the taxi trade has to ensure that such installation will not obstruct or easily cause injuries to both drivers and passengers. The TD will inspect the CCTV installation during the routine vehicle examination, so as to ensure that the installation will not affect driving safety.

Besides, all of the existing 163 trams are installed with CCTV system in the tram compartments to facilitate motormen to monitor passengers' boarding at the rear gate. The public light bus (PLB) trade in general has not installed CCTV system in PLBs and does not have any plan at present to install such devices.

The TD has reminded public transport trades to observe the relevant requirements under the privacy legislation and make reference to the

guidelines provided by the PCPD in their daily use of CCTV systems.

## Annex

The number of trains in service and the number of trains installed with CCTV system on different MTR lines  
(as at 31 December 2011)

	<i>Kwun Tong Line*</i>	<i>Tsuen Wan Line</i>	<i>Island Line</i>	<i>Tung Chung Line</i>	<i>Tseung Kwan O Line</i>	<i>Disneyland Resort Line</i>	<i>East Rail Line</i>	<i>Ma On Shan Line</i>	<i>West Rail Line</i>	<i>Light Rail</i>
Number of trains	34	32	29	16	13	3	37	16	28	139
Number of trains installed with CCTV system	2	0	0	0	0	3	8	16	28	21
Proportion	5.9%	0%	0%	0%	0%	100%	21.6%	100%	100%	15.1%

Note:

\* Two of the 10 new trains recently purchased by the MTRCL have been put into service for Kwun Tong Line. The remaining eight trains will be put into service in due course.

### Fine Particulate Air Pollution

13. **MS AUDREY EU** (in Chinese): *President, the World Health Organization (WHO) and many academic studies have pointed out that fine suspended particulates (that is, particulates of a size smaller than an aerodynamic diameter of 2.5 microns) (PM2.5) have greater impact on the health of a person than respirable suspended particulates (that is, particulates of a size smaller than an aerodynamic diameter of 10 microns). The existing Air Quality Objectives (AQOs) in Hong Kong has not included PM2.5 as a pollutant that requires to be measured, and an indicator of the concentration of PM2.5 in the air has not been formulated. In this connection, will the Government inform this Council:*

- (a) *whether the Government has measured the concentration of PM2.5; if it has, of the details; whether this has been released to the public; if this has not been released, of the reasons for that; if it has not measured the concentration, of the reasons for that;*



- (b) *whether the Government has any plan to formulate an indicator of the concentration of PM2.5; if it has, of the details; if not, the reasons for that; and*
- (c) *when the Government will update the AQOs which have been in use for nearly 25 years?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President,

- (a) To understand the situation of fine suspended particulates (PM2.5) in Hong Kong, the Environmental Protection Department has started monitoring the pollutant in 1999 at three of the general air monitoring stations at Tap Mun, Tung Chung and Tsuen Wan together with the Central roadside station. The Yuen Long general station was later added in 2005. We have also released the relevant monitoring results to external parties. In addition, by the end of last year, we have completed the installation of PM2.5 samplers in all 14 monitoring stations in Hong Kong. We are now testing the samplers and expect that they will be in full operation in the first quarter of this year.
- (b) The Government has proposed in the public consultation document on Air Quality Objectives Review to introduce a set of new objectives for PM2.5. After taken into consideration the WHO guidelines and the unique situation of Hong Kong under which particulates concentrations are strongly influenced by regional factors, we propose that Hong Kong should, as a start, adopt WHO's Interim Target-1 for PM2.5 annual and 24-hour standards, that is, 35 ug per cu m and 75 ug per cu m respectively, as the PM2.5 objectives.
- (c) Updating of AQOs is not so much about changing the limit values as implementing a series of related improvement measures so as to attain the ultimate goal of air quality improvement. The Government endeavours to implement air quality improvement measures that are generally supported by the community, including

tightening from 2015 onwards the emission caps on the power sector by 34% to 50% as compared to those for 2010; subsidizing the early replacement of Euro II diesel commercial vehicles; carrying out with franchised bus companies a trial of retrofitting on Euro II and III buses with Selective Catalytic Reduction devices; funding franchised bus companies to try out hybrid buses and electric buses; setting up a \$300 million pilot Green Transport Fund; introducing legislation to promote energy efficiency for electrical appliances and buildings; setting up the Kai Tak District cooling system, and so on. On the other hand, some improvement measures, such as changing the fuel mix for power generation, rationalization of bus routes, and so on, which involve complex issues and have far-reaching implications, would require detailed study and comprehensive planning. The Government is now working on the final proposal to update the AQOs for submission to the Legislative Council for deliberation as soon as possible.

### **Current Situation on Elimination of Sex Discrimination in Hong Kong**

14. **MS EMILY LAU** (in Chinese): *President, the Equal Opportunities Commission (EOC) is responsible for implementing the Sex Discrimination Ordinance (Cap. 480) (SDO) to eliminate discrimination on the grounds of sex, marital status and pregnancy. In this connection, will the Executive Authorities inform this Council:*

- (a) *whether they know the respective numbers of complaints involving discrimination of various types under the SDO received by the EOC in the past three years and the annual changes in such numbers;*
- (b) *whether they know if the EOC has initiated any education, publicity, and enforcement action with specific focuses on different types of complaints, with a view to reducing sex discrimination; and the effectiveness of such actions;*
- (c) *whether they know if the EOC and the Education Bureau will conduct surveys on whether secondary schools, primary schools,*

*kindergartens and special schools have drawn up and implemented policies for the elimination of sex discrimination (including sexual harassment), in order to find out the number and names of schools which have such policies in place, as well as the situation of their implementation of such policies; if there is any school which does not have such policies in place, how the Education Bureau will follow up; in case of incidents of sex discrimination or sexual harassment occurring at educational institutions, of the role and responsibilities of the Education Bureau;*

- (d) whether they know if the EOC and the Education Bureau will conduct surveys on the application and utilization rates of the Brief Outline on the Policy on Preventing Sexual Harassment issued by the Education Bureau at various educational institutions;*
- (e) given that Hong Kong has not yet formulated a code of practice on education under the SDO, whether they know if the EOC and the Education Bureau will follow up on a timetable for formulating such a code;*
- (f) whether the Education Bureau will consider listing gender equality and prevention of sexual harassment as compulsory subjects under teacher and principal training programmes; and*
- (g) whether they have conducted any survey and review on public awareness of sex discrimination; if they have, of the details?*

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

- (a) In the past three years, the EOC has handled 344, 303 and 262 cases respectively under the SDO. The overall number of cases has been decreasing, and cases relating to pregnancy discrimination account for about 50% of the cases. The figures and the annual changes are listed in the table below.

	<i>2009 Number of cases</i>	<i>2010 Number of cases (change over year)</i>	<i>2011 Number of cases (change over year)</i>
Pregnancy discrimination	173	150 (-13.3%)	130 (-13.3%)
Sexual harassment	109	83 (-23.9%)	64 (-22.9%)
Marital status discrimination	5	2 (-60%)	2
Others	57	68 (+19.3%)	66 (-2.9%)
Total	344	303 (-11.9%)	262 (-13.5%)

- (b) Under the SDO, the most commonly handled cases by the EOC include pregnancy discrimination, other forms of sex discrimination, and sexual harassment. To enhance public awareness on the issue of gender equality, besides handling complaints, conducting conciliation or litigation under the SDO, the EOC also conducts education and promotion through different channels, including dissemination of the relevant messages to the public through television programmes, radio programmes, the Internet and publications. The EOC also organizes different publicity and education activities, training sessions, talks, drama performances and exhibitions, focusing on primary and secondary schools, universities, voluntary agencies, public and private organizations and the media, and so on.

Regarding the effectiveness of its work, the EOC conducts questionnaire surveys during its publicity and education activities to assess their effectiveness. The surveys showed a very positive outcome on the effectiveness of the EOC's work. For example, in 2010 and 2011, according to the surveys conducted on participants of the EOC's training activities, about 97% of the participants accept the concept of equal opportunities in the workplace.

- (c) and (d)

The Education Bureau has reminded schools that in formulating and reviewing their policies, they should comply with the various

anti-discrimination ordinances and observe the principles of equal opportunities to avoid sex or any other form of discrimination. In response to the implementation of the SDO in 1996, the Education Bureau issued a circular to schools urging them to comply with the requirements in the SDO. In 2003, the Education Bureau also issued a circular with specific guidelines on the principles of equal opportunities and elimination of discrimination. Following the amendment of the definition of "sexual harassment" under the SDO in 2008, by which a conduct of sexual nature was extended to cover educational settings, the Education Bureau correspondingly issued a circular to remind schools of the amended provisions of the SDO, and urged them to take reasonable and practicable measures, including formulating relevant school policies, setting up mechanisms and procedures for handling complaints and arranging training/seminars for teachers and students, so as to comply with the requirements of the law.

Other than issuing circulars and guidelines for schools to formulate relevant school-based policies having regard to their own circumstances and needs, the Education Bureau staff also advise schools during visits and day-to-day contact, or issue letters when necessary, on administrative matters including the need to eliminate sex discrimination in schools and implement relevant measures. As far as the Education Bureau is aware, schools implement the policy on the prevention of sex discrimination (including sexual harassment) in different ways. Some of them have drawn up written policy documents while some have drawn the attention of their staff through daily routines (such as staff meetings) to the requirements of the SDO and the procedures for handling complaints about sex discrimination (including sexual harassment). The Education Bureau does not have statistics on the number of secondary schools, primary schools, kindergartens and special schools which have formulated a policy to prevent sex discrimination (including sexual harassment).

The EOC has been liaising and working with the Education Bureau on matters relating to education under the anti-discrimination

ordinances, endeavouring to disseminate information on anti-discrimination (including sex discrimination) and equal opportunities to schools, teachers and students, through "EOC Newsletter", "News from EOC" and a dedicated website on "Preventing Sexual Harassment on Campus" which specifically targets school personnel. To enhance the awareness of the public (including schools) on the SDO, the EOC regularly organizes free seminars on anti-discrimination ordinances to raise the sensitivity of participants on the related topics. The EOC also provides different services (such as running workshops for individual schools) on requests of the schools to help them explore relevant prevention measures and procedures. If schools have any questions about anti-discrimination ordinances or during handling of relevant cases, they may seek assistance from the EOC.

The situation of sex discrimination and sexual harassment in the area of education as reported to the EOC was not serious in recent years. The EOC has not conducted surveys on whether secondary schools, primary schools, kindergartens and special schools have drawn up and implemented policies for the elimination of sex discrimination (including sexual harassment), nor on the application and utilization rates of the Brief Outline on the Policy on Preventing Sexual Harassment at various educational institutions.

If the Education Bureau is aware of an incident of sex discrimination or sexual harassment in an educational institution, it will contact the school concerned for details and provide assistance. With the consent of the victim, the case could be referred to the EOC. If the case is of a criminal nature, the school should report it to the police. Moreover, any person may seek assistance from or lodge a complaint with the Education Bureau about issues/cases concerning sex discrimination (including sexual harassment) in schools. If the staff of government schools are involved and both the complainant and complainees are serving civil servants or non-civil service contract staff, the Education Bureau will handle the case/complaint in accordance with the guidelines issued by the Civil Service Bureau.

- (e) The replies to parts (c) and (d) above have listed the efforts to promote compliance with the SDO in the area of education, and the situation of sex discrimination and sexual harassment in the area of education as reported to the EOC was not serious in recent years. The EOC does not have a timetable for the formulation of a relevant code of practice on education at present. The EOC will continue to monitor the situation, and, when such need arises in future, will consider the formulation of a code of practice on education.
- (f) To enhance the effectiveness of implementing sex education in schools (including topics on the concept of gender equality and prevention of sexual harassment), the Education Bureau frequently organizes and commissions educational institutes to run professional development programmes on relevant topics to enhance teachers' knowledge, skills and abilities. The Education Bureau also encourages principals and teachers who have completed the programmes to share and exchange their professional knowledge in this area with other teachers. In addition, starting from the 2002-2003 school year, the Education Bureau requires all newly-appointed principals to undergo in the first two years of their principalship a designated professional development programme, which includes inviting EOC staff to deliver a topic on "Equal Opportunities and Education". The topic covers information about the various anti-discrimination ordinances, including the definition of sex discrimination, sexual harassment and the enforcement of the SDO and facilitates the newly-appointed principals to be aware of the need to avoid breaching the ordinances in managing the school and to properly handle such cases when necessary. The Education Bureau will continue to provide appropriate training programmes for school staff according to the development and needs of society.
- (g) To assess the attitude of students towards gender stereotyping and sexual harassment, the EOC has commissioned an institute to conduct a "Study on Students' Sexual Attitudes and Views on Sexual Harassment" in December 2010. The study is underway and it is expected that the outcome will be announced in late 2012.

**Protecting Rights of Consumers who Make Online Purchases**

15. **MR CHEUNG HOK-MING** (in Chinese): *President, online purchases have become increasingly popular and quite a number of shopping websites are set up outside Hong Kong. Regarding the protection afforded to consumers who make online purchases, will the Government inform this Council:*

- (a) of the number of complaints involving online purchases received by the Government in the past two years; and among them, the number of those involving offshore shopping websites;*
- (b) of the measures currently in place to monitor the sale of products which do not meet the standards stipulated in the laws of Hong Kong to members of the public in Hong Kong through shopping websites; and*
- (c) in the long run, whether it will consider enacting legislation dedicated to monitoring online trades so as to protect consumers?*

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

- (a) In 2010 and 2011, the Customs and Excise Department (C&ED) received 22 complaints about products purchased online, 13 of which involved websites outside Hong Kong's jurisdiction.*
- (b) At present, the Consumer Goods Safety Ordinance (Cap. 456) and the Toys and Children's Products Safety Ordinance (Cap. 424) regulate the safety of products available in the market in Hong Kong. Under these two Ordinances, toys, specified children's products and other general consumer goods manufactured or supplied in Hong Kong, or imported into Hong Kong, must comply with the safety requirements or standards specified by the Ordinances. Subject to cases falling within Hong Kong's jurisdiction, the two Ordinances apply to sale activities conducted physically and online.*



The C&ED is responsible for enforcing the above two Ordinances. It will take appropriate action (including purchasing specimens for safety tests) when it comes to its attention that products available in Hong Kong are suspected to be unsafe. If any products fail to meet the safety requirements or standards specified by the Ordinances, the C&ED will warn or prosecute suppliers.

I wish to point out that consumer transactions conducted outside Hong Kong's jurisdiction are subject to risk. For instance, the extent of protection accorded to consumers may be different from Hong Kong, and Hong Kong's enforcement agencies do not have authority over activities outside Hong Kong's jurisdiction.

- (c) Consumer protection legislation in Hong Kong applies to sale activities conducted physically and online. We do not consider it necessary to enact legislation specifically for monitoring online trade. Of course, Hong Kong legislation in general does not regulate conduct outside Hong Kong.

### **Reducing Use of Non-woven Shopping Bags**

16. **MISS TANYA CHAN** (in Chinese): *President, after the completion of the consultation exercise on the Extension of the Environmental Levy Scheme on Plastic Shopping Bags (the Scheme) by the Government last year, the Environmental Protection Department (EPD) pointed out in its paper submitted to this Council that close to 70% of the respondents supported the extension of the Scheme. It has been reported that since the implementation of the Scheme on 7 July 2009, quite a number of members of the public in Hong Kong have switched to using non-woven shopping bags which are commonly known as "eco-friendly bags". Some industry groups have pointed out that the production volume of non-woven bags has surged by 96%, and that more plastic materials are needed to make a non-woven bag in comparison with a plastic T-shirt bag, and the excessive distribution of non-woven bags by shop operators has resulted in wastage. In addition, the chemicals and dyes used for producing non-woven bags will also affect the environment. In this connection, will the Government inform this Council:*

- (a) *whether the Government has compiled statistics on the number of non-woven bags which were ordered and distributed by various government departments in the past four years while organizing activities, conducting public education programmes and publicizing government policies, as well as the amounts of money involved, and list the statistics in the following table;*

<i>Year</i>	<i>Government department</i>	<i>Quantity of non-woven bags ordered</i>	<i>Quantity of non-woven bags distributed</i>	<i>Amount of money involved</i>
<i>2008</i>				
<i>2009</i>				
<i>2010</i>				
<i>2011</i>				
<i>Total</i>				

- (b) *whether, at present, the authorities have drawn up guidelines to prevent government departments from excessively distributing non-woven bags; if they have, of the details; if not, whether the authorities will consider drawing up the relevant guidelines;*
- (c) *given that in the past four years, some public organizations and councils had distributed non-woven bags in various activities, of the total number of applications submitted by District Council (DC) members for funds to print non-woven bags which were approved by the Government and DCs in the past four years, as well as the amounts of money involved; whether the Government will request the relevant organizations and councils to reduce the distribution of non-woven bags; if it will not, of the reasons for that; and*
- (d) *in the course of extending the Scheme, whether the Government will, apart from extending the scope of the Scheme to all retailers, consider introducing additional measures (for example, co-operating with environmental groups in publicizing the use of linen shopping bags to replace non-woven bags), or adopting other administrative measures, in order to prevent shop operators from excessively distributing non-woven bags; if it will, of the details; if it will not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President, since the implementation of the Environmental Levy Scheme on Plastic Shopping Bags (the Levy Scheme), the number of plastic shopping bags (PSBs) distributed by registered retailers has dropped significantly by nearly 90%. Some groups have expressed concern that the drastic increase in the use of non-woven bags might have led to wastage. Yet according to the landfill survey conducted in mid-2010, the disposal of non-woven bags is equivalent to only 0.4% of the overall PSB disposal. The situation is therefore less than worrying as noted above.

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

(a) and (b)

The Administration has not maintained statistics on the number of non-woven bags ordered and distributed by various government departments. Nevertheless the EPD has issued guidelines on reducing the distribution of non-woven bags and has called upon the support of departments in considering the distribution of non-woven bags and other reusable shopping bags in their events only when there are practical needs.

(c) There is no requirement under the existing system for DCs and DC members to include in their funding applications detailed reports of their non-woven bag orders. Therefore, the Administration has not maintained the relevant statistics, but the Home Affairs Department will provide DCs with the EPD's guidelines on non-woven bags for their reference.

(d) Non-woven bags, being made of plastic materials, are already covered under the current Levy Scheme and will remain so after the Levy Scheme has extended its coverage. The Administration has been encouraging the public to reuse and recycle all types of PSBs including non-woven bags. We will continue to step up publicity and public education so as to sustain the public's support in reducing the excessive use of PSBs. There is at present a public education programme under the Environment and Conservation Fund for non-profit-making organizations to organize publicity and public

education activities related to the management of municipal solid waste, including promotion of reduced use of non-woven bags at the community level. We welcome applications from eligible organizations (including green groups).

### **Permitting Euthanasia in Hong Kong**

17. **MR ALBERT CHAN** (in Chinese): *President, in the past few years, quite a number of members of the public have relayed to me their wish that the Government would permit euthanasia (which, according to the Code of Professional Conduct (the Code) for the Guidance of Registered Medical Practitioners of the Medical Council of Hong Kong, is defined as "direct intentional killing of a person as part of the medical care being offered") be performed on terminally ill patients. In this connection, will the Government inform this Council:*

- (a) *whether it knows the numbers of requests for euthanasia from members of the public received by the Hospital Authority (HA) in each of the past three years;*
- (b) *whether the authorities had conducted any study in the past three years on the legalization of euthanasia and the specific criteria for performing euthanasia; if they had, of the outcome of the study; if not, the reasons for that; and*
- (c) *given that it is understood that certain states of the United States and some European countries now permit a terminally ill patient in clear consciousness to request his doctor to perform euthanasia on him and, upon confirmation by several doctors after assessments, the doctor will prescribe lethal drugs for consumption by the patient on his own initiative, whether the Government will draw reference from the policies adopted in these countries and conduct public consultation on whether euthanasia should be permitted in Hong Kong as well as carry out a further study; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, euthanasia involves a third party's acts of intentional killing, manslaughter, or aiding, abetting, counselling or procuring the suicide of another, or an attempt by another to commit suicide, which are unlawful acts according to the laws of Hong Kong, possibly liable to criminal offence(s) under Offences Against The Person Ordinance (Cap. 212). Also, the Code of the Medical Council of Hong Kong defines euthanasia as "direct intentional killing of a person as part of the medical care being offered". Euthanasia is neither legal nor medically ethical in Hong Kong. Hence, even if a person requests for the conduct of euthanasia, healthcare professionals should in no way act as instructed. Any person who is involved in euthanasia may have committed the above offences.

Withholding life-sustaining treatment for the terminally ill and euthanasia are two distinct concepts. As prescribed in the Code, the withholding or withdrawing of artificial life support procedures for a terminally ill patient is not euthanasia. Withholding or withdrawing life-sustaining treatment taking into account the patient's benefits, wish of the patient and family, and the principle of futility of treatment for a terminal patient, is legally acceptable and appropriate. It is important that the right of the terminally ill patient be respected. Where it is impossible to ascertain the views of the patient, the views of his/her relatives should be solicited. The HA has issued the Guidelines on Life-sustaining Treatment in the Terminally Ill based on the Code with a view to assisting the HA front-line doctors, nurses and other healthcare professionals caring for the terminally ill in making decisions with respect to life-sustaining treatment for the terminally ill.

Our specific reply to the respective parts of the question is as follows:

- (a) The HA has occasionally received individual enquiries regarding the issue of euthanasia. We have not compiled statistics in this aspect.
- (b) and (c)

According to our understanding, the vast majority of countries and places in the world currently do not allow euthanasia. A very small number of countries (for example, the Netherlands and Belgium) allow euthanasia to be conducted under statutory regulations; in the

United States a minority number of states (for example, the State of Oregon) allow doctors to assist terminally ill patients in committing suicide under statutory regulations, while maintaining euthanasia as an illegal act.

Euthanasia is a highly complex and controversial issue involving implications in various dimensions including medical, social, moral, ethical and legal aspects, and so on. Any subject matter concerning life must be considered carefully. The Medical Council of Hong Kong has made clear in the Code that euthanasia is "illegal and unethical". In the past, various sectors of the community including the Legislative Council, professional bodies, community organizations, newspaper commentaries, and so on, had some discussions touching on the issue of euthanasia, and the current laws in Hong Kong as well as the Code have already reflected the views of society.

Very often, a patient's desire to seek death is grown out of his/her wish to seek assistance in relieving his/her physical, mental and other kinds of pain. The responsibility of healthcare workers is to provide suitable treatment to patients. Even terminal patients should be taken care of suitably in order to relieve the pain of their body and mind. Currently, there is no strong request in society to change the position of the current laws and the Code towards euthanasia, and hence the Administration has no plan to study or consult on the issue of legalizing euthanasia. We will continue to listen to the views from the public.

### **Formation of Owners' Corporations in Large Private Housing Estates**

18. **DR PRISCILLA LEUNG** (in Chinese): *President, in accordance with section 8(1A) of the existing Building Management Ordinance (Cap. 344) (BMO), "(t)he Land Registrar shall not issue a certificate of registration to more than one corporation for a building in respect of which a deed of mutual covenant is in force". At present, certain mega private housing estates in Hong Kong (for example, Whampoa Garden, Mei Foo Sun Chuen and Laguna City, and so on)*

*with a large number of building blocks and residents, are each covered under only one deed of mutual covenant (DMC) for the entire estate, thus under the BMO, only one owners' corporation (OC) can be formed in respect of the respective mega private housing estates each with nearly 10 000 residents. In this connection, will the Government inform this Council:*

- (a) of the number and names of those large private housing estates in Hong Kong which comprise more than 30 blocks and still do not have an OC at present;*
- (b) whether it knows if the owners of the large private housing estates in part (a) which do not have an OC have made any attempt to form an OC; if they have, of the difficulties encountered by them in the course of forming an OC that had rendered their efforts in vain; given that at present, section 4(10) of the BMO requires that a quorum of at least 10% of the owners be present at any meeting resolving to form an OC, whether this was one of the difficulties that they encountered when they were preparing for the formation of an OC; and even for those housing estates where an OC can be formed, whether the OCs concerned have encountered difficulties in maintaining their daily operation and convening meetings;*
- (c) what assistance the authorities will offer to the owners of the large private housing estates in order to facilitate their formation of OCs, and whether such assistance includes the provision of legal advice or support; whether the authorities have ever given any assistance to those owners of large private housing estates who encountered difficulties in forming OCs; if they have, of the details; and*
- (d) whether the authorities have considered amending the provision under the BMO which requires that only one OC may be formed in respect of each DMC, so as to allow those mega private housing estates with only one DMC to split and form many different OCs according to the number of building blocks or development phases?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President, one of the effective means to properly manage a large private housing estate is to form an

OC. The BMO provides a legal framework for owners to form OCs to facilitate proper management of buildings. Notwithstanding a relatively large number of building blocks and residents in some housing estates, the owners concerned were able to form OCs under the relevant DMCs with the assistance of the Home Affairs Department (HAD) and its District Offices (DOs). For instance, between 1997 and 1999, a total of eight OCs were formed in Mei Foo Sun Chuen in accordance with the BMO and the DMCs of each phase of the estate. Apart from forming OCs, owners may, having regard to the respective needs of their estates, choose to set up other forms of resident organizations (such as owners' committees) or to appoint a DMC manager to handle the daily building management and maintenance work.

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

(a) and (b)

Currently, there are about 15 large private housing estates which have more than 30 blocks in Hong Kong, among which six have formed their OCs. The number of housing estates which have not yet formed an OC by district is as follows:

<i>Districts</i>	<i>Number of large private housing estates which have not yet formed an OC</i>
Eastern	2
Southern	2
Kowloon City	1
Kwun Tong	1
Sha Tin	1
Tuen Mun	1
Yuen Long	1

There are various reasons for large private housing estates not forming OCs. The common reasons may fall into three categories. First, quite a number of buildings have already set up other forms of owners' or resident organizations and have engaged property management companies to effectively manage their buildings.



Second, DMC managers are providing the estates with good building management and maintenance services to the residents' satisfaction. Third, despite the fact that some owners may wish to form an OC, the statutory requirements of forming an OC have yet to be met.

In the past three years, owners of three large private housing estates had sought the DOs' assistance in the formation of OCs. Through briefings on the formation of OCs and their meetings with the owners, staff of the DOs explained the method and procedures of forming an OC. However, given the large number of owners in such estates and that the owners held different views on the formation of an OC, no adequate support was obtained although it only requires the support of 5% of the shares in aggregate to appoint an owner as the convenor of an owners' meeting to form an OC.

- (c) Should owners decide to form an OC, the DOs will offer advice and assistance to them in respect of the formation procedures, which include providing relevant information such as the booklet and CD-ROM of "How to Form an Owners' Corporation" produced by the HAD, as well as forms and samples of the documents required; attending briefings on the formation of OCs to inform owners of the formation procedures and the rights and obligations involved; and issuing an exemption certificate to the convenor for obtaining a free copy of record of owners of the building from the Land Registry to facilitate the convening of an owners' meeting to form an OC, and so on. If owners encounter legal problems, we will refer them to the Property Management Advisory Centres of the Hong Kong Housing Society for free preliminary legal advice from duty lawyers by appointment. Staff of the DOs will also attend owners' meeting for the formation of an OC and give advice on the procedures of the appointment of a management committee (MC).

If owners have attempted to convene an owners' meeting under section 3 of the BMO but failed to appoint an MC and form an OC, and that they have genuine difficulties in obtaining the support of owners of 30% of the shares in aggregate as prescribed under section 3, the DOs will assist owners of not less than 20% of the shares in aggregate in applying to the Secretary for Home Affairs

under section 3A for an order to convene an owners' meeting on forming an OC.

According to our experience, given the huge number of owners in large housing estates, the communication and liaison among owners is practically difficult. Hence, in the process of forming an OC, we will assist the convenors in arranging a series of briefings about OC formation, so that all owners in the estates may understand the procedures of forming an OC and the related matters. Moreover, the DOs will assist the convenors in their communication with the property management companies, so that the management companies can render assistance as far as possible, such as assisting in the distribution and posting of notices of owners' meetings, as well as helping the convenors handle business of meeting and voting procedures, and so on.

- (d) The BMO provides a mechanism for owners in setting up an OC for better building management. Buildings (together with the land) have to be in common ownership or held for the common enjoyment of owners and occupiers. The basis of common ownership among owners is set out in the DMC of the building. A DMC is a private contractual agreement among the owners, the manager and the developer of a building, stipulating the rights and obligations of the parties to the agreement, including the undivided shares of each owner. As such, owners of housing estates governed by a single DMC can only form one OC for the management of the estates in their common ownership.

To keep the BMO in pace with the changing circumstances and to address public concerns, the Home Affairs Bureau established in January 2011 the Review Committee on the Building Management Ordinance (Review Committee), which is now studying in detail the common problems in building management, including DMC problems such as "multiple buildings with one OC", the quorum for convening an owners' meeting, and so on. The Review Committee will examine if these problems should be resolved through amending the BMO. It will also make recommendations to the Government

on measures to improve the operation of OCs and protect the interests of owners. We expect that the Review Committee will submit an interim report to the Government by the first half of 2012. We appreciate Members' concern for the formation of OCs in large private housing estates, and have reflected the views to the Review Committee.

### **Redevelopment and Expansion of Public Hospitals**

19. **MR CHAN HAK-KAN** (in Chinese): *President, it has been reported that the Hospital Authority (HA) does not have any specific plan to redevelop the Queen Mary Hospital (QMH) and Kwong Wah Hospital (KWH), yet as both of them are major acute hospitals in their respective hospital clusters and have been completed and commissioned for years, their designs have long been unable to cater for the operation needs of the present day, thus affecting the work efficiency of healthcare staff as well as the quality of the services provided, and causing inconvenience to patients. In this connection, will the Government inform this Council:*

- (a) *whether it knows the various capital works projects (with the relevant information including the project title, description, location and expenditure incurred, and so on, set out in detail in table form) to be taken forward by the HA in the coming three financial years;*
- (b) *whether it knows the respective expenditure on maintenance and repairs incurred by the HA for each public hospital in the past three years, with a breakdown (in table form) by name of hospital;*
- (c) *whether it knows if the HA has any plan to improve the respective environment of QMH and KWH in the near future; if it has, of the details and the way to reduce the impacts on the healthcare staff and patients when the works projects are in progress; if not, the reasons for that; whether preliminary studies will first be conducted on the redevelopment or expansion of QMH and KWH at the current stage so that the time required for the works projects can be reduced in future;*

- (d) *whether it knows the factors to be considered by the HA in assessing the redevelopment or expansion of hospitals, and how priorities are set; and*
- (e) *given the Government's relatively strong financial position at present, whether the Government will take the lead to earmark funds for the HA to redevelop or expand its hospitals, and request the HA to make long-term planning to meet its future service needs?*

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

- (a) In the coming three financial years, the HA will take forward the following four capital works projects:

<i>Name of Project</i>	<i>Details and Location of Project</i>	<i>Estimated Expenditure</i>
Centre of Excellence in Paediatrics	A Centre of Excellence in Paediatrics will be built in Kai Tak Development Area to provide over 400 hospital beds with a number of departments such as the haematology and oncology unit, cardiology and paediatric surgery unit, intensive care unit and neonatal care unit for handling various complicated medical cases related to paediatrics.	Approximately \$9.7 billion
Tin Shui Wai Hospital	A new hospital will be built in Tin Shui Wai Area 32 with 260 beds to provide in-patient care services for emergency medicine, rehabilitation, convalescent and palliative care. Upon commissioning, the Tin Shui Wai Hospital together with the Pok Oi Hospital and the Tuen Mun Hospital of the New Territories West Cluster will provide appropriate hospital services to residents in the districts.	Approximately \$2.8 billion

<i>Name of Project</i>	<i>Details and Location of Project</i>	<i>Estimated Expenditure</i>
Reprovisioning of Yaumatei Specialist Clinic (YMTSC) at Queen Elizabeth Hospital (QEH)	The existing services provided at YMTSC including the Ear, Nose and Throat Specialist Clinic, the Geriatric Day Hospital, the Renal Dialysis Centre, Child Psychiatric Out-patient Clinic and the Child Psychiatric Day Hospital, will be reprovisioned at QEH. In addition, the ambulatory care services of QEH will also be expanded for provision of such facilities as the Adolescent Medical Centre, the Special Medical Care Centre, the Diabetes and Metabolic Centre and the Multidisciplinary Pain Management Centre.	Approximately \$1.4 billion
Preparatory works for expansion of United Christian Hospital (UCH)	Preparatory works will be carried out for construction of an ambulatory cum pathology block in the UCH and for conversion and renovation of the vacated space in the existing hospital blocks to improve, expand and rationalize the operation of existing departments and their services. The preparatory works include site investigation, building survey, detailed design, tender documentation and tender assessment for the UCH expansion project.	Approximately \$340 million

- (b) The Government granted allocation under Head 708 Subhead 8100MX every year to the HA to carry out minor improvement, repair and maintenance works for public hospitals. Each year, the HA conducts review on the conditions of the structures and facilities of its 41 public hospitals and, on the basis of the outcome of the review, determines the order of priority and the amount of funding for implementation of various minor maintenance and improvements works in the coming three years. Under such circumstances, the expenditure on repair and maintenance works of

each public hospital may vary substantially each year. The expenditures on minor repair and maintenance works of public hospitals in the past two years were \$330 million and \$290 million respectively, and that for this year is estimated to be \$310 million.

- (c) Although most of the buildings of the QMH and KWH were built in early years, no structural problem has been found since the measure of conducting annual review and maintenance works has been proved effective. Notwithstanding the above, in order to cope with the service development of both hospitals and to meet the needs of patients for healthcare services, the HA has earlier submitted proposals for redevelopment of QMH and KWH for consideration by the Government, with a view to enhancing the environment and facilities of both hospitals. Having considered the information submitted by the HA, including the needs and specific details of the two projects, the Government has accepted the two redevelopment proposals in principle.

Before the formal implementation of the redevelopment project, the HA has to carry out preliminary planning work, including various preliminary technical assessments to ascertain the project's technical feasibility. The HA has already commenced the relevant preliminary planning and study for the two hospitals while both hospitals will continue to have a series of measures to carry out maintenance and repair for upkeeping the environment for their healthcare staff and patients. In 2011-2012, for instance, the expenditures on minor repair and maintenance works of QMH and KWH are about \$36 million and \$18 million respectively. In the meantime, both hospitals will make service adjustments having regard to the utilization of and demand for their services, so as to ensure that they can provide safe and appropriate healthcare services to the patients.

After completion of the relevant preparatory works and detailed estimation of the capital works expenditures, we will process the funding applications of the two hospitals according to the established procedures and seek funding approval from the Legislative Council for commencement of the works.

- (d) In determining the order of priority for development of new hospitals and expansion or redevelopment of existing hospitals, the HA will take into account the future population growth and ageing in different regions, the demand for healthcare services, the overall provision of healthcare services in the various clusters under the HA, the conditions of the hospitals' structures and facilities, the HA's long-term objectives and strategies for its overall service development, as well as the development of public and private healthcare services.
- (e) The HA conducts long-term planning for provision of public healthcare services on an ongoing basis. In the process, the HA takes into account a number of factors, including the projected demand for healthcare services having regard to population growth and demographic changes, the growth rate of services of individual specialties, the possible changes in healthcare services utilization pattern, and the standards required of modern medical equipment, and so on, so that planning can be made for provision of services and hardware facilities in public hospitals to meet the demand for healthcare services. The Government will continue to conduct planning for the hardware of medical facilities on a need basis, and handle funding application in accordance with the established procedures to ensure that the public will continue to be provided with adequate quality medical facilities.

### **Hong Kong's Air Quality**

20. **MR KAM NAI-WAI** (in Chinese): *President, an environmental group has conducted a study on Hong Kong's air quality and Air Quality Objectives (AQOs), pointing out that according to the ranking of cities released by the World Health Organization (WHO) in respect of the value of fine suspended particulates (that is, particulates of a size smaller than an aerodynamic diameter of 2.5 microns) (PM<sub>2.5</sub>) in the air, Hong Kong is ranked the 559th (that is, the bottom eighth) among 566 cities. In this connection, will the Government inform this Council:*

- (a) *whether the existing three roadside monitoring stations and 11 general monitoring stations in Hong Kong had collected data on*

*PM2.5 in each of the past 10 years; if they had, of the details; if not, the reasons for that, and whether such data will be collected continuously in the future;*

- (b) whether it knows, according to the statistical data of the WHO and other international institutions or organizations, how the values of various types of air pollutants (for example, PM2.5, respirable suspended particulates, sulphur dioxide and nitrogen dioxide, and so on) in Hong Kong compare with the relevant values in various cities in the world (for example, of its ranking among various cities); if it knows, of the details;*
- (c) given that the current AQOs of Hong Kong do not cover PM2.5, whether the Government will include the value of PM2.5 in the AQOs, and proactively release the relevant data to the public; if it will, of the details and the specific timetable; if not, the reasons for that; and*
- (d) given that on 19 May and 8 June last year, the Chief Executive and the Secretary for the Environment respectively said at the Chief Executive's Question and Answer Session and the meeting of this Council that announcements on the new AQOs would be made within 2011 for discussion by the whole community, but so far the Government has not yet put forward the new AQOs, of the reasons for that; of the justifications for the Chief Executive to indicate at the Question and Answer Session that announcements would be made, and the progress and details of updating the AQOs at that time; whether there was any subsequent change regarding the work progress and details so that it could not make the announcements; if so, of the present work progress, details and timetable; whether the Government will require the relevant politically appointed officials to assume political responsibility for failing to put forward the new AQOs within 2011 as the Chief Executive had mentioned?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President, Hong Kong neighbours the rapidly developing Pearl River Delta (PRD) Region, where the levels of suspended particulates are generally higher than that in Europe and



America. To alleviate the pollution problem of particulate matters, the Government has been working with Guangdong Provincial Government on a regional air quality management plan to reduce emissions of the PRD Region and Hong Kong. The measures include retrofitting power plants with emission reduction devices, phasing out the highly polluting industrial facilities in the PRD, tightening the vehicle emission and fuel standards, and so on. These efforts are gradually bearing fruit as the regional particulates concentrations have been decreasing in recent years. Between 2005 and 2010, Hong Kong's annual fine suspended particulates (PM<sub>2.5</sub>) concentrations have been reduced by 26%. We will continue to collaborate with the Guangdong Provincial Government on emission reduction measures to further reduce the levels of particulates and other pollutants in Hong Kong.

On the questions raised by Mr KAM, I would like to reply as follows:

- (a) To understand the situation of PM<sub>2.5</sub> in Hong Kong, we have started monitoring the pollutant in 1999 at three of the general air monitoring stations at Tap Mun, Tung Chung and Tsuen Wan together with the Central roadside station. The Yuen Long general station was later added in 2005. By the end of 2011, we have completed the installation of PM<sub>2.5</sub> samplers in all the other monitoring stations in Hong Kong. We are now testing the samplers and expect that they will be in full operation in the first quarter of this year.
- (b) Many cities, particularly those in the developing regions, have yet to monitor PM<sub>2.5</sub> on a regular basis. The WHO collates PM<sub>10</sub> and PM<sub>2.5</sub> data of various cities and provides them on its website. However, the WHO also points out the limitations in comparing these particulate data of different cities because of the differences in the positioning of monitoring stations, measurement methods and quality control requirements on the measurements, and so on.

According to a study by The Hong Kong University of Science and Technology in 2005, some 60% of the suspended particulates in our air could have come from regions outside Hong Kong (including PRD Region and regions outside the PRD) on an annual basis, and the contribution of regional background pollution to our particulate

concentrations could be even higher at 70% during the winter. Due to strong influence from regional background pollution, the levels of suspended particulates in Hong Kong are generally higher than cities in Europe and America, but are on a par with cities in the neighbouring regions such as Taipei and Seoul.

- (c) The Government has proposed in the public consultation document on AQOs Review to introduce a set of new objectives for PM2.5. After taken into consideration the WHO guidelines and the unique situation of Hong Kong under which particulates concentrations are strongly influenced by regional factors, we propose that Hong Kong should, as a start, adopt WHO's Interim Target-1 for PM2.5 annual and 24-hour standards, that is, 35 ug/m<sup>3</sup> and 75 ug/m<sup>3</sup> respectively, as the PM2.5 objectives. We have also been providing our PM2.5 monitoring results to external parties.
  
- (d) Updating of AQOs is not so much about changing the limit values as implementing a series of related improvement measures so as to attain the ultimate goal of air quality improvement. The Government endeavours to implement air quality improvement measures that are generally supported by the community, including tightening from 2015 onwards the emission caps on the power sector by 34% to 50% as compared to those for 2010; subsidizing the early replacement of Euro II diesel commercial vehicles; carrying out with franchised bus companies a trial of retrofitting on Euro II and III buses Selective Catalytic Reduction devices; funding franchised bus companies to try out hybrid buses and electric buses; setting up a \$300 million pilot Green Transport Fund; introducing legislation to promote energy efficiency for electrical appliances and buildings; setting up the Kai Tak district cooling system, and so on. On the other hand, some improvement measures, such as changing the fuel mix for power generation, rationalization of bus routes, and so on, which involve complex issues and have far-reaching implications, would require detailed study and comprehensive planning. The Government is now working on the final proposal to update the AQOs for submission to the Legislative Council for deliberation as soon as possible.

**BILLS****Second Reading of Bills****Resumption of Second Reading Debate on Bills**

**DEPUTY PRESIDENT** (in Cantonese): Bills. We now resume the Second Reading debate on the Guardianship of Minors (Amendment) Bill 2011 (the Bill).

**GUARDIANSHIP OF MINORS (AMENDMENT) BILL 2011****Resumption of debate on Second Reading which was moved on 15 June 2011**

**DEPUTY PRESIDENT** (in Cantonese): Ms Cyd HO, Chairman of the Bills Committee on the above Bill, will address the Council on the Committee's report.

**MS CYD HO** (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on Guardianship of Minors (Amendment) Bill 2011 (the Bills Committee), I would like to report on the deliberations of the Bills Committee.

The Bills Committee has held five meetings with the Administration and consulted the views of the Hong Kong Bar Association, The Law Society of Hong Kong (the Law Society), the Hong Kong Federation of Women Lawyers and the Family Law Association.

Members of the Bills Committee noted that the proposed section 5 of the Guardianship of Minors Ordinance (GMO) states as a general rule that on the death of a parent of a minor, the surviving parent is the guardian of the minor as of right. The existing section 19(4) of the Matrimonial Proceedings and Property Ordinance (Cap. 192) lays down the specific rule that the surviving parent shall not be entitled as of right to the custody or the guardianship of the child of the family upon the death of custodial parent if the Court has made an order in the decree of divorce or judicial separation that he or she was unfit to have custody of the child. Members have sought clarification on whether the

rights of surviving parents as to guardianship under the proposed section 5 should be made subject to section 19(4) of Cap. 192.

The Administration has explained the general rule under the proposed section 5 will be subject to the specific rule laid down in section 19(4) of Cap. 192. To put it beyond doubt, the Administration has agreed to introduce amendments to this provision.

Regarding the appointment of a guardian, members noted that while setting out the formal requirements that such document must be dated, signed and attested, the proposed section 6(3) does not prescribe any formulation that would express the parent's intention of appointing a guardian. The Hong Kong Bar Association has suggested that a provision be added to the Bill so that guardian appointment may be regarded as valid as long as the intention of the appointment can be demonstrated, even if the appointing requirements in the proposed section 6(3) are not fulfilled.

(THE PRESIDENT resumed the Chair)

The Administration has advised that the requirements in the proposed section 6(3) are based on the recommendation by the Law Reform Commission of Hong Kong (LRC) in the Report on Guardianship of Children (the Report). While the Bill will much reduce the technicalities involved in the appointment process with a view to encouraging parents to appoint guardians for their children in the event of their deaths, the Administration considers that some basic requirements should be in place to avoid uncertainty in and future dispute on the validity of appointment. Nevertheless, the Administration does not consider it necessary to include a provision to prescribe how the intention of appointing a guardian can be demonstrated. In case there is uncertainty about the validity of the appointment, the Court may exercise its general power of appointing guardian for a minor under the proposed section 8D, if it is considered in the best interests of the minor. Members have accepted the Administration's explanations.

To facilitate parents in making guardianship arrangements for their children, the Administration will, as an administrative measure, produce a

standard form for appointment of guardians as recommended by the LRC in the Report. Members have considered the draft appointment form provided by the Administration. The Administration has taken on board members' suggestions to improve the design of the form to facilitate easy understanding by members of the public.

As regards the views of a child on the appointment of a guardian, Members have raised query as to whether the word "must" in the proposed section 6(5) should be used, given that a parent or a guardian is only required to take into account the views of the minor as far as practicable having regard to the minor's age and understanding of the appointment of a guardian and there will not be any legal consequence if a parent or guardian fails to do so.

Having considered the views of members, the Administration has agreed to replace the word "must" with "is required to" and add a provision to state that the validity of an appointment of a guardian is not affected by a failure to comply with the proposed section 6(5).

Members noted that the proposed section 7 stipulates that the guardian appointment is to take effect automatically if the appointing parent or appointing guardian has obtained a custody order over, or has lived with, the minor prior to his or her death. Members have requested the Administration to consider amending the relevant provision to clearly reflect the policy intent that the automatic assumption of guardianship will apply to cases of joint custody order so that the appointments of guardians by both parents will take effect with equal rights when both parents die.

In response to Members' comments, the Administration has agreed to move amendments to the proposed section 7(a) to clarify that the appointing parent or appointing guardian who has a custody order over the minor immediately before he or she dies assume guardianship automatically irrespective of whether anyone else has a custody order over the minor at that time.

Regarding the revocation of guardian appointment, Members noted that it is unclear in the Bill as to whether a revocation of guardian appointment is valid if the requirement in the proposed section 8B(4)(b) (that is, the person who revokes the appointment must notify all other persons who jointly made the

appointment) is not complied with. To address the concern, the Administration has agreed to add a provision to specify that the revocation has no effect unless the requirement in the proposed section 8B(4)(b) is complied with.

As regards the disclaimer of appointment by a guardian, the Hong Kong Federation of Women Lawyers has suggested that if the disclaimer is made before the death of the appointing parent, the guardian should be required to notify the appointing parent. The Administration has agreed to introduce amendments to this effect to amend the notification requirements.

Members further noted that the existing section 6(6) provides that the Court may authorize a guardian who is not a parent of the minor who is his ward to be paid such remuneration for his services as guardians as the Court may think fit. Members were concerned that the proposed section 8H will narrow the scope of remuneration entitlement to only the guardian of minor who is a ward of the Court. Members have suggested that the provision in the existing section 6(6) should be maintained, as it is ultimately for the Court to decide whether remuneration should be given. The Administration has agreed to propose amendments to this effect.

The Administration has also accepted the recommendations of members and legal bodies by proposing a number of amendments to such terms as "welfare", "wishes of the minor", "rights of parents", and so on.

Given that the Report was published about 10 years ago, members urged the Administration to implement the Bill expeditiously and enhance the publicity on the Bill and the form for appointment of a guardian.

President, I will present my personal opinions on the Bill.

As early as in 1991, or two decades ago, there was already a social need for this Ordinance because of the emergence of a number of migrating families at that time. As a result of living in two separate places, many of these families easily developed marital problems. When it came to the custody and guardianship of a child, the appointment of a guardian would become more complicated because of the geographical separation of his or her parents, with each of them having their own trusted person(s) and different circles. It was already extremely complicated to deal with the couples, not to mention the

intensifying dispute in the event of the sudden death of one of them — particularly when he or she was originally the guardian of the child.

With the commencement of the deliberations on this Bill in 2011, or two decades down the line, families and marriages have become even more diversified. In addition to migrating families, there are also cross-boundary families. We face problems attributed not only to the large number of provinces on the Mainland, but also problems related to whether or not some Mainland spouses have been granted the right of abode in Hong Kong. Therefore, this piece of legislation, if introduced as early as practicable and implemented expeditiously, can enable children from families with marital problems to find a new home smoothly in the event of the death of either of the parents without going through emotional ups and downs again and again.

Having regard to the diversity of marital conditions, some amendments were proposed during the deliberations on the Bill to address the concern. For instance, if either parent wishes to change the appointment of a guardian or one of the guardians wishes to disclaim his or her appointment, he or she should notify the other party, and the disclaimer will not take effect until the formal procedure is completed. Furthermore, in the unfortunate event of the death of both parents who had each appointed respective guardians, a provision is now in place to deal with such situation for the appointment of the guardian who has already lived with the minor to take immediate effect. All these amendments, which were proposed during the deliberations on the Bill, can minimize a lot of unnecessary disputes, and above all, the harm done to a minor.

Nevertheless, the Bill has failed to deal with the wishes of the minor. We have argued for a long time on whether "views" or "wishes" should be used. Having regard to the understanding and age of a child — this was already mentioned by the Chairman of the Bills Committee in her report — he or she should be consulted according to the law and a procedure should be put in place to consult the child. Nevertheless, Members also know it very well that sometimes the choice made by a child according to his or her views might not be in the best interests of the future growth of the child, despite his or her emotional attachment to or trust in a person who might become his or her guardian, whereas the choice made cannot be measured in money or material terms. While the minor might be advised by adults to live with someone who can provide him or her with an excellent opportunity of education, so that his or her life will become

much easier, it is impossible for his or her emotional attachment or trust to be calculated. Even if the guardian with whom the minor lives has some minor mental or behavioural problems, the minor will not take this into consideration in making his or her choice. Under such circumstances, what we can rely on is not provisions of law in black and white. Besides the guardian arranged well beforehand for the child by a family member and the talks between the social worker assigned by the Social Welfare Department (SWD) and the child, other considerations have to be taken into account, too. For instance, if the child is studying in school, can his or her teachers or other adults who have a role to play in his or her studies offer some advice? This is not what legal proceedings can achieve.

Nevertheless, even if the word "must" in the relevant form is replaced by "is required to" for the purpose of seeking the views of a child, there will not be any legal consequence even if the procedure or this provision is not complied with. Hence, this matter must be handled with prudence and caution because it does not mean that the views of the child must be heeded even though he or she is consulted. Nevertheless, it is defective if the parent/guardian concerned does not need to face any legal consequence even if he or she fails to consult the child. President, as in the case of other legislation, if a form is involved during the deliberations of a bill, though it carries no legal effect, it is the usual practice of the Legislative Council to scrutinize the form. Hence, in future, the executive authorities must make preparations for the form or guideline mentioned in a bill to be tabled to the relevant committee for scrutiny. In scrutinizing the relevant form, we made some amendments to the wordings to facilitate understanding by the ordinary people. Nevertheless, how should publicity be conducted in administration and operation? Because usually preparations will not be made for the worst scenario when a family is in favourable circumstances and great harmony. At best, a parent will only contemplate how to entrust someone else to take care of his or her child just in case he or she dies in an accident. Normally, many couples will not think about what arrangements should be made when they are at odds with each other.

Hence, vigorous efforts must be made in promotion and public education. Certainly, we are not encouraging separation, but as adults, both parties should make preparations for the worst scenario. I am aware that a discussion is now underway on the topic of parent's joint responsibility, and the LRC will present a series of reports on children's rights and matrimonial and family affairs. I hope



that in implementing the recommendations made by the LRC, the authorities concerned can make adults understand that a better agreement can be reached through conciliation when a relationship breaks up and that their grievances and hatred should not become a burden for the next generation. I hope that as society becomes more civilized and advanced, parents should fulfil their responsibility as adults.

Most importantly, in implementing this legislation, I hope the authorities concerned, particularly the SWD, can carry out tracking surveys because we can see that, in many cases, children cannot be protected by black-and-white provisions alone. Instead, lobbying and conciliation between people will affect the children's rights and play a pivotal role in their enjoyment of proper protection. Hence, it is most crucial that the SWD must carry out a tracking survey for each and every case to examine if there are any defects in the process and whether the defects should be rectified through administrative means or by further amendments to the law to plug some loopholes, with the children's welfare as the ultimate goal. Thank you, President.

**MR TAM YIU-CHUNG** (in Cantonese): President, as the saying goes, "Extend your respect for your aged parents to all the aged, and extend your love for your own children to all children". A caring community will attach importance not only to respect and care for the elderly, but also to care and education of the children. For a child, it is most unfortunate if he has lost one or even both of his parents. Whether he will be taken care of or nurtured properly in the future is a pressing issue. To perfect the system of appointment of guardians will be conducive to the growth of these children. The Guardianship of Minors (Amendment) Bill 2011 (the Bill) has proposed a series of amendments to the existing measures. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports those proposals.

In the course of the deliberations on the Bill, we were concerned about one point. The Bill provides that on the death of a parent of a minor, the surviving parent is the guardian of the minor as of right. Is this an absolute right or relative right subject to certain conditions? For some parents, the Court may have made an order that they are unfit to have custody of the child when they divorced or separated. Besides, there are some objective circumstances under which the surviving parent is also unfit to have custody of the child or fulfil the responsibility of custody. For instance, the parent has a record of committing an

offence against the child or is serving his or her sentence. Further clarification is required in respect of such circumstances. Regarding court order, the Government has decided to propose a Committee stage amendment (CSA), setting out that the right of the surviving parent as to guardianship is subject to a specific provision in the Matrimonial Proceedings and Property Ordinance. Therefore, the surviving parent shall not be entitled as of right to the custody or guardianship of the child of the family upon the death of the custodial parent if the Court has made an order in the decree of divorce or judicial separation that he or she is unfit to have custody of the child. We support the amendment as it will help allay our concerns. As for other objective circumstances, the arrangements for the appointment of a guardian should be made in accordance with the Protection of Children and Juveniles Ordinance or the High Court Ordinance in the light of individual cases. In our opinion, society changes rapidly and new situations emerge continuously. New phenomena such as babies born to parents who are both non-permanent residents of Hong Kong will pose tall challenges to the existing mechanisms. The Government should therefore keep on reviewing the actual situation, enhance the co-ordination of the three different mechanisms for appointment of guardians so as to prevent underage children from being left unattended.

The legislative amendment this time around has introduced the mechanism of consulting the minor's views. We support this model which respects the views of children. If this CSA is passed, then in appointing a guardian of a minor, a parent or guardian of the minor must take into account the views of the minor as far as practicable having regard to the minor's age and understanding. Such mutual discussions with children will be conducive to their healthy development in the future.

The new legislation has simplified the arrangements for the appointment of guardians, thus strengthening the protection of children's well-being. In our opinion, there is still room for further improvement in respect of one point. Since the new legislation will allow the unilateral appointment of a guardian by the party concerned, the other parent may have no knowledge of it. On the other hand, the Ordinance has not deprived the other side of his or her "parental rights", especially the parent who does not live with the child. Therefore, we proposed that a notification system on the appointment of a guardian be set up so that the surviving parent would be informed of a guardian appointment when the guardianship took effect or the party concerned had passed away by the guardian or administrator respectively. Although this proposal is not incorporated into

the new legislation, the Government may add this arrangement to its administrative measures upon their subsequent enforcement.

With these remarks, I support the Second Reading of the Bill.

**MS AUDREY EU** (in Cantonese): President, on behalf of the Civic Party, I speak in support of the Bill. At the same time, however, I must also express regrets because the entire process of amending the law has indeed come too late. In fact, before the return of sovereignty as early as in 1995, society was already aware of the need for reforming the legislation on child custody and guardianship for the enhancement of child protection.

The LRC had spent seven years on carrying out this study and eventually published in January 2002 the Report I have on hand. The Report contains nine recommendations on amendment and reform. At that time, the Government actually accepted the recommendations in their entirety, though no legislation had been enacted since then. It was not until 2011 that the Bill was tabled to the Legislative Council. Subsequently, Members endorsed the forming of a Bills Committee to examine the Bill and it was only today that the Second Reading of the Bill was resumed. It can thus be seen that the entire process, from the making of recommendations in 1995 to the spending of seven years by the LRC on studying the recommendations and another nine years before the Bill was eventually tabled to the Legislative Council, is extremely long. Furthermore, the topic discussed is not controversial. Instead, it has already gained the consensus of the practitioners, the social welfare sector and people caring for children's rights. I find it really regrettable that such a long period of time was required to deal with it.

As the Chinese saying goes, "Not even good officials can settle family troubles". It is a great pity that, as Members are also aware, society has become more and more complicated. Even if both parties entered into a wedlock to become husband and wife with great excitement in the beginning, they might still end up in divorce. When a divorce decision affects a child, the guardianship and protection of the child will come into the question. It is thus necessary to devise a mechanism that can keep abreast of the times for the care of the child.

When the Bill was first tabled to this Council, there were still many inadequacies. For instance, in section 3(1)(a)(i) of the Ordinance, the expression

of "regarding the welfare of the minor as the first and paramount consideration" was the actual wording adopted by the LRC at that time, though it has now become outdated. In keeping with the practice adopted by the United Nations Convention on the Rights of the Child (UNCRC), we have decided that the term "welfare" be replaced by "best interests".

Furthermore, the expression of "wishes of the minor" in section 3 has been replaced by "views of the minor" in keeping with the expression used in the UNCRC and section 6(5). After the scrutiny by the Bills Committee, the Government has also agreed to introduce Committee stage amendments (CSAs) to replace the term "wishes" by "views". Meanwhile, the term "welfare", as mentioned just now, will be replaced by "best interests" to emphasize that a top down discussion is not intended for the welfare of a child when his or her issues are being considered. We welcome the introduction of the abovementioned CSAs for purposes of adopting more appropriate terms.

Section 6(5) will also include an important provision that in appointing a guardian, "the views of the minor must be taken into account as far as practicable having regard to the minor's age and understanding". Such an arrangement was absent in the original legislation. In other words, there was no express provision stipulating that the views of the person under guardianship had to be taken into account. The provision is revised to make the appointment of a guardian no longer purely a decision to be made by an adult. Insofar as children's rights are concerned, this is evidently an improvement.

Nevertheless, I must point out that in practice as a barrister, I would have frequent contact with this kind of cases and know that Judges would often, by all means, take children's views into consideration. If the children are very young, Judges would often communicate with and find out more about the children in chambers. Certainly, the older a child, his or her wishes would play a greater role in the relevant ruling. From my experience, we could often regrettably find cases where one of the guardians would have a profound impact on the life of a child under his or her care and consequently influence the relationship between the child and the other parent. Therefore, Judges would consider all relevant factors before determining the weight of the wishes of a child. Such provisions can also give Judges and the Court adequate flexibility.

We can see that similar requirements were put into effect through the Children (Scotland) Act 1995 in Scotland in 1995, which is also mentioned in the

Report published by the LRC cited by me just now. However, it is not until today that similar legislative provisions are added. Although Hong Kong has often boasted itself as a world-class city, I do not understand why some matters on which a consensus has evidently been reached have to experience such a long delay before they can eventually take effect.

Furthermore, many discussions have been held to explore whether or not a checklist should be included in the Ordinance to specify the factors to be considered by the Court in determining who should be granted the custody of a child. The stance of the Administration is that a checklist should not be included in the principal legislation. Personally, I agree with the Administration in view of constant social changes. The discretionary power, family conditions and the considerations required to be made for a child will also change in tandem with changes of society and the times. Hence, the checklist, if included in the principal legislation, might not be revised easily to cater to the needs or changes at different times.

On the contrary, Judges can easily adjust the weight of various factors in their rulings having regard to the cases or different times and social developments. Hence, I very much agree with the Administration's current approach. I also believe the Courts in Hong Kong, especially the Judges in the Family Court, have rich experience in children's rights or best interests and are capable of handling all problems.

Having said that, I also wish to add that, despite the implementation of some of the recommendations made by the LRC in 2002, it is not enough to rely purely on the law as it is actually nothing more than a procedure or a means to resolve disputes. After all, adequate complementary arrangements must be made before children's best interests can be served. In this respect, we certainly have to rely on the social welfare sector or the provision of assistance by social workers in providing social welfare services. Concerning the complementary arrangements in this respect, I hope the Secretary or the Government can take appropriate measures according to different circumstances.

I pointed out right at the beginning that as society becomes increasingly complicated, the number of divorce cases would, regrettably, continue to rise. Very often, quite a number of disputes in Hong Kong involve parents who are not Hong Kong residents or single parents. They will often leave their newborn

babies in Hong Kong, and they might fail to arrange for appropriate persons to take care of the babies. As a result, an increasing number of helpless children need the community to provide timely assistance and proper care through various systems, laws and organizations. After all, the future development of society relies on these children. Hence, I hope that the Government will not need to spend more than 10 year on each occasion to enact some very simple legislation. While expressing support for the Bill, I also hope the Government can learn this lesson. Thank you, President.

**MS MIRIAM LAU** (in Cantonese): President, the Liberal Party greatly supports the Bill proposed by the Administration today to implement the recommendations made by the LRC in the Report on Guardianship of Children (the Report) published in January 2002.

Personally, President, I strongly support the Bill, too. Meanwhile, I also wish to declare my interests here. As mentioned by Ms Audrey EU just now, a series of law reform studies on children's interests have been conducted by the LRC since 1995. Actually, this task was not formally performed by the LRC; instead, it was handed over to a subcommittee under the LRC. At that time, that is, back in 1995, as chairman of the subcommittee, I joined a group of legal professionals and some professionals who had rich experience in children's work in carrying out studies in this respect and made a series of law reform recommendations. The LRC Report underlying the Bill today is just one of the recommendations.

I agree with the proposals put forward today because they include the appointment, removal and powers of guardians that seek to — most importantly — streamline the existing procedure so as to encourage more parents to make arrangements for matters relating to the guardianship of their children.

As a practising lawyer, I have been focusing on family law over the years, having dealt with quite a number of cases where numerous problems occurred in the event of the death of one of the divorced parents who used to live with a child. For instance, the surviving parent might choose not to live with the child or have no desire to keep the child because of a lack of emotional bond between them. In some cases, this parent might have passed away, too. Such being the case, the situation of the child is most miserable.

In some cases, a person living with the child might hesitate in dealing with this matter. Nevertheless, under the law, it is simply impossible to deal with it because, without the parent taking care or holding the custody of the child appointing a guardian, recovery of guardianship is absolutely out of the question, unless an application is made to the Court to make the child a ward of the Court, that is to say, either the Court or a legal representative shall act as both parents of the child to take care of its interests, whereas a person living with the child or relative will be responsible for the actual care of the child. This arrangement is, however, extremely unsatisfactory. Therefore, the Government must encourage parents to appoint a guardian, in the event of divorce in particular. Such an arrangement, which is crucial to the interests of a child, can ensure that the child can still receive proper care in the event of the death of the parent who used to live with the child.

As pointed out by Ms Audrey EU just now, it is most regrettable that it has taken 10 years from the commencement of work by the working group in 1995 to the submission of the relevant recommendations to the LRC in around 2000 or 2001, which were supported by the LRC following a prompt decision, and the subsequent publication of the Report. Now, it is already 2012. Even though this Bill was tabled in 2011, it had already taken nine years. In fact, the recommendations made by the Report are very simple. It was unreasonable to take nine years for the Bill to be tabled. Both the Liberal Party and I express deep regrets about this.

Although the whole package of recommendations relating to the interests and custody of children are divided into four parts, the Bill is tabled by the Government in a piecemeal manner. The Report on Child Custody and Access, as part of this legal reform package on children's interests, was released by the LRC six years ago in 2005. Today, there are still no signs indicating when a Bill will be tabled by the Government or at least ..... in fact, this proposal is extremely important and a fresh round of public consultation might need to be launched. However, the Government is still dragging its feet, and so the implementation of the proposal is nowhere in sight. I am very disappointed about this. I hope that the Government can table a Bill expeditiously on the proposal or at least enable a public discussion to be held with the ultimate goal of implementing the proposal.

The Report on Child Custody and Access, which Members might have heard of from time to time, is about the brand new concept of joint parental

responsibility. We believe this concept, if realized, can ensure the best care for children. The concept is entirely oriented towards considering the relevant issues from the perspective of a child rather than a parent or an adult. It will focus on the interests of children in making recommendations on care. As such, I very much hope that the relevant proposal can be implemented expeditiously.

President, coming back to the Bill today, I would like to make a few points here. Why had so many parents failed to appoint guardians for their children in the past? Under the existing system, that is, before this Bill takes effect, the appointment of a guardian requires the making of a deed or a will. Owing to this requirement, many parents had no knowledge or idea of how this should be done. Even if they knew they should approach a lawyer's office to make a deed or a will, they found it very troublesome to do so, or they simply did not want to bear this cost. The greatest merit of the Bill is that parents can now appoint a guardian through a simple document without the need to sign a deed or a will. Moreover, the document only needs to be attested and signed by two witnesses. In this connection, a standard form will also be provided for in the legislation, and parents are only required to fill in and sign it. This arrangement will greatly facilitate the appointment of a guardian by parents and save a lot of money.

Secondly, the Bill makes a new provision to ensue that the views of a child on the appointment of a guardian will be, to a certain extent, taken into consideration. This is extremely important because it is clearly stipulated in the United Nations Convention on the Rights of the Child (UNCRC) that the views of a child is crucial to a decision concerning him. Under appropriate circumstances, the relevant persons or the Court should also find out the views of the child by all means. Of course, the Bill makes it clear that the age and understanding of the relevant child must be taken into consideration. We understand this but consider it inappropriate to draw a line on the age by, for instance, specifying that only a 10-year-old can express his views since some children aged between six and eight are already quite mature and capable of expressing their own wishes, their views on their parents as well as their feelings. Meanwhile, some children who have already reached 12 or 13 might still be very naïve and do not understand the matter entirely. Therefore, it depends on the conditions of the children themselves. Certainly, they must not be too young. For instance, we can hardly consult the views of a toddler or a child who is smaller than three. However, a child who has reached a certain age, such as seven or eight years old, is capable of expressing his own views or mature



enough. It is absolutely necessary for the viewpoints or views of such children to be respected by adults. Even the Court must listen and give full consideration to their views. I greatly support making this provision. In my opinion, this law reform is extremely important and worth supporting because it can specify clearly the need to take the views of a child into consideration.

Thirdly, I would like to express my views on the requirement that the Court shall, in any proceedings concerning children, regard the "welfare" of the minor as the first and paramount consideration, though the term used in the UNCRC is "best interest" rather than "welfare". Personally, I consider the term "best interest" more appropriate. Nevertheless, I respect the view of the working group and the LRC that it might be more appropriate to retain the conventional term "welfare" at the present stage. But given that we proposed in the Bills Committee revising the term and our proposal was eventually supported by the Government, I personally welcome this amendment and consider that the term "best interest" is more appropriate than "welfare".

Lastly, section 6(2) of the original Ordinance stipulates that the surviving parent has the right to veto the guardian appointed by the deceased parent taking up the appointment. I greatly support the removal of the surviving parent's veto right through this legislative amendment. I have often noticed that some parents are not necessarily fit to take care of a child for various reasons. Nevertheless, if a guardian has been appointed by a deceased parent but the surviving parent has a veto right, a problem may arise, that is, despite the presence of a suitable candidate, such as a person living with the child or a grandparent, his or her guardianship can still be vetoed by the surviving parent. As a result, the interests of the child concerned might not be protected. This Bill seeks to remove the veto right of a surviving parent and allow the relevant guardian to take his claim to a court of law for judgment on whether or not the surviving parent shall be the sole guardian. I consider such an arrangement more appropriate because the guardianship can no longer be vetoed by a surviving parent, as if he or she is in possession of an imperial sword. As the only consideration is to protect the interests of children, it is worthy of support.

President, the last point I would like to make is that I am pleased to see that the recommendations of the LRC have finally reached this Council after nine or 10 years have been wasted. Despite the regret expressed by me earlier because of the very slow response of the Government, it is still better late than never.

Hence, we fully support the relevant recommendations as well as the Second Reading of the Bill today. We also support the CSAs to be proposed by the Government later on, since they are all technical amendments. We fully support them. Thank you, President.

**MR WONG YUK-MAN** (in Cantonese): President, the People Power supports the Guardianship of Minors (Amendment) Bill 2011 (the Bill).

Just now, a number of Members mentioned about the wasted time. Wasting time in enacting legislation appears to be one of the characteristics of the SAR Government. While some people say that 10 years have been wasted, strictly speaking, the entire process has taken 18 years, from the referral of this question under debate to the LRC by the Department of Justice and the Chief Justice before the reunification in 1995 to the publication of the consultation document in 1998 and the report by the LRC in 2002, the spending of nine years by the Government to make a response, the commencement of the legislative process last year, and the tabling of the Bill to the Legislative Council for Third Reading today. Albeit dissatisfied, we are compelled to accept the Bill. However, the question under debate is uncontroversial.

Basically, we support the content of the Bill, since it can better answer some social needs and catering to the needs of minors. We also welcome the Government's acceptance of the views of the Hong Kong Bar Association, The Law Society of Hong Kong (the Law Society) and other professional bodies. I wish to mention one point in particular, namely the term "welfare" in section 3(1)(a)(i) of the Guardianship of Minors Ordinance. The Government has taken on board the view of the Family Law Association that the term be replaced by "best interests" since the latter is more in conformity with the spirit of the terminology used in the United Nations Convention on the Rights of the Child (UNCRC). However, the term "welfare" can still be found in other family legislation. What is the Government's stance in this connection?

For instance, section 48C of the Matrimonial Causes Ordinance (Cap. 179), which deals with the application of section 3 of the Guardianship of Minors Ordinance, specifies that "For the avoidance of doubt, section 3 of the Guardianship of Minors Ordinance (Cap. 13) (which provides that the welfare of the minor shall be the first and paramount consideration) shall apply in relation to

.....". The term "welfare" can be found here. Furthermore, section 18(6) of the Matrimonial Proceedings and Property Ordinance, which deals with restrictions on decrees for dissolution, annulment or separation affecting children, reads, and I quote, "In this section "welfare" (福利), in relation to a child, includes the custody and education of the child and financial provision for him."

Even if the term "welfare" is amended and replaced by "best interests", we can still find the term "welfare" in some relevant legislation. In the event of a further delay by the Government, I wonder how long it will take and whether the term "welfare" will be amended. Hence, there is still some sort of deficiency with this Bill.

Furthermore, under the proposed section 6(3), the appointment of a guardian must be made in writing, dated and signed by the person making the appointment and attested by two witnesses. Although a standard form will be produced by the Administration, it is not absolutely necessary. The relevant appointment will take effect provided that it meets the requirements set out in the proposed section 6(3). But, this will create some uncertainties and may lead to disputes.

Furthermore, the proposed section 6(4) allows a parent or guardian to appoint a guardian by a will executed in accordance with section 5 of the Wills Ordinance. While section 5(1) of the Wills Ordinance has a provision similar to the proposed provision mentioned just now (that is, meeting the requirements set out in section 6(3)), section 5(2) of the Ordinance also provides that "A document purporting to embody the testamentary intentions of a deceased person shall, notwithstanding that it has not been executed in accordance with the requirements under subsection (1), be deemed to be duly executed if, upon application, the court is satisfied that there can be no reasonable doubt that the document embodies the testamentary intentions of the deceased person.". Actually, section 5(2) of the Wills Ordinance is made specifically having regard to the social environment of Hong Kong. Similar descriptions are rarely found in other jurisdictions.

Under normal circumstances, the appointment of a guardian through a will can hardly meet the requirements set out in section 6(5) because the person making the will normally has no idea of when he or she will die and when the will is to be executed. Some wills might be signed years ago, whereas the

conditions of the relevant minors might have changed. This is why section 6(5) provides that the wishes of the relevant minor must be taken into account as far as practicable having regard to the minor's age and understanding.

Basically, we support the entire Amendment Bill. Certainly, there are some flaws in it. Should an opportunity arise in the future, further amendments can actually be made. We also agree with section 8C that a guardian may disclaim his appointment since, in the minor's interests, the nature of work of the guardian cannot be dictated. It will not do any good to both the guardian and the minor to force the forming of such relationship. Hence, we support section 8C and subsequent amendments in ensuring that the person concerned makes another arrangement for the minor on learning about the disclaimer of appointment. Generally speaking, we have no objection to this Bill. Thank you, President.

**MR WONG SING-CHI** (in Cantonese): President, the Democratic Party supports this Bill. Just now, a number of Members pointed out that there might have already been a need to address these issues a couple of decades ago because in the past, the appointment of a guardian did not require his or her consent, or in some cases, the guardians simply had no knowledge of their being appointed as a guardian and no idea of what to do when they were later requested to be a guardian all of a sudden. Furthermore, those who have already become guardians did not know how to disclaim their appointment and whether or not they need to take an oath or go through other relatively complicated procedures.

This time around, this Bill makes the interests of a child as the first and paramount consideration in the better interest of the guardian or the relationship between the child and his or her guardian. Obviously, the Administration's reluctance to deal with this matter after such a long delay reflects that the guardianship or care of a child was previously dealt with in a rather slapdash manner.

President, as many technical and amendment details have been discussed by a number of Members just now, I will not repeat them here. Despite our remarks today that many amendments might need to be made in the future, this Council as a whole will accept the Bill today as well as the amendments proposed by the Government.

President, the only point I wish to make is that, as mentioned by Ms Miriam just now, we will soon discuss a Bill concerning the joint responsibility of parents. In fact, the guardians who were supposed to take care of minors in the past obviously had absolutely no idea of how to behave like a guardian, or the Government's procedure had prevented guardians from playing their role as a guardian satisfactorily. Furthermore, in present-day society, most parents encounter a lot of difficulties in taking care of their children, with some even developing serious problems.

Hence, insofar as such legislation is concerned, we hope the Government can make more vigorous efforts in examining the current conditions of families with a view to introducing more legislative amendments or improvements to enable minors to receive appropriate care in society and families.

In our opinion, President, regardless of how the existing Ordinance is amended, we merely seek to facilitate parents or guardians in handling their task of taking care of children procedure-wise or technically. Nevertheless, we can see that many families nowadays do not necessarily know how to take care of children even if they are authorized to do so. As was the case yesterday in which a mother was hospitalized after being hit by her child with a telephone and tablet computer, such problems are found nearly every day. The mother, even though she has guardianship, has no idea how to take care of her child. If parents are given the responsibility and yet they do not consider that they are responsible, then the legislation, even if enacted, will serve no meaningful purpose.

Hence, President, I think that besides making specific amendments or genuine improvements to these laws, the Government should do an even better job in family work. President, I have made this remark not without a reason. It is because the Government currently has a Family Council, but regrettably, Mr Henry TANG has resigned as its Chairman as well as Chief Secretary for Administration. The fact that its chairmanship has now been taken over by Chief Secretary Stephen LAM demonstrates very well the Government's attitude towards these issues. In addition to the delay of nearly two decades before the legislation is amended, the Family Council has not done anything exceptionally well in addressing these issues. There is indeed a need for the Family Council to compel the Government to do more in addressing family issues.

President, the Democratic Party will support the passage of this Bill. Nevertheless, I hope that the Government can, in addition to amending the Ordinance, make more efforts in terms of policy and the overall social atmosphere and in fully safeguarding the core value of families, so that parents and guardians can truly exercise guardianship and custody to enable children to grow. Thank you, President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Labour and Welfare to reply.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, subsequent to the tabling of the Guardianship of Minors (Amendment) Bill 2011 (the Bill) to the Legislative Council in June last year, a Bills Committee was set up by the Legislative Council to scrutinize the Bill. The Bills Committee, chaired by Ms Cyd HO, has held five meetings in total to examine in detail the policy consideration and the details of various clauses of the Bill and in July last year, invited relevant stakeholders, including the Hong Kong Bar Association, The Law Society of Hong Kong, the Hong Kong Federation of Women Lawyers and the Family Law Association, to participate in the deliberations and express their views. The Bills Committee has made a lot of constructive recommendations on improvement of the Bill. In this connection, I would like to express my sincere gratitude here to Ms Cyd HO and six other members of the Bills Committee.

As pointed out by me in moving its Second Reading, the Bill seeks to amend the Guardianship of Minors Ordinance (the Ordinance) (Cap. 13) for implementing the recommendations of the Report on Guardianship of Children (the Report) published by the Law Reform Commission of Hong Kong (LRC). The recommendations aim at facilitating parents in making proper guardianship arrangements for their children in the event of their deaths.

Under the Ordinance, a parent may by will or deed appoint another person to be a guardian of his/her child in place of himself/herself in the event of his/her death. The Ordinance also authorizes the Court to appoint a person as the guardian of a minor under specific circumstances. The Report conducted a comprehensive review of the legal arrangements in relation to the appointment, removal and power of guardians for minors under the Ordinance. The review was premised on the LRC's belief that children are born dependent, so provision must be made for their daily care and upbringing from the time they are born till their adulthood, and in the event that one or both of a child's parents die(s), the appointment of guardians will be beneficial to the child as it can help achieve continuation of the provision for the child's daily care and upbringing.

After reviewing the relevant provisions of the Ordinance and making reference to the Children Act 1989 of England and Wales and the Children (Scotland) Act 1995 of Scotland, the LRC made nine reform recommendations, eight of which shall be implemented through legislative amendments. As no serious loopholes or problems have been found with the existing legislation, the LRC has not proposed any major reform recommendations which are fundamental in nature. The recommendations proposed by the LRC seek mainly to simplify the procedures for appointment of guardians and to enhance and clarify related ordinances, in a bid to further protect the interests of children. The recommendations include allowing parents to appoint guardians by a document in writing; obviating the need to make a formal will or deed; requiring prior consent of the appointed guardian before the appointment can take effect; specifying when the appointment of a guardian shall take effect, and allowing a guardian to appoint a guardian for the child in the event of the guardian's death.

After examining the Report in detail, the Administration agreed with the LRC recommendations and accepted all the recommendations of the Report on the ground that streamlining and enhancing the procedures for appointment of guardians could facilitate parents in making prior guardianship arrangements for their children in the event of their deaths and were beneficial to children. In October 2009, the Labour and Welfare Bureau formally presented to the Chairman of the LRC a formal response to the Report indicating that the Administration accepted all the recommendations of the Report and proposed that the recommendations be implemented by amending the Ordinance. Subsequently, we briefed the Legislative Council Panel on Welfare Services on our stance in regard to the Report at its meeting on 8 February 2010, and

consulted the Panel on our specific legislative proposals at its meeting on 14 March 2011. The Panel expressed support for our proposals.

With respect to the specific legislative proposals, apart from implementing the recommendations of the Report, we also proposed, after making reference to the Children Act 1989 of England and Wales, to adopt some other provisions in the Act with a view to enhancing the clarity of the Ordinance. For example, we proposed to specify how a parent/guardian can revoke or replace a guardian appointment that he/she made under the Ordinance before it takes effect. We also proposed to give the Court the power to appoint guardians for minors under specified circumstances in any domestic proceedings even if no application has been made, and to make it clear that a guardian appointed under the Ordinance is to have parental rights with respect to the minor.

The Bills Committee has held five meetings in total and made a number of recommendations for improvement to the Bill after inviting relevant stakeholders to express their views. The vast majority of the amendments aim at enhancing the clarity of the provisions or making appropriate adjustments to the terms without involving any major policy change. Having regard to the proposal of the Bills Committee, we agree to introduce some amendments and revisions to the Bill. I will propose the relevant CSAs later on in the meeting.

After the passage of the Bill, the Administration will introduce an administrative measure with a view to giving effect to the relevant legislation expeditiously. We will follow the recommendations of the Report by introducing a standard form for appointment of guardians to facilitate parents or guardians in appointing guardians for children. During the deliberations on the Bill by the Bills Committee, we presented a draft standard form in response to members' request. The Bills Committee has accepted the draft form and given us some improvement suggestions on the details of the form. We will revise the form having regard to members' suggestions.

After the passage of the Bill, the Administration will also launch relevant publicity and public education campaigns, including the production of a pamphlet, to explain ways of appointing guardians by parents, considerations to be given when making an appointment, the responsibility of a guardian, considerations to be given by a guardian before taking up an appointment, and other relevant operational arrangements. Moreover, the front-line staff of the relevant professions will be briefed on the new arrangements with a view to



enhancing public understanding of the arrangements for appointment of guardians under the Ordinance.

President, the Administration believes that the recommendations of the LRC Report can help further improve the legal arrangements in relation to the appointment, removal and power of guardians for minors under the Ordinance and facilitate parents in making guardianship arrangements in the best interest of their children. Here, I would like to thank the LRC and the subcommittee chaired by Ms Miriam LAU for examining the issue of guardianship of minors and making in the Report useful law reform recommendations.

We believe the approach of implementing the recommendations of the Report through a Bill to amend the Ordinance is in line with public expectation and has secured their support. Here, I would like to thank the Bills Committee again for giving advice on and support for the Bill. I also implore Members to support the Second Reading of the Bill and endorse the CSAs proposed by the Administration later on.

President, in the speeches delivered by Members just now, a number of Members expressed concern about the relatively long period of time taken by the Administration to follow up the LRC recommendations. While I fully understand Members' views and concerns, I hope Members can understand that the Labour and Welfare Bureau has been keeping track of the Report as well as other reports since the commencement of the current-term Government. Nevertheless, we must give priority to amending the Domestic Violence Ordinance because of its urgency and greater importance. A series of initiatives were already launched immediately afterwards.

President, I would like to give Members a very brief account of the latest progress of several relevant reports. First of all, while taking charge of the Report related to the Bill, the Labour and Welfare Bureau is also in charge of other reports, including the Report on International Parental Child Abduction, which deals with the issue of children taken out of their place of residence by one of their parents without the consent of the other parent, and the Report on Child Custody and Access, which deals with child custody and access issues. The study of the Report on International Parental Child Abduction has already completed. Besides indicating to the LRC Chairman in October 2009 that we accepted all the recommendations of the Report, we also briefed the Legislative Council Panel on Welfare Services of our stance in respect of the Report at its

meeting on 8 February 2010. The Administration is now making actual progress by drawing up steps for the implementation of the legislative proposals contained in the Report.

As for the Report on Child Custody and Access, its proposals are focused on the replacement of the existing custody and access arrangements under the Family Law with the implementation of the joint parental responsibility model by legislative means in dealing with the arrangements for children after the divorce of their parents. In our opinion, these proposals warrant careful consideration for they will fundamentally change the concept of "custody" under the existing Family Law and will have far-reaching implications on children and family on various fronts. Furthermore, given that quite a number of stakeholders do not have an in-depth understanding of the LRC recommendations, a public consultation was launched on 28 December 2011 in the hope of triggering extensive discussions in the community and collecting public opinions with a view to determining our way forward. Upon the completion of the four-month consultation, we will collate the views collected and report to the Legislative Council on the outcome of the consultation and the way forward.

President, I so submit. Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Guardianship of Minors (Amendment) Bill 2011 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Guardianship of Minors (Amendment) Bill 2011.

Council went into Committee.

### **Committee Stage**

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

### **GUARDIANSHIP OF MINORS (AMENDMENT) BILL 2011**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Guardianship of Minors (Amendment) Bill 2011.

**CLERK** (in Cantonese): Clauses 1, 2, 3 and 8.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 4 to 7.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Chairman, I move the amendments to clauses 4, 5, 6 and 7 of the Guardianship of Minors (Amendment) Bill 2011 (the Bill) read out just now. I also propose to add two new clauses, namely clauses 3A and 5A. As these amendments are interrelated, with your indulgence I shall speak on their salient points together here.

The Committee stage amendments (CSAs) to the Bill proposed by us, which are mainly in response to the suggestions of the Bills Committee, can broadly be divided into three types. The first type of amendments seeks to further refine the recommendations made by the Law Reform Commission (LRC) in its Report on Guardianship of Children; the second type seeks to effect textual amendments; and the third type seeks to further clarify the provisions of the Bill. All these amendments do not involve any policy changes.

The first type of amendments includes the disclaimer of appointment as a guardian under clause 4 of the Bill, which replaces the existing provisions relating to the appointment, removal and powers of the guardians under sections 5 to 8 of the Guardianship of Minors Ordinance with the proposed sections 5 to 8H, so as to implement the recommendations made by the LRC in its Report on Guardianship of Children. Among them, proposed section 8C, as recommended by the LRC, provides that guardians may disclaim the appointment. After listening to the views of the deputations attending its meetings, the Bills Committee has considered that the provisions should be further refined to specify in the Bill that if the guardian wishes to disclaim the appointment before the death of the appointing parent, he should be required to notify the appointing parent, so that the latter can make other suitable guardianship arrangements for the child as soon as possible. The Administration has accepted the views of the Bills Committee and will amend the notification requirements relating to the disclaimer of appointment as a guardian under the Bill.

The second type of amendments seeks to effect textual amendments, including new clause 3A to be added to the Bill, which amends the original provisions under section 3 of the Guardianship of Minors Ordinance. Section 3 of the Guardianship of Minors Ordinance sets out the "welfare principle" that the Court shall, in any proceedings concerning children, regard the welfare of the minor as the first and paramount consideration and give due consideration to the

factors such as "wishes of the minor". After listening to the views of the deputations attending its meetings, the Bills Committee has suggested that the term "wishes of the minor" should be replaced by "views of the minor" as the latter is more in conformity with the terminology used in the United Nations Convention on the Rights of the Child (UNCRC). We have accepted the views of the Bills Committee and will amend the term by adding new clause 3A.

Moreover, the term "welfare of the minor" is used in various parts of the Bill and the original provisions of the Guardianship of Minors Ordinance. In response to the views of the Bills Committee, we propose to amend the term as "best interests of the minor" for the same reason that the latter is more in conformity with the terminology used in the UNCRC. To this end, I shall move that proposed section 8E under clause 4, as well as clauses 6 and 7 of the Bill be amended. At the same time, I shall move that clauses 3A and 5A be added to the Bill, so as to amend the term "welfare of the minor" in sections 3 and 10 under the Guardianship of Minors Ordinance respectively.

Another textual amendment involves proposed section 8G under clause 4, as well as clause 5 of the Bill, in which the term "parental rights" is used. The Bills Committee has proposed that the term "parental rights and authority" be used instead because under the existing section 3 of the Guardianship of Minors Ordinance, the term "parental rights and authority" is also used to express more or less the same meaning. The proposed amendment can ensure consistency.

The third type of amendments seeks to further clarify the provisions, including proposed section 5 under clause 4 of the Bill, which sets out again in the existing section 5 of the Guardianship of Minors Ordinance that as a general principle, on the death of a parent of a minor, the surviving parent is the guardian of the minor as of right. This provision is subject to section 19(4) of the Matrimonial Proceedings and Property Ordinance (Cap. 192) that the surviving parent shall not be entitled as of right to the custody or the guardianship of the child on the death of custodial parent if the decree of divorce or judicial separation made by the Court includes a declaration that he or she is unfit to have custody of the child. In response to the suggestion of the Bills Committee, we have proposed the amendment to stipulate clearly that proposed section 5 under clause 4 of the Bill is subject to section 19(4) of the Matrimonial Proceedings and Property Ordinance.

Another example is proposed section 7 under clause 4 of the Bill, which stipulates that the guardian appointment is to take effect automatically if the appointing parent has obtained a custody order from the Court over the minor prior to his or her death. The Bills Committee has suggested us to stipulate in the Bill that the automatic assumption of guardianship will apply to cases of joint custody order. We therefore propose to amend the provision accordingly.

Other similar amendments are proposed to further clarify the provisions, including proposed sections 6, 7 and 8B under clause 4 of the Bill.

Chairman, the amendments proposed under the Bill seek mainly to refine the provisions concerned. All these amendments are supported by the Bills Committee. I implore Members to support them.

Thank you, Chairman.

*Proposed amendments*

**Clause 4 (see Annex I)**

**Clause 5 (see Annex I)**

**Clause 6 (see Annex I)**

**Clause 7 (see Annex I)**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 4 to 7 as amended.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 4 to 7 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): New clause 3A

Section 3 amended  
(General principles)

New clause 5A

Section 10 amended  
(Orders for custody and  
maintenance on application  
of either parent).

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): I move the Second Reading of new clauses 3A and 5A, which have been covered in my

speech just now. New clause 3A is added in response to the suggestion of the Bills Committee to make two textual amendments to the Guardianship of Minors Ordinance (Cap. 13), including replacing the term "welfare" of the minor with "best interests" of the minor, and replacing the term "wishes" of the minor with "views" of the minor in the English text, as the latter is more in conformity with the terminology used in the United Nations Convention on the Rights of the Child.

New clause 5A is added to amend section 10 of the Guardianship of Minors Ordinance, so as to replace the term "welfare" of the minor with "best interests" of the minor.

Thank you, Chairman.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clauses 3A and 5A be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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



**CLERK** (in Cantonese): New clauses 3A and 5A.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Chairman, I move that new clauses 3A and 5A be added to the Bill.

*Proposed additions*

**New clause 3A (see Annex I)**

**New clause 5A (see Annex I)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clauses 3A and 5A be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

**Third Reading of Bills**

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

**GUARDIANSHIP OF MINORS (AMENDMENT) BILL 2011**

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, the Guardianship of Minors (Amendment) Bill 2011

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Guardianship of Minors (Amendment) Bill 2011 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Guardianship of Minors (Amendment) Bill 2011.

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Ms Miriam LAU will move a motion under Rule 49E(2) of the Rules of Procedure to take note of Report No. 8/11-12 of the House Committee laid on the Table of the Council in relation to the three Orders made under the Inland Revenue Ordinance.

**PRESIDENT** (in Cantonese): 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 relevant items of subsidiary legislation 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.

**PRESIDENT** (in Cantonese): Will those Members who wish to speak 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, I move the motion under Rule 49E(2) of the Rules of Procedure, as printed on the Agenda, to enable Members to take note of Report No. 8/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments in relation to the three Orders as listed below:

- Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Portuguese Republic) Order (L.N. 155/2011);

- Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Kingdom of Spain) Order (L.N. 156/2011); and
- Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Czech Republic) Order (L.N. 157/2011).

**Ms Miriam LAU moved the following motion: (Translation)**

"That this Council takes note of Report No. 8/11-12 of the House Committee laid on the Table of the Council on 11 January 2012 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) (Portuguese Republic) Order (L.N. 155/2011)
(2)	Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Kingdom of Spain) Order (L.N. 156/2011)
(3)	Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Czech Republic) Order (L.N. 157/2011)."

**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 Three Orders Made under Section 49(1A) of the Inland Revenue Ordinance and Gazetted on 18 November 2011, I am now reporting the scrutiny work of the Subcommittee.

The purpose of the three Orders are to give effect to the Comprehensive Agreements for the avoidance of double taxation and the prevention of fiscal evasion between Hong Kong and Portugal, Spain and Czech Republic respectively.

The Subcommittee held two meetings to meet with the Administration and scrutinize the three Orders.

As to the exchange of information, the Subcommittee noted that the three Comprehensive Agreements concerned have adopted all the safeguards in Hong Kong's sample Exchange of Information (EoI) Article.

The Subcommittee noted that an explicit provision that requires that "Information shall not be disclosed to any third jurisdiction for any purpose" has been added in all the three Comprehensive Agreements. As Hong Kong has entered into mutual assistance agreements (such as mutual legal assistance in criminal matters agreements) with various jurisdictions, the Subcommittee sought clarification from the authorities on the following issues —

- (a) whether an authority in Hong Kong, to whom the information exchanged under a Comprehensive Agreement may be disclosed, is allowed to disclose the information to its counterpart of a third jurisdiction, if there is in force a mutual assistance agreement in related matters between Hong Kong and the third jurisdiction; and
- (b) if the answer to the above is in the negative, whether the "non-disclosure to third jurisdictions" provision under Comprehensive Agreements would affect the effective implementation of the mutual assistance agreements between Hong Kong and other jurisdictions.

The Administration advised that the provision "information shall not be disclosed to any third jurisdiction for any purpose" of the Comprehensive Agreements was in line with the relevant commentary on Model Tax Convention of the Organisation for Economic Co-operation and Development. The provision was binding on and must be observed by the contracting parties (including their authorities, such as courts and administrative bodies), and obligations under this provision are not affected by other bilateral agreements in

place with third jurisdictions. The Administration has further advised that according to the EoI Article of the respective Comprehensive Agreements, persons or authorities to whom information exchanged is disclosed shall use the information only for purposes concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes covered by the Comprehensive Agreements.

The Subcommittee noted that Hong Kong residents will benefit from the tax arrangement concerning income from employment under the three Comprehensive Agreements, on condition that they meet the specified requirements. The Subcommittee sought clarification on whether the tax arrangement would apply to Hong Kong entertainers. The Administration advised that owing to the special nature of the activities of entertainers and sportsmen, there was a separate article, that is, Article on "Artistes and Sportsmen", in the three Comprehensive Agreements as well as other Comprehensive Agreements that Hong Kong has entered into, that provided for the tax arrangement for the income of the entertainers and sportsmen who were residents of either contracting party derived from their activities exercised in such capacities in the other contracting party. Under that Article, the income of a Hong Kong entertainer or sportsman derived from his or her activities exercised in such capacity in the other contracting party, irrespective of his or her employment status and length of stay in the other contracting party, might be taxed by the other contracting party.

The Subcommittee was informed by the Administration that as there were relatively few tax types in Hong Kong and the tax rates were generally low, it was estimated that the implementation of individual Comprehensive Agreements would not have significant financial implications on Hong Kong in terms of government revenue foregone. In this connection, Mr Paul CHAN suggested that the Inland Revenue Department (IRD) should start collecting data systematically on the effects of the implementation of Comprehensive Agreements with a view to providing useful reference for the work on negotiating Comprehensive Agreements. Mr CHAN also requested the Administration to provide annual reports to the Panel on Financial Affairs on Comprehensive Agreements, with information on the costs and benefits of those Comprehensive Agreements that had been implemented.

The Administration advised that the IRD would collect relevant information based on the applications for tax credits. It should however be noted that only information on revenue foregone due to Comprehensive Agreements can be collected, because the other contracting parties of Comprehensive Agreements would not disclose information on tax credits granted to their residents for their incomes earned and taxed in Hong Kong, and Hong Kong residents who have enjoyed tax benefits granted by the other contracting parties of comprehensive agreements are not obliged to report such information to the IRD. The Administration agreed to consider how best it could provide relevant information to the relevant panel for reference.

The Subcommittee noted that each of the Comprehensive Agreements had an Entry into Force Article which provided for the necessary procedure for the entry into force of the agreements. At present, upon the entry into force of a Comprehensive Agreement, the IRD will publish an announcement on its website for public information.

The Subcommittee's legal adviser raised concern that the commencement provision of the Orders as drafted might make the public believe that the Comprehensive Agreements had formed part of the domestic law and would enter into force on the commencement date of the Orders (that is, the original 12 January 2012). Our legal adviser was also concerned that the suggested approach of publishing an announcement on the website of the IRD to inform the public of the entry into force of a comprehensive agreement was not legally in order. The Legal Adviser suggested that the Administration might adopt a deferred commencement clause in the Orders, as in the Mutual Legal Assistance Criminal Matters Order and the Fugitive Offenders Order, to implement Comprehensive Agreements so that the relevant authority would appoint a commencement date for each of the three Orders when the date of entry into force of the relevant Comprehensive Agreements was ascertained.

The Administration advised that upon the coming into force of an order under Section 49(1A) of the Inland Revenue Ordinance (Cap. 112), the arrangements specified in the order should be incorporated into and form part of our domestic law. The entry into force of a comprehensive agreement and the taking effect of the provisions of the comprehensive agreement should be governed by the "entry into force" provision. In other words, insofar as domestic law was concerned, the entry into force of the Comprehensive

Agreement for Avoidance of Double Taxation (CDTA) on the date determined pursuant to and in accordance with the entry into force provision must have the force of law. It was therefore not necessary for another piece of subsidiary legislation to give it legislative effect. The authorities pointed out that adopting a similar practice as in the Mutual Legal Assistance Criminal Matters Order and the Fugitive Offenders Order, and the taking effect of the provisions of the comprehensive agreement would be delayed, in the extreme case, for a whole year.

Since the Subcommittee's legal adviser and the Administration held different interpretations on the relevant legislative provisions, the Subcommittee considered that it should focus on the practical aspects by examining whether the current approach adopted by the Administration would give rise to any operational problem and/or have any adverse effect on taxpayers. In this regard, the Subcommittee enquired whether the Administration was aware of any such operational problem.

The Administration advised that the Entry Into Force Article of each comprehensive agreement contained clear provisions as to what procedures were required for a comprehensive agreement to enter into force and in which assessment year the tax arrangements set out in a comprehensive agreement would become effective. With the knowledge of a comprehensive agreement through a relevant Order published in the Gazette, residents of the contracting parties would make arrangements for their activities with a view to reaping tax benefits when the tax arrangements of the comprehensive agreement become effective. The Administration was not aware of any complaint or objection from the public regarding the current approach to handling the matter.

As there was no evidence to suggest that the current approach to bringing the comprehensive agreements into force adopted by the Administration has given or would give rise to any operational problem or that the public or taxpayers affected have found the current approach objectionable, the Subcommittee concluded that it was not necessary for the Administration to change the current approach.

President, the Subcommittee supports the implementation of all three of the abovementioned Orders.



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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to speak.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I wish to thank Mr James TO for his support for the implementation of the three Comprehensive Agreements for the avoidance of double taxation (CDTAs) between Hong Kong and Portugal, Spain and Czech Republic, and I also wish to extend my gratitude to Mr James TO for having explored issues in various aspects in the Subcommittee and presented the final report.

Each CDTA will be tabled in the Legislative Council for scrutiny by way of subsidiary legislation. As to the three Orders tabled this time around, we have stated clearly in the papers submitted to the Legislative Council that whether or not the safeguards in Exchange of Information (EoI) Article are included in each CDTA.

Since the Inland Revenue (Amendment) Ordinance 2010 came into operation in March 2010, which allows us to adopt the Organisation for Economic Co-operation and Development's latest standard for exchange of information, we have tabled 14 CDTAs in the Legislative Council for scrutiny one after another, and the signing or negotiation of eight more CDTAs have been completed. All of these CDTAs will be tabled in the Legislative Council in succession for scrutiny. Moreover, we have commenced negotiations with around 10 more partners.

As to the speech delivered by Mr James TO just now, I wish to thank his report once again for confirming that the three CDTAs have adopted the privacy safeguards in the sample EoI Article, which include that the information being exchanged would not be handed over to the taxation authorities or the oversight authorities of the taxation authorities of the contracting party or other

governments. Mr James TO reiterated that we had confirmed the fact that the information being exchanged would not be disclosed to any third jurisdiction.

As to the discussion relating to the commencement date in Mr James TO's report, I wish to thank the Subcommittee for agreeing that the existing practice appropriate. We consider that our current approach can strike the right balance between the requirement in law and achieving a more convenient and transparent effect.

In future, we will keep on expanding our CDTA network in a proactive manner so as to enhance Hong Kong's position as an international financial and commercial centre.

Thank you, President.

**PRESIDENT** (in Cantonese): 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 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.

**PRESIDENT** (in Cantonese): First motion: Formulating a comprehensive mental health policy.

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

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

**FORMULATING A COMPREHENSIVE MENTAL HEALTH POLICY**

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

President, five years ago, that is, on 31 January 2007, the Legislative Council passed a motion on "A comprehensive review on mental health policy". Today, I am moving a similar motion. I am indeed very reluctant to do so because it shows that throughout these five years the Government has never taken the motion seriously and it is still marking time. Facts show that not only has the problem not been alleviated, but it is worsening.

Let us look at a set of figures. Now there are about 160 000 mental patients in Hong Kong, and 150 000 of them are living in the community. According to the annual report published by the Hospital Authority (HA), as at end March 2010, that is, in the year 2009-2010, there were a total of 703 612 attendances at the psychiatric specialist out-patient service provided by the HA, and that was an increase of 8.6% compared with the figure of 647 864 attendances for the previous year. When compared with the figure of 615 083 three years ago, that is, in 2007-2008, the rate of increase is 14.4%. The number of new patients every year is close to 30 000.

President, had this rate of increase been that for economic growth last year, I am sure the Government would spare no efforts in boasting the success. And the Chief Executive will get resounding praises from the national leaders in the Central Authorities. Unfortunately, and much to be regretted that this rate of increase is one on attendances made by mental patients in Hong Kong. Therefore, the Government just pretends that nothing has happened.

On 22 November 2007, the Panel on Health Services passed a motion urging the Administration to formulate expeditiously a comprehensive mental health policy. There and a half years later, that is, on 24 May 2011, in a joint meeting of the Panel on Health Services and the Panel on Welfare Services, the Government still passed the responsibility on to the Working Group on Mental Health Services chaired by Secretary Dr York CHOW. This Working Group was formed in 2006, tasked with reviewing the mental health policy in Hong Kong. But five years have passed and nothing is heard from it. No account

has been given of the work done. Every time when Members pursue the matter, it would only say that a report would be completed as soon as possible.

On 29 May 2009, a three-year-old child in Un Chau Street was knifed to death by a man suspected of having a relapse in mental illness. But the Secretary still said in reply to a question raised in this Council that a Subgroup under the Working Group had arrived at an initial framework with respect to the aims and directions of mental health policy in Hong Kong. And the Chief Executive announced in haste that Integrated Community Centres for Mental Wellness (ICCMWs) would be set up throughout the territory.

One year later, that is after the occurrence of the fatal incident on 8 May 2010 in Kwai Shing East Estate, the HA launched the Mental Health Service Plan for Adults for 2010-2015 and stated that the Plan would become the blueprint for adult psychiatric services of the HA in the following five years. However, the truth is only that the HA is doing its duty within its scope of work. From this it can be seen that government departments and agencies just do their own part with respect to mental health policy and only piecemeal responses are made and in the absence of any long-term and comprehensive planning.

The ICCMWs which began operation in October 2010 are very typical examples showing that there is no service planning by the Government. More than one year have passed and some service providers still do not have any permanent service venue. The main reason is that the Government has failed to deal with the so-called opposition at the district level. So long as there is no early planning by the Government, the non-governmental organizations (NGOs) will never find any suitable venue to provide their services.

These NGOs may wish to lease some units in a shopping mall for temporary use, but the time taken by the Social Welfare Department to give its approval is too long, and so the suitable venues are leased to other people. Even if a suitable venue is found, the rental subsidy given is only calculated on the basis of rentals for public housing units across the board. The current rate is \$4.2 per sq ft. Now the rentals in shopping malls would fetch at least \$15 to \$20 per sq ft. So it can be said that there are lots of difficulties.

As for manpower, now there is a shortage of healthcare personnel in these ICCMWs. The current funding from the Government is so insufficient that it is

hard for these ICCMWs to hire paramedical staff like qualified nurses and occupational therapists. Moreover, there is also a shortage of senior social workers to cater for the huge demand in the community.

All along the approach taken by Hong Kong in respect of mental health services is mainly a "healthcare mode" or a so-called "personal development mode". Hence most of the resources are placed on curative, training and rehabilitation work. Although the 1995 White Paper on Rehabilitation Policies and Services has listed some directions in the social mode, the services provided by the Government to date are still mainly geared towards the discharged patients as individuals. The focus is only on their return to society instead of integrating into it. It shows that the mindset displayed by the Government all along is only putting the responsibility on the patients, and no attempt is ever made to change conditions in society and public attitude to foster integration, hence creating a society marked by mental health friendliness.

If we were to do something to facilitate ex-mental patients in reintegrating into society, they need the acceptance by people in the community. And for their family members, they should have enough ability to care for these ex-mental patients and there should also be some proper professional follow-up services such as in the form of follow-up consultations, daytime community rehabilitation centres as well as a job which is steady and decent.

That society wants that a mental health policy be formulated is because people are aware of the fact that the problem of mental health is not just a problem of a particular disease, nor simply a problem of treatment and rehabilitation. It is a problem that is woven into our social fabrics. It is about the concepts and convictions behind public policies, how resources are allocated and the co-ordination mechanism in a policy portfolio. In other words, there should be matching policies in the provision of education, disease prevention, treatment, rehabilitation and employment. And the present fragmentation and compartmentalization among the Policy Bureaux and departments should be shattered.

Let us look at some sets of figures. In Hong Kong, the pace of life is fast and the people face heavy mental stress. People from some mental health service agency pointed out that there has been a 10% rise in the number of young

people seeking help from them. These young people are worried about their low educational attainment and job security, and problems like their inability to buy a flat or emotional disturbances due to family reasons. In the fourth quarter of 2011, there were five students aged 10 to 14 who either plunged from a building or tried to kill themselves by slashing their wrists. Some social workers also pointed out that this suicidal tendency among young people is due to the tremendous pressure they face. The findings of a survey conducted by Caritas and the University of Hong Kong (HKU) last year found more than 40% of the pupils in the upper grades of primary school experience emotional anxiety or depression and the gravity of such conditions has reached alarming levels. Of the interviewees, 3% said that they had had thoughts of committing suicide.

The problem of ageing of our population is not only a problem about the elderly. According to estimates, the number of people suffering from dementia has reached more than 100 000. It is estimated that the size of that group will increase to nearly 290 000 in the year 2036. But the support given to family members of dementia patients is most lacking indeed. There is as yet no subsidized day care centre for dementia patients in Hong Kong. The carers are therefore under great stress both physically and mentally. Some even come down with depression.

A research group formed by doctors from the HKU, The Chinese University of Hong Kong and the HA finds that 15.9% of the people in Hong Kong have sleep problems. Eighty-five per cent are suffering from insomnia. A survey conducted by the Department of Health in 2008 also shows that 20% of the people in Hong Kong suffer insomnia as frequent as two to three times a week. The study also shows that the most serious problems associated with insomnia are manic depressive disorder, anxiety and tension. They also have a greater tendency for suicide than the ordinary people.

As for the problem of gambling, figures from the Caritas Addicted Gamblers Counselling Centre show that one sixth of the pathetic gamblers who seek counselling are women and of these people, 31.2% are housewives. There are 83% of the housewives who have emotional problems because of gambling and more than half of them suffer from insomnia. More than 10% of them have marital problems because of gambling and they are either separated or divorced. Close to 30% of them have had thoughts of committing suicide. Some of the

women who borrow money from finance companies are under great mental pressure because they are afraid that people will come to their homes to collect debts.

Also, a professor in the Hong Kong Baptist University who studies the problem of new arrivals in Hong Kong points out that some local residents use derogative words like "locusts" to describe these new arrivals and they are therefore under heavy mental pressure because of such mockery and derision. In general, the people of Hong Kong work long hours and they have to use nearly half of their income to service mortgages. So they are under tremendous pressure in life. It can thus be seen that there is a very close relationship between social conditions and mental health.

President, as I have said, factors like education, healthcare, social services, adaptation of the new arrivals, discrimination in society, women, gambling, population ageing and even environmental protection, minimum wage, standard working hours, and so on, all have an effect on various aspects of the mental health of the people of Hong Kong. In the absence of a comprehensive view on the situation of the Government, and if the Government only rolls out new services in duplication of the existing services, the great amounts of resources thus expended will never solve the problems at root. The grassroots will remain the victims and more tragedies and victims will appear.

In the face of this ever increasing number of mental patients and media reports of tragedies in society which do not show any sign of relief, the Government cannot evade its responsibility anymore. It must abandon its former mentality of doing one thing at a time, formulate expeditiously a comprehensive mental health policy, enhance the preventive and remedial services, improve all relevant measures in labour, land, healthcare, welfare and education, and strive to build a caring society, in order to improve the living conditions and quality of mental health of Hong Kong people and reduce their chances of developing mental illness while also helping mental patients in their recovery and reintegration into society. Efforts should also be made to promote in society acceptance of these ex-mental patients and foster the mental wellness of the people of Hong Kong.

President, I so submit.

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

"That Hong Kong people have persistently faced high rentals, high inflation, long working hours and the absence of retirement protection in their lives, and the Government has also failed to put in place a comprehensive safety net, create a fair competition environment, and provide Hong Kong people with sufficient and affordable homes, thus causing people's livelihood pressure to increase; besides, Hong Kong people's happiness index has long remained on the low side, and the symptoms of mental illnesses such as depression and anxiety are prevalent; government departments and organizations which are currently providing drug treatment and counselling services for people with mental illness and people recovering from mental illness follow different policies, and policy bureaux and administrative departments all adopt an indifferent attitude; hence, it is necessary to conduct a comprehensive review of the existing policies and various services; in this connection, this Council urges the Government to formulate a comprehensive mental health policy, strengthen preventive and remedial services, improve the relevant policies on labour, land, healthcare, welfare and education, etc., and build a care-based community, so as to improve Hong Kong people's living environment and mental health quality, reduce their chance of contracting mental illnesses, assist people with mental illness to recover and reintegrate into society, and promote all social sectors to accept people recovering from mental illness to integrate into society."

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

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

I will first call upon Dr Joseph LEE to speak, to be followed by Mr CHEUNG Man-kwong, Dr PAN Pey-chyou and Mr Alan LEONG respectively; but they may not move the amendments at this stage.



**DR JOSEPH LEE** (in Cantonese): Thank you, Mr CHEUNG Kwok-che for proposing this motion debate again today.

As Mr CHEUNG Kwok-che said in his speech just now, this motion question has been raised in this Council for discussion on more than one occasion. Actually, it has been discussed twice already. But all the time the Government only says that it has set up a committee to take care of policy matters in this regard. But we have heard all the thunder, but we have never seen anything done by that committee. The situation is indeed worrying.

My amendment stresses the following points. First, now the HA and some NGOs will handle mental health cases, and I hope ..... I would like to talk about the handling of mental health cases. I am very much concerned about how the HA and NGOs will help people with serious mental health problems like depression, common mental disorders and even psychosis.

What I wish to say mainly is that while we welcome the involvement of the HA and NGOs in handling this kind of cases, the Government should allocate resources to them for purposes of treatment, prevention and follow-up of such cases. We are concerned that there may be a problem of service duplication because the HA may have its own approach to tackle the problem while the NGOs also have their own approaches.

To our understanding, currently 11 NGOs provide such services in the communities of 18 districts of Hong Kong. The HA has also released a new report on how outreach work for mental patients is carried out, which is an attempt to reach out to the community beyond hospitals.

I therefore wish to remind the Secretary that efforts must be made to avoid overlapping and duplication. This can prevent the situation where after obtaining resources from the Government, the HA and the NGOs will just do their own work, not knowing what the other parties are doing. The result may be a patient may receive the same treatment from two different organizations, hence wasting the resources. I hope the Secretary can introduce a comprehensive and sound set of practices and a mechanism to co-ordinate the relevant work.

Moreover, we hope that while the HA and NGOs should be urged to accept such practices, the Government should also provide some clear guidelines to members of the public so that they will know that in what circumstances they should seek help from which agencies. Hence the problem of overlapping and duplication can be pre-empted. For example, it should be stated in the guidelines that if a patient wants to have a follow-up consultation, he should go to an out-patient clinic under the HA and if a patient wants to get some counselling from a social worker like Mr CHEUNG Kwok-che, he should go to a NGO. This will reduce the incidence of overlapping.

In addition, we are very worried about mental health services in both the public and private sectors. Both the HA and NGOs provide services in the hospitals and community to care for the mental patients. However, as we know, most of the mental patients, or at least 90% of them, be they in rehabilitation or not, will depend heavily on the public healthcare system to take care of them. The result is that there is an imbalance between the public and private sectors.

There are many psychiatrists and clinical psychologists in the private sector who can help the mental patients. Unfortunately, owing to problems like resources or charges, some mental patients may not be able to use such services. This is, of course, related to the problem of expensive drugs and consultation fees.

In this regard, I would urge the Government to pay more attention. I know that the Secretary himself is also very enthusiastic in promoting co-operation between the public and private sectors. So when there are resources despite the current manpower shortage, will the Secretary consider a public-private partnership (PPP) scheme? I will talk about the manpower problem later on. At this time when resources are available, will the Secretary consider a PPP? It is because by so doing, the patients can use psychiatric services in the private sector such that the pace of rehabilitation in the community can be speeded up.

People who suffer from mental diseases should not refrain from seeking medical help and they must know the kind of treatment they should receive at certain specific times. Secretary, I am sure you know very well that in terms of the rehabilitation of mental patients, the Government is currently taking the

approach of community rehabilitation. But the fact is community rehabilitation requires a lot of matching facilities and manpower. This leads to the second point in my amendment, namely, manpower.

Now in mental rehabilitation or in psychiatrist service, manpower is insufficient no matter if we are talking about nurses, doctors, professional therapists and social workers. Let me give a simple example. Psychiatrist service is very important in community rehabilitation and in the hospitals, but last year, that is, in 2011, the Government only increased 40 places for psychiatric student nurses. How are these nurses going to cope with the close to 160 000 cases which the HA has to handle? There was only an increase of 40 student nurse places last year. How can these be enough?

The latest figures show that a psychiatrist has to handle 40 old cases and one new case in three hours. Incidentally, Dr PAN is not in the Chamber now and I am sure he would know the situation very well. It is very likely that he has to handle such a large number of cases in three hours. Just how much time has he got? So how can a doctor understand the patients well enough and provide the best treatment for them if there are only five minutes of consultation time for each patient? The situation is indeed worrying.

Also, the Government has introduced many new kinds of services in recent years. The Policy Address last year even suggested that services should be provided for autistic children. Autism is a kind of mental disorder. The Government, the HA and the Secretary all know that new services should be provided, and new services mean new funding. It would be good if there is new funding. But what should we do if we do not have new blood? Then people on the existing establishment will be required to provide the new services. But this will only make the manpower situation further stretched. In this connection, the Secretary may have to note that there are problems with the funding model currently in use. New funds will only be allocated when there are new services; and there will not be any new funds when there are no new services. Given such an arrangement, the HA or some NGOs may adopt the method of introducing some new services which are not needed in order to get new funding and hire more people. So they will hire more people when they have the new funding. But, the new staff will have to provide both the existing and the new services. This makes the manpower supply even tighter and this is a serious problem.

The HA and the Bureau have just introduced the case manager system. We very much welcome this. But it is precisely due to the manpower shortage problem that there are still a shortage of about 50 case managers to follow up mental patient cases in the community. A Member pointed out earlier that the sudden relapses of certain mental patients in the community could be due to insufficient follow-up work. I believe Members will not think that healthcare workers do not engage in sufficient follow-up work. But it is a fact that there is insufficient manpower. If there is now a shortage of 50 case managers, when it comes to 2013 ..... The Government hopes that the scheme can be a success in one year's time. But there is a shortage of 50 case managers. So what should be done? I am sure in terms of manpower ..... Of course, the Government will say that there is funding, but the problem is that it may not be possible to hire enough people even when there is money and people may not like to accept the appointment. What does this tell us? There are problems with the planning of the entire scheme. I therefore hope that the Secretary can address the manpower problem squarely.

Recently, the HA has rolled out many new services, such as those for psychosis which I have just mentioned. And there are also some other new services such as those for hyperactivity. All these new services will attract new demands and when there are new demands, there should be new services. When there is a greater need for care and attention and when there is a lack of sufficient manpower for it ..... this is really a chicken and egg question. It is difficult to solve indeed. Both the Secretary and I know clearly that this problem which has been discussed for such a long time is really difficult to solve. But I hope that by proposing this amendment, the Government can pay greater attention to this problem.

Mental health is not the same as mental illness. What I have just said is about work to be done for people with mental problems, not those who are healthy. What the Government should do is enable the people to know correctly the importance of mental health in the community. As Mr CHEUNG Kwok-che has said, we should formulate a mental health policy based on the concern for people's health. Now Members sitting here are all under tremendous pressure and they may have a very heavy workload. Today we have just filled in a questionnaire from the Secretariat asking us about our workload and salary. After filling out the questionnaire, I felt very much frightened. Why? It may be due to the reason that I do not have much work but nevertheless I receive such

a large amount of salary. So the pressure on me is great. What should I do? This may lead to problems in mental health. But this is not the same as having some mental illness. I therefore hope that the Working Group chaired by the Secretary can face up to the issue of a mental health policy. We should not just be talking about how are we to deal with people with mental illness in Hong Kong. We should know that there are many people who do not have any mental problem but they are at risk of developing mental illnesses. I hope that the Secretary can commit more resources to education so that the people of Hong Kong can lead a balanced life and, when the pressure borne by them is relieved, they can lead a healthier mental life.

For all these reasons, I will move an amendment to the motion. Thank you, President.

**MR CHEUNG MAN-KWONG** (in Cantonese): President, the World Health Organization (WHO) defines mental health "as a state of well-being enabling individuals to realize their abilities, cope with the normal stresses of life, work productively and fruitfully, and make a contribution to their communities". By all appearances Hong Kong is rich and prosperous, but it is doubtful how many of the people living in Hong Kong would have this state of mental health.

The happiness index as compiled in Western countries can effectively reflect the state of mental health of their people. Countries like Norway, Denmark and such like Scandinavian countries always top the charts and they are considered as happy countries. Why are the people in these countries so happy? In the case of Norway, for example, people have a high per capita income, a great mutual trust among the people, the country attaches great importance to human rights, people have a high degree of participation in politics and there is gender equality in society. Such are the sources of happiness for the people of Norway. But in Hong Kong, we cannot find such elements of happiness. Hong Kong people in general are unhappy with the administration by the Government. They bear the heavy pressure of life, and so their mental health is affected.

The Secretary General of the WHO once said that without psychological health, there would be no health at all. Psychological factors account for 13% of all the diseases in the world and they are the main reasons why many people fall ill or die early. So the Government should allocate more resources to improve

the mental health of the people. The amount of resources which we put in mental health is smaller than that by the United Kingdom and Australia. In the year 2008-2009, the expenditure on mental health services accounted for 0.22% of the GDP. Most of the amount was used in medical and rehabilitative services. Much less resources were expended on promoting the message of mental health. In 1995, the Labour and Welfare Bureau organized the Mental Health Month and the main kinds of promotional activities held were an opening ceremony and promotions on the TV. But this kind of promotional activities is short-lived. There would not be any trace of them when the activities were over. After the passage of more than a decade, I am sure there are very few people who still remember this Mental Health Month, not to say concepts of how mental health can be improved.

There must be clear-cut strategies if we are to improve the mental health of the people. But the mental health policy of the Government is outdated. The policy objectives formulated in the 1995 White Paper on Rehabilitation Policies and Services are still in use. The emphasis is placed on treatment and rehabilitation and little attention is paid to promoting mental health. It is also regrettable to note that the mental health policy seems to be on the decline. In the past, the White Paper on Rehabilitation Policies and Services would make an assessment of the number of mental patients, hostel places and other kinds of demands for rehabilitation services in the community. Targets would also be set to assess the shortfall in services. But ever since the publication of the review of the Hong Kong Rehabilitation Programme Plan in 2007, the Government has ceased to make any more planning in service provision. The report submitted to the United Nations under the Convention on the Rights of Persons with Disabilities only give rough figures such as the number of people with mental illnesses or common mental disorders in 2006 and 2007, and so on. As for other kinds of concrete data of the patients, the number of people with other kinds of mental illnesses, the situation, the kinds of assistance needed and the shortage condition, and so on, there are no complete figures.

A unique thing about mental health policy and mental health services is the need for interdepartmental and cross-disciplinary services. But the greatest problem with the Government in terms of policy planning is the absence of strong co-ordination. As mentioned in the original motion, if mental health is to be promoted, there is a need to pay attention to the policies enforced by various departments and their effect on the employees and their mental state. It also

needs co-operation among the departments to promote mental health education. In terms of rehabilitation services, those ex-mental patients living in the community would need various kinds of assistance in areas like healthcare, social life, housing, education, employment and financial assistance. It is only when there is co-operation among different government departments and professions that these ex-mental patients can settle down in the community.

But the kind of co-ordination mechanism among the Food and Health Bureau, the Labour and Welfare Bureau and the HA is confined to strengthening communication and co-operation at the healthcare services level. There are problems in according priorities to service planning and resource allocation among various systems. An example is the direction of development in mental health services. In recent years, the direction has been geared towards community rehabilitation services which aim at enabling the patients to make a speedy return to community life. However, if the patients are to integrate into community life, careful programmes must be devised and there must be matching community services. But the HA has drastically cut the number of psychiatric beds in public hospitals in the absence of sufficient support at the community level. In 2009, 400 beds were slashed and the number was further reduced by 393 in 2010. In two years' time, the number of psychiatric beds has been reduced by 18%. Moreover, there are no corresponding increases in resources and manpower for matching facilities such as residential service, and training and activity centres to cope with the increasing number of ex-mental patients rehabilitating in the community.

Another problem is discrimination, which is a major obstacle to the rehabilitation of mental patients. Since mental patients are afraid of social stigmatization, they would avoid coming into contact with other people in the workplace and community. They would as a result experience isolation easily. In terms of family support, after mental patients are discharged from hospitals, and if they live with their family members and apply for Comprehensive Social Security Assistance, they have to make their applications as a family and undergo the means and assets tests. Such an arrangement has in effect forced many ex-mental patients to live in separation from their family members. Since government departments would only mind their own business, the Working Group on Mental Health Services chaired by the Secretary for Food and Health is unable to make any improvements in terms of the system and policy.

In the United Kingdom, the Government has set up a committee especially on the elimination of social stigmatization so that mental patients will not be isolated. The committee also tries to open up opportunities of employment and social participation for the mental patients, as well as opportunities of education and community activities. The committee is set up under the Office of the Deputy Prime Minister. In Hong Kong, the Working Group on Mental Health Services which is tasked with reviewing the mental health policy and services is chaired by the Secretary for Food and Health. Despite the Government's claim that the Working Group is functioning well, the Working Group is not related to most of the other relevant government departments such as the Labour and Welfare Bureau, the Social Welfare Department, the Housing Department, and so on, in the bureaucratic structure. In my opinion, a Mental Health Council which is of a higher calibre should be set up for the purpose of formulating comprehensive white papers on policy, co-ordinating the policies and services in the departments and provide all-round support to ex-mental patients and end their isolation in the community.

The Equal Opportunities Commission (EOC) knows well enough the problem and it has advocated the setting up of a Mental Health Council to co-ordinate policy formulation, programme execution, research and public education, and so on, as well as promoting mental health in Hong Kong. But the Government has stated that there is no crying need for its establishment, and the EOC did not insist on that. In a seminar organized by the Democratic Party, the chairman of the EOC said that it would be futile to propose a monumental change such as setting up a Mental Health Council because the Chief Executive is serving out of his term of office. And from past experience, the Government will come to its senses only when some major tragedies have happened and it is only because of these tragedies that we can expect some change of a larger scale from the Government. As an example, about the case manager system which was launched in recent years, civilian organizations had put forward this idea many times and as early as in 2000, but the Government had refused to consider it all along. It was only when tragedies had occurred that the Government came up with the idea. I hope this Mental Health Council will not have to undergo such a process before it is formed. We do not need tragedies, blood and lost lives to effect betterment of mental health services.

President, I so submit.



**DR PAN PEY-CHYOU** (in Cantonese): President, in November 2009, I proposed a motion debate on offering support to mental patients and their families. On that day Mr WONG Sing-chi, Dr Joseph LEE and Dr LEUNG Ka-lau respectively moved amendments to the motion. In the end, the Council passed the original motion and the amendments, together with the 17 recommendations carried by them.

Now two years and two months down the line, I feel that it is a good time to revisit this issue. As we look at the various recommendations made at that time, we find that some of them have been adopted by the Government and the HA during this period of two years. Mention should be made of first, the setting up of ICCMWs in various districts in an attempt to consolidate community mental rehabilitation services which may overlap; second, increased resources, manpower and training for persons employed in psychiatric, medical and rehabilitation work; third, more resources allocated for the purchase of new drugs with better efficacy; fourth, specialist psychiatric support given to family medicine and general out-patient service; and fifth, a case manager system implemented to follow up chronic mental patients.

To give the matter its fair deal, some progress has been made indeed. But unfortunately, it is not comprehensive enough. The amendment I wish to propose today has actually included some suggestions already made in the past but have yet to be put into practice, or they are certain directions that have been adopted but should be further explored. Let me give a brief explanation now.

First, with respect to the increased hiring and training of staff, the problem now is that the increase in manpower among various professional grades is uneven and this increase often fails to match the manpower demand for such services. This would undermine service efficiency. Second, there should be some clear-cut service positioning for the public healthcare system and an attempt must be made to avoid overlapping with private sector services. Resources should be allocated rationally according to the distribution of service users. Unfortunately, the HA has not been doing a good job in these two aspects and the distribution of resources among the hospital clusters is still uneven. There is a serious shortage of basic facilities in certain clusters and the situation has not seen any improvement. Third, since healthcare services are meant for the patients, the latter should enjoy the greatest possible convenience. But even though the

patients groups have been fighting for more night clinics for the convenience of those who have to work during the day, the HA has not heeded such calls.

I would like to make special mention of psychological treatment. As its name suggests, it is a treatment method where the person conducting the therapy will engage in a dialogue with the patient or use certain means of communication in order to achieve a certain therapeutic effect. Now a lot of clinical studies have proved that psychological treatment can effectively cure many kinds of mental diseases such as depression, anxiety disorder, obsessive compulsive disorder and anorexia. The treatment can also ameliorate the conditions in other kinds of mental illness such as schizophrenia.

Since psychological treatment has good curative effects and few side-effects — though it must be admitted that it is not completely free from side-effects — so it is immensely popular. Now many patients are waiting for their turns to receive psychological treatment and they have to wait a very long time. I think that the HA should hire more staff and provide psychological treatment to more patients. However, I think that this is of lesser importance, but another point of greatest importance and which the Government has overlooked is the formulation of a comprehensive and long-term mental health policy. And this is exactly the aim of the motion proposed by Mr CHEUNG Kwok-che today.

By common sense, the more complicated a certain matter is, the more detailed planning beforehand is required. Leaving aside matters of enormous import, even when we talk about a short trip, planning of quite a detailed nature is required. I recall the time when I was somewhat younger than I am now, I used to bring my wife and two children frequently to go from the United Kingdom to Europe on vacation. And every time we had to read the relevant tourist information and maps, then plan our trip. We had to decide on the means of transport we were to take, the tourist spots we were to visit every day and where we would go for meals and stay for the night, and so on. It was only after such detailed planning that we would apply for visas, buy air tickets or cruise tickets and make hotel reservations. Therefore, we all have fond memories of each trip we made.

I have spent so much time talking about the process in detail because I wish to show that detailed planning is required for something so small as a family trip

abroad which may last eight to 10 days. It is only when there is detailed planning that the result can be satisfactory. We must not do one thing at a time and do everything at will. And nothing must ever be done on the spur of the moment and impromptu. It is much more complicated than a family trip if we are talking about developing a strategy and system to address mental illness and improve the mental well-being of all the people. The results of such a development and its consequences are much greater. A family trip which is a failure would at most land a few persons in a bad mood. A more serious consequence could be an accident but those who might be affected would only be a few persons. But the mental health services and policies of a city would affect the well-being of hundreds of thousands of people and if the matter is not handled properly, hundreds of people may lose their lives due to suicides or other accidents. So the impact cannot be said to be light at all. But in the face of such a matter of great importance, the Government only adopts a piecemeal approach to development.

At this moment when we are holding a Council meeting, my colleagues at the psychiatric department in the HA are busy discussing plans for services in the department for the coming year. Someone may say in an email something like this: last year we proposed service A and if we are to propose the same thing this year, we will definitely be unable to get any resources. Some other person may say: service B is a new service delivered in foreign countries and there are comments in the literature that its effects are quite good. Shall we roll out a trial scheme for that? So after such discussions, people will come up with a mainstream opinion and consensus and the chairman will assign a number of colleagues to write a proposal on the new service. We will have another round of discussion when the draft is complete. Then after some revisions, one of my colleagues will be asked to make a presentation in a meeting to be held in the headquarters. That meeting will of course be chaired by people at the very top of the management hierarchy. Each representative from every specialist department will have a few minutes to make a presentation on the new service proposed in matters such as its aims, characteristics, mode of operation and amount of resources required, and so on. The top management of the HA will consider the priority to be accorded to each plan before deciding on which plans should be submitted to the Government for action. In this way, it is after plans are considered and screened by the accountable team that those plans selected will appear in the policy address of that particular year.

This kind of decision-making includes procedures like discussions among front-line experts, then decisions made by top management and approvals given by the Policy Bureau concerned and the accountable team of officials. By all appearances, this process does not look sloppy at all and it can be said that there is a very high feasibility. However, a certain key factor is lacking in the process and that is, a long-term direction of development and blueprint in the macro sense. Without a direction and a blueprint for development, all these plans put up every year are merely steps taken one at a time and they are piecemeal.

As a front-line worker in clinical service, both the community I serve and I myself know very well how inadequate the services now provided are and which areas should be strengthened, supplemented and developed. However, based on the present mode of development, it would be almost impossible to achieve any systematic and orderly development according to the needs of a district concerned.

What in fact should planning be like? I would think that we should have a vision for the future. We should encourage all the stakeholders in society to join in the discussion and examine what in fact the state of mental health in our society is like and to identify areas that warrant urgent improvement. Issues that we should look into are, for example, whether the suicide rate is too high, are patients suffering from psychosis not getting any early treatment, is the drug abuse problem rampant among the young people and whether elderly persons with cognitive handicap are given the right and proper care, and so on. Then we should study and find out what measures can be taken to improve the mental health of the majority and which service delivery mode would best meet the needs of most mental patients. Then we should look into the specific difficulties and needs of this particular kind of patients. Lastly, we have to examine whether the services provided in each district can meet the needs there. After holding discussions, writing a draft and revising it, we can come up with a blueprint for development for the longer term. As for the details of such development, the planning can be fine-tuned by an interim plan covering a period of three to five years. If each step in the plan is to be enforced, it will have to depend on the annual plans devised by each organization responsible.

President, a long journey starts with the first step we take. When there is no direction or goal, even if we have taken many steps, we may have just made a detour and come back to where we started, hence wasting our time.

I so submit.

**MR ALAN LEONG** (in Cantonese): President, Dr PAN Pey-chyou is a front-line psychiatric healthcare worker and the comment he made just now about the Government not having done a good job in this aspect sounds most convincing.

President, the motion debate proposed by Mr CHEUNG Kwok-che on "Formulating a comprehensive mental health policy" is, as pointed out by Honourable colleagues who have spoken and sought to propose their amendments, not a new topic at all. I think the President will also agree that this topic has been discussed many times in Council meetings and in the relevant panels. But we have an impression that the response from the Administration is not adequate. We feel most disappointed with this.

Certainly, President, I hope the Government will listen to suggestions made by Members, gain a clear understanding of the problems, undertake long-term planning for psychiatric services and allocate resources to areas where necessary. If the Government is willing to do all these, I am sure Members of this Council will certainly lend it their full support. Some Honourable colleagues who have spoken have reminded us that this is a question over which various political parties and groupings in this Council have reached a consensus. If only the Government is willing to do it, I do not think there would be any great resistance in this Council. Unfortunately, all the measures taken by the Government throughout the years are still far from being adequate. And so each year we have to continue debating and putting forward the same arguments.

President, the amendment I propose does not have any original or innovative concepts. It is not a breakthrough in any sense. It contains suggestions made repeatedly all through these years but which have not been completely and satisfactorily addressed by the Government. Due to the time constraints, I will highlight a few aspects for comments. As for the remaining

parts of my amendment, I will leave them to my colleagues in the Civic Party for elaboration.

President, first of all, I would like to talk about the problem of increasing manpower. According to the information we have at hand, now the HA serves about 160 000 mental patients and there are about 30 000 new cases every year. And there is a rising trend in that too. Staff working with these mental patients are in great shortage. From what we can see, there is, for example, a great shortage of social workers handling mental patients. Our information shows that there are only about 210 medical social workers serving this vast number of some 100 000 mental patients. This is a very serious shortage.

On psychiatric nurses, people in the profession once said, in Hong Kong, every three to four psychiatric nurses have to handle and take care of 30 to 60 mental patients. But in many overseas places, every four to five psychiatric nurses only need to take care of about 25 patients. So in comparison, Hong Kong lags far behind and this is also a cause for the heavy pressure exerted on front-line psychiatric nurses.

All along the Government has been advocating case management and that patients with milder conditions can be taken care of in the community, such that the need and period of hospitalization can be reduced. This programme is originally scheduled to be fully introduced to all the 18 districts in Hong Kong within three years, that is, on or before the year 2013, but it is only implemented in eight districts now. Now the HA is finding it difficult to hire psychiatric nurses, social workers or occupational therapists to serve as qualified case managers. As a result, case managers who should be handling 50 cases are now handling more than 60 cases of patients with severe mental illness. This situation is very unsatisfactory.

President, we are seeing this kind of undesirable consequences which stem from a lack of long-term planning in human resources. There is this talent shortage in psychiatry in the hospitals and in the communities. Every sector is competing for talents. But we cannot conjure up professionals from nothing. Even though there are increases in training places, they can only fight a fire that has already started. The growing needs can never be satisfied. Moreover, those healthcare personnel who join the ranks would need time for training and accumulating the relevant experience. I therefore call on the Government again

to right its wrongs and stop going in the wrong direction. It must face the problem squarely and make scientific calculations to study and project the manpower needs in respect of psychiatrists, psychiatric nurses and social workers for the next five to 10 years. Then it must undertake comprehensive planning. As Dr PAN Pey-chyong has said, a person who wants to make a trip to Europe should plan his itinerary and places he would go for meals and put up for the night. This is an important and urgent matter. At the same time, the Civic Party also suggests that we can approach the issue from primary healthcare and enhance the abilities of family doctors in treating and diagnosing certain kinds of diseases so that they can identify, treat and make referrals early. This will prevent patients' conditions from worsening.

Now I would like to turn to child psychiatric service and psychogeriatric service. President, although there was an increase in the number of psychiatric beds for children last year and the waiting time has also been reduced slightly, there is still a lack of matching facilities. As I have said in the amendment, the waiting time for making assessment with respect to learning disorder and cognitive disorder is as long as half a year to one year, and for new cases in hyperactivity, the waiting time can be one to one and a half years. There are cases in which the waiting time is as long as two years and nine months. It is very important to have prompt assessment and intervention for these diseases.

The mental health of the elderly is an issue we cannot afford to overlook. According to reports, the figures for 2001 showed that the suicidal rate of local males above the age of 75 was more than 50%. A hospital once launched a scheme to enhance psychological health of the elderly and found that 5% of the elderly persons joining the scheme had various degrees of depression symptoms. After conducting various kinds of activities and treatments, 71% of these people saw their depression symptoms eased. President, from this we can see that timely assessment and intervention would help improve their conditions.

Also, some doctors have pointed out that the waiting time for dementia patients ranges from half a year to one year. During the waiting period, the conditions of the patients may worsen and both the patients and their families would have to bear a greater pressure. There is really a need for the Government to attend to this problem urgently.

President, matching facilities for discharged mental patients and ex-mental patients are inadequate. These include evening consultation services and assistance in finding suitable jobs for them. All these can give them the right kinds of help so that they can reintegrate into society and reduce chances of relapses. However, information shows — this is the latest information from the Government in 2007 — the jobless rate of people with mental illness or common mental disorders was 14%, which was much higher than the 4% for the entire population in that year. So if ex-mental patients are given the right kind of assistance, they can re-enter society and make contribution. The Government should increase the number of community psychiatric nurses and social workers and such like relevant personnel. It must also increase the training they receive so that mental patients can start a new life.

Lastly, I would like to talk about public education on mental health. President, last year the Labour and Welfare Bureau committed some \$3.2 million to promoting mental health and urging more acceptance for ex-mental patients. However, this sum of \$3.2 million is not a substantial amount for the Government and I am sure this Council will not oppose any attempt to increase the spending in this regard in order to achieve better publicity effects. The Government should take the lead in hiring more ex-mental patients so as to serve as a role model.

President, I so submit.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I am grateful to Mr CHEUNG Kwok-che for proposing this motion on "Formulating a comprehensive mental health policy" and Dr Joseph LEE, Mr CHEUNG Man-kwong, Dr PAN Pey-chyou and Mr Alan LEONG for their respective amendments to the motion.

In this speech, I will first talk about the situation of mental health in Hong Kong and our work in promoting mental health. After listening to the speeches of Members, I will make a response in greater detail in the concluding speech later.

With more efforts made in research and development by the medical sector on mental health issues and the treatment methods, there is a greater awareness and concern in the public for mental health. During the five to six years from



the year 2004-2005 to the year 2010-2011, the number of people receiving hospitalization, specialist out-patient service and daytime hospital service has increased from some 125 000 to 170 000. Most of these patients have mild mental health problems and only a small portion of them have serious mental illness. We think that the rise in the number of people seeking medical consultation from the psychiatric department of the HA shows that there is a greater awareness of mental health among the public and a likewise awareness of seeking help.

Mr CHEUNG mentioned in his motion that the Hong Kong society's happiness index is on the low side. As far as I know, the happiness index is a kind of informal statistics undertaken in recent years and Hong Kong ranks in the middle among the developed places. However, as there are differences in the social conditions and cultural background of different countries and places, it would not be appropriate to make any generalized comparison.

All along the Government has been promoting mental health and we would ensure that all those in need are provided with a continuum of comprehensive and coherent mental health services, including prevention, early detection, treatment and rehabilitation. We will provide suitable community rehabilitation and support services so that ex-mental patients can reintegrate into society and start a new life. In order to achieve this goal, we are always enhancing our mental health community rehabilitation services.

We have rolled out a number of measures and services aiming at providing medical, nursing and rehabilitation support to mental patients of various degrees of illness, age groups and needs. Since 2001, we have introduced many new measures and the relevant services are always being expanded and strengthened.

Government funding for mental health rehabilitation services is always on the increase and the annual spending is more than \$3 billion. In the year 2010-2011, the revised estimate for government spending on mental health rehabilitation services is \$3.92 billion. The funding for community rehabilitation services, including residential care service, community support service, daytime training and occupational rehabilitation service for ex-mental patients has increased from \$670 million for the year 2006-2007 to the revised estimate of \$868 million for the year 2010-2011.

Looking ahead into the future, we will continue to allocate more resources and upgrade our services to meet the needs of the public for mental health community rehabilitation services. We will continue to consolidate this platform in the communities and foster better co-operation with all sectors and enhance our community support for mental patients and those recovering from mental illness.

President, I so submit. I will make a general response after listening to the views of Members on the motion and the amendments.

Thank you, President.

**MR IP KWOK-HIM** (in Cantonese): President, the World Health Organization held an international conference especially on mental health in 2001 and called for a shift in the medical focus for psychiatry from hospitals and related institutions to community care in order to facilitate the reintegration into society of ex-mental patients. In view of this the Government has been promoting mental health from three aspects, that is, early detection, treatment and community support. The DAB supports this major direction in principle. However, some incidents related to mental illness have still happened in the community in recent years. Some time ago a middle-aged man with a record of numerous attempts at suicide who became emotionally unstable because he had lost his job tried to snatch the pistol from a policeman on patrol and kill himself with it. It was fortunate that he was stopped. This event shows exactly the urgency of undertaking a review of our mental health policy and improving it.

Currently, the Food and Health Bureau is responsible for co-ordination of efforts related to the prevention, treatment and support for mental health while the Labour and Welfare Bureau, the HA, the Department of Health and the Social Welfare Department (SWD) are jointly responsible for giving relevant assistance. In terms of medical treatment, according to information provided by the HA, the some 160 000 to 170 000 mental patients in Hong Kong can be classified as "ordinary patients", those belonging to the "sub-target group" and those belonging to the "target group" according to their propensity to violence and records of criminal violence. Under the principle of this change from in-patient care to community care, the HA not only provides hospitalization treatment but it also has set up a committee on community psychiatry. Some nurses who have

received special training will undertake mental health assessment and community care for mental patients by making regular visits to these patients. They will also provide relevant information to the patients and their family members to facilitate the patients' rehabilitation. However, the public hospitals now have only 316 psychiatrists, some 1 900 psychiatric nurses and some 100 community psychiatric nurses, but the number of patients classified as belonging to the "sub-target group" and the "target group" is as many as 5 500 persons. The DAB is concerned about whether or not the manpower of the HA can cope with the needs of in-patient and out-patient treatment as well as follow-up care for these mental patients. We hope that the number of related staff can be increased over the next two years as planned so that patients can get enough support.

In addition, in order to reduce the waiting time for psychiatric specialist out-patient service, the HA should set up triage clinics to stream patients with common mental disorders and those with milder conditions to some general mental clinics. These patients can also seek consultation from the specialist psychiatric clinics outside the hospital cluster in their residence. But some groups have told us many times that follow-up consultations for mental patients would only last as short as five minutes. Most of the ex-mental patients are worried about discrimination and they will not state that they have had mental illness or they do not dare to apply for sick leave from their employers and go for a follow-up consultation in the hospitals during the daytime. All these will severely affect their conditions. But the HA ceased the evening psychiatric service in Kwai Chung Hospital in 2006 on the grounds that the utilization rate was low. The DAB is very disappointed with this. We hope that the Government can consider reopening evening psychiatric service to facilitate those in need.

President, the DAB is happy to see the Government allocate more resources to develop community mental care, but it seems that the efforts made are not enough. In terms of community support, apart from the community psychiatric committee just mentioned, the relevant work in mental health is provided mainly by the SWD and NGOs. Although the SWD consolidated its community support service in 2010 and set up Integrated Community Centres for Mental Illness in the districts for the provision of one-stop and district-based mental health services, I have received many calls for assistance from families of mental patients, saying that the waiting time for sheltered workshops and supported hostels is very long and expressing the hope that the Government can

see the point that providing training and jobs are the best methods to rebuild the confidence of those people recovering from mental illness, and the provision of care and hostel services are the best options for recovering mental patients to rebuild their social network and reintegrate into the community.

President, on behalf of the DAB I wish to convey our views on the original motion and the amendments. With respect to the original motion moved by Mr CHEUNG Kwok-che which urges the Government to formulate a comprehensive mental health policy, strengthen preventive and remedial services so as to improve the quality of mental health of Hong Kong people, the DAB wishes to show its support for it. Dr Joseph LEE adds in his amendment to the motion a suggestion to increase the number of healthcare personnel in the HA and foster better co-operation with NGOs in the provision of psychiatric services. The DAB also welcomes this suggestion. As for the amendments by Dr PAN Pey-chyou and Mr Alan LEONG, especially with respect to reopening evening consultation service, the DAB also lends its support to them. As for the amendment by Mr CHEUNG Man-kwong, as we support most of the amendment proposals already made, so with respect to the idea of setting up a Mental Health Council, the DAB thinks that since we have interdepartmental co-operation in the provision of preventive, therapeutic and rehabilitative services and a Working Group on Mental Health Services has already been set up for studying and formulating long-term services, the relevant framework is already in existence. If an attempt is made to add a Mental Health Council, there would be duplication and overlapping. The DAB therefore has reservations about the idea.

President, I so submit.

**MR RONNY TONG** (in Cantonese): President, before I became a Member of this Council, I used to think that only people with a mental problem would become Members of this Council. But after I have become a Member myself, I found that this idea is wrong. President, after the experience of taking part in a number of elections, and handing out breakfasts to party members and seeing them home after work, I have an impression that most of the Hong Kong people I have met, especially those living in the public housing estates, are not happy. I can see that they wear a long face in the morning and in the evening, and I can also see an unhappy face on them.

So I was not the least surprised, President, when I read about the findings of a survey lately. The survey points out that the happiness index of Hong Kong people is only 5.96 on average. I would think that this figure of 5.96 is already on the high side. Thirty percent of the people only smile zero to three times a day. When I made Members laugh in my introductory remarks, I think I have already used up their quota for the day, for they have laughed once. I hope that can be useful. That survey also points out that nearly half of the interviewees laugh less than three seconds for each laugh. I notice that Members smiled less than three seconds just now. These are very shocking figures about Hong Kong people.

President, the Mental Health Association of Hong Kong has recently introduced a mental health counselling plan especially geared towards the low-income people. In recent years, the number of post-1980s young people seeking assistance has increased by more than 10% and this may be due to their problems in education, employment and social life. President, the facebook may also be a cause for their problems because they have been hidden youths, suffering from anxiety disorder, and they need some affordable counselling service to ease their emotions and help them return to society.

The Hong Kong Ladies Dynamic Association and The Chinese University of Hong Kong conducted a survey during March to September last year and interviewed nearly 500 middle-aged women between 45 and 60 living in New Territories West. It was found that 37% of these women had symptoms of depression of various degrees. These included continual periods of bad mood, poor appetite, weight loss, a feeling of helplessness, and so on. Those with more severe symptoms had even attempted suicide. From this number it can be projected that 340 000 women in Hong Kong aged 45 to 60 may have risks of depression.

President, some people may think that these figures are only meant to poke fun. But actually they show that in a big city like Hong Kong, mental illness is in fact very common. But what has the SAR Government done? President, the latest figures show — actually the Secretary has also mentioned them earlier — that the HA now has about 160 000 mental patients and there are nearly 30 000 cases every year. But there are only 210 social workers. There is a severe manpower shortage. The Secretary has talked about how much money has been allocated by the Government. But to date, the amount of funding is only

\$3.8 billion. In terms of percentage, it is only 0.2% of the GDP, which is far less than the level of 0.8% or even 1% of the GDP in other countries. So when the Secretary talked about how much money has been spent, it is not really an answer at all.

The Government has also pledged that mental rehabilitation centres will be set up in all the 18 districts in Hong Kong. But because of opposition from local residents and problems in relocation, the plan has fallen through. Last year, the Chief Executive mentioned for the first time government efforts in mental health. But it is unfortunate that the focus of the policy address is only that community support for those recovering from mental illness can hopefully be enhanced through certain case management efforts of the HA and the Integrated Community Centres for Mental Wellness run by the SWD. No mention was made of how the mental problems of Hong Kong people can be eased and how mental health issues can be dealt with.

President, how should we face up to the problem of mental health of Hong Kong people? It is obvious that the social structure and background here are not conducive to improving mental health. As evident in many labour policies, nothing is done to encourage wage earners and the public to lead a healthy and balanced life. For many years Honourable colleagues from the labour sector have been fighting hard to make labour holidays align with bank holidays, but the result is not successful. Then what about standard working hours? It is said that there is no consensus in society. And what about paternity leave? It is considered a great favour granted when three days or so are given as paternity leave. And what about flexible working hours which are family-friendly? Forget it. President, such a social environment is not conducive to making people have some positive ideas about easing some of the difficulties faced the people of Hong Kong in life.

President, I hope the SAR Government can say whether it should study to formulate a long-term mental health policy at this moment in time. In raising this issue, I am not trying to say that the Government should allocate a certain amount of money or add a certain amount of hardware facilities. What we want are more improvements in software, like how should the quality of life of the people can be made better so that they can have a positive and optimistic outlook on their life and family, instead of, as I said earlier, always wearing a long face.

President, with respect to long-term planning on matters related to the consciousness of Hong Kong people, actually, people should be asked to abandon the money-oriented approach to life and instead learn from the core values of family life. They should be instilled a sense of happiness. President, some Honourable colleagues have talked about the situation in Denmark. The Danish people are very concerned about the happiness index in their country and they even attach a greater importance to it than their GDP. I hope the Central Policy Unit of Hong Kong can think more about this problem of software and how a movement on leading a happy life can be launched in Hong Kong. Then the Hong Kong people should also be made to learn more about the basics of mental illness and common mental disorders. Then they can help their neighbours and family members voluntarily in order to prevent the occurrence of tragedies caused by their ignorance or insensitivity to mental problems. Thank you, President.

**MR TOMMY CHEUNG** (in Cantonese): President, in 2010 a fatal incident happened in Kwai Shing East Estate. A mental patient wielded a chopper and killed two persons, wounding another three. The incident aroused again the concern of the public for mental health services. The HA formed a task group in the wake of the incident hastily and conducted a review of the mental health services. A number of improvement measures were suggested, including two main initiatives, namely, the introduction of a community treatment order and a Case Management Programme (CMP).

However, progress in government efforts is slow and nothing is heard about the community treatment order. Only the CMP is implemented. At first, the CMP was implemented on a trial basis in three districts, to be followed by an expansion to eight districts. Even though the CMP is implemented, it does not seem to be meeting the demand.

For example, the CMP now hires about 100 case managers to provide close support to clients of about 5 000 cases in the community on a long-term basis. The ratio of case managers to patients is 1:50. Case managers have to keep in close touch with the patients and give support to their families. Besides, the case managers have to attend to all the small details of the patients in their life, such as formulating a life plan with the mental patients. The work is very much like that of a babysitter.

Compared to similar schemes in Europe and North America, the case manager to patient ratio there ranges from 1:8 to 1:20. Against such a background, it is clear that the number of case managers in Hong Kong is not sufficient and this may affect the quality of service delivered. It is because these case managers may not be able to do more follow-up work even if they want to.

The Liberal Party therefore thinks that more case managers should be hired to enable more thorough actions to be taken to follow up each case. This will also allow more time to be spent on following up each patient and avoid case management work becoming a routine exercise.

President, the problem of the shortage of case managers only shows a tiny fraction of the immense problem related to the shortage of mental health personnel. There is a similar shortage of psychiatric medical and nursing staff.

Hong Kong has only 316 psychiatrists and they have to take care of the mental health of the 7 million inhabitants here. In other words, there are only 4.5 psychiatrists for every 100 000 people. The number of psychiatrists in Hong Kong lags far behind that in places like the United States and Australia where there are more than 10 psychiatrists per 100 000 people.

The problem of shortage of psychiatric nurses is even more acute. Information shows that in 1999 there were 2 099 psychiatric nurses in Hong Kong. The number is reduced by 74 now and there are only 2 025 psychiatric nurses. But during the same period, the number of patients making visits to the psychiatric specialist department has increased substantially from 90 000 to 160 000. Even though psychiatric nursing programmes are offered by some universities, only about 140 psychiatric nurses can be trained every year. It can be said to be totally insufficient when pitched against the rising manpower needs resulting from a growth in the number of patients.

For this reason, the Liberal Party is very much worried. It is doubtful whether good quality can be maintained in psychiatric specialist service given this tight supply of doctors, nurses and case managers.

In our opinion, the Government should assess the demand for psychiatric specialist service in future and draw up a corresponding manpower plan. It



should allocate more resources to training professionals and easing the problem of manpower shortage, thereby avoiding any delays in the recovery of patients.

President, apart from treatment and follow-up work, to help mental patients to reintegrate into society is important to their rehabilitation. Now that the Government has adopted rehabilitation in a community setting as the direction of development in mental health, it had all the more better improve the matching facilities. But it is clear that the Government has not done enough in that respect.

Although the Government has committed more resources to mental health services, most of the resources are expended on facilities in the hospitals. The resources that are actually used on those ex-mental patients are very small in amount and the need to help them lead a normal life is simply neglected.

To enable the mental patients to integrate into society, it is essential to help them solve the problems in finding a job and in their finance. The problem of unemployment of ex-mental patients is very serious and their unemployment rate is as high as 14%. This is much higher than the overall unemployment rate in Hong Kong. Even if these people can get a job, there may be a problem of mismatch of jobs and they are prevented from giving full play to their talents. This is another obstacle to their return to society.

All along the Liberal Party thinks that if the mental patients can be enabled to stand on their own feet, it will not only help them restore their confidence and self esteem, they can also make contribution to society. In our opinion, the authorities should consider the provision of more job opportunities of various kinds to them or the offer of some financial incentives like tax concessions to private sector enterprises so that they can be encouraged to hire more persons with disabilities, including ex-mental patients.

In addition, the present arrangement of providing only daytime follow-up consultation services is a great obstacle to ex-mental patients who have found a job. The Liberal Party is aware of voices in society calling for the provision of evening psychiatric specialist service. But unfortunately, the calls landed on deaf ears. As a matter of fact, many of these ex-mental patients need a job and when they are to attend a follow-up consultation, they have to apply for leave. This will affect their income as well as their image in the company concerned.

And they may even be subject to discrimination. The authorities should therefore improve the treatment arrangements, such as by relaunching evening consultation services or setting up time slots on Saturdays for consultations. These can give greater convenience to those mental patients in employment.

With respect to all the proposals made in the amendments, we agree with every one of them except for the one urging for the setting up of a Mental Health Council. We have reservations about it because we are worried that the proposal may lead to duplication.

President, I so submit.

**MR ALBERT HO** (in Cantonese): President, in recent years Hong Kong has been following the trend of development in the international community and our mental health services are therefore moving in the direction of rehabilitation in a community setting. This is a correct direction to take. But planning for it is poor and the matching facilities are inadequate. These are the causes for the numerous tragedies which happened in recent years. We must therefore ponder over this and exert our best to address problem in the following three aspects.

First, we have not put in enough resources and manpower to address the problems. Compared to the provision of treatment and rehabilitation services in hospitals and hostels, more resources and manpower are needed to implement community care services. It would be more difficult to co-ordinate various kinds of related services and professions.

In 2008 Australia updated its National Mental Health Policy and the former system of hospital-based services was changed to one of providing support to mental patients in a community setting. As a result, public spending in Australia on mental health services saw a 90% increase in 10 years. On the contrary, in Hong Kong, even after the occurrence of the Kwai Chung tragedy, our annual spending on mental health services only amounts to \$3.92 billion, or just about 0.22% of the GDP. This is far lower than 0.7% in the United Kingdom and 0.4% in Australia.

In terms of manpower, while community care is implemented in both England and in Hong Kong, there are 0.82 consultant psychiatrist and 8.63

psychiatric nurses in England for every 10 000 persons. The numbers are far higher than 0.41 psychiatrist and 2.86 psychiatric nurses in Hong Kong. Given the shortage of doctors and nurses, it is hard for us to provide sound community care. For example, although the HA may have decided to offer some new psychiatric drugs to mental patients, if the patients want to switch to using these new drugs, the psychiatrists have to adjust the dosage and observe the reactions of the patients to these drugs. Since there is a shortage of psychiatrists, even if funding is earmarked for buying new drugs, it would be hard for doctors to prescribe new drugs to the patients. For nurses, since there is also a shortage, this affects the progress of the Case Management Programme (CMP) and each case manager has to handle 50 to 60 patients and provide support for them.

Second, we have not amended the laws accordingly. In order to implement community care, we should amend the laws. In the United Kingdom and Australia where community care is implemented, they have enacted relevant laws to ensure that discharged mental patients can continue to receive treatment in a community setting so that relapse can be prevented. In 2007 the United Kingdom amended the Mental Health Act to stipulate that mental patients detained according to law may be discharged by virtue of a community treatment order and they can continue to receive treatment in a community setting. But if the patient concerned cannot comply with the conditions stated in the community treatment order, they may be recalled to receive treatment in a hospital. In Australia, the mental health law there also provides for community treatment orders for patients to receive treatment in a community setting on a non-voluntary basis.

In Hong Kong, the Mental Health Ordinance was enacted in the 1960s and it is about compulsory in-patient treatment. In recent years, there has been a change in the pattern of treating mental illness to that in a community setting. But there has been no corresponding attempt made by the authorities to amend the law so as to devise arrangements for mental patients living in the community but who have to receive treatment on an ongoing basis.

If the community treatment order is to be introduced into Hong Kong, the actual practice may differ a lot from that adopted in the United Kingdom or in Australia. In the case of community care for ex-mental patients, in the United Kingdom, social workers play an important role and they can assist in enforcing the law. But in Hong Kong, the arrangements in respect of treatment and

rehabilitation are dictated by the doctors. If community care is to be implemented, have the doctors received enough professional training to assess the needs of the patients in getting community support? A more serious problem is that when there are not enough medical and nursing staff, do the police have to enforce the relevant law? Problems like these warrant careful consideration.

Third, the progress of community support services has been slow. We should enhance the community support services because they are an important part to mental health rehabilitation in a community setting.

In the wake of the Kwai Chung incident, the Government set up Integrated Community Centres for Mental Wellness (ICCMWs) and launched the CMP. All these are systematic community support services. Unfortunately, the progress has been slow. The case managers can make arrangements to provide services to those with severe mental illness. But in 2011-2012, the CMP will only extend from three districts to five other districts.

As for the ICCMWs, although they are operating in all the 18 districts in Hong Kong, they are only a transformation of the former training and activity centres for ex-mental patients. And these centres have not been able to find permanent venues. I believe this is due to resistance at the district level. We suggest that the Government should undertake joint planning for mental health services and other community facilities, so that rehabilitation services can be promoted at the district level. I so submit.

**MR ALBERT CHAN** (in Cantonese): President, I agree very much with this motion proposed by Mr CHEUNG Kwok-che on "Formulating a comprehensive mental health policy". I also hope that every person in Hong Kong can have the vigour of a dragon and the vitality of a tiger as well as mental health in this Year of the Dragon. However, it is unfortunate that the people of Hong Kong live in a city full of lies and absurd policies. And so it is hard for their mental health to develop in a normal way.

In 1970, the former president of Czechoslovakia HAVEL who was then living under autocratic rule wrote about Czechoslovakia at that time to this effect: "the media which exploit the people are called the media which protect the people; the culture of oppression is called the culture of progress; an election

farce is called the highest form of democracy; the ban on independent thinking is called the most scientific *Weltanschauung*; as those in power are captives of their own lies, they have no alternative but to change everything from black to white, doctor with history, twist the facts and fabricate a future." Such was the description made by HAVEL of Czechoslovakia at that time.

President, such a description made by HAVEL of Czechoslovakia at that time is not different from that of Hong Kong as it is now. In Hong Kong, an election with the existence of functional constituencies is called a democratic election; an election by a small circle of 1 200 people is passed off as a universal election which is claimed to be representative; votes cast by the henchmen of those bogus democrats in the absence of monitoring by independent people are twisted by the bogus democrats as the primary election of the pan-democrats; those who supported the listing of The Link REIT are now shamelessly waging a war on the real estate and financial hegemonies. From these we can see that Hong Kong is engulfed in lies and the media which derive a fiendish delight from these lies are trumpeting and beautifying these lies to the bewildered and dazzled eyes of the public.

In criminology there is a kind of abnormal psychology called the self-display personality characterized by a strong sense of vanity and a desire for self-display. A person with this personality is changeable, hypocritical, hollow in what he says and there are always exaggerations and lies even to the extent of passing off lies as truth. This kind of abnormal personality is very similar to the behaviour of officials and politicians in Hong Kong. The criminologists point out that if parents strive to keep the image of a harmonious family by hypocritical means and a lifestyle of the same, children living in such conditions will develop a tendency to attach more importance to appearance than reality. They will socialize with people in a beautiful appearance and they will exploit others to their benefit. They will develop an anti-social personality and mode of behaviour. Now those in power in Hong Kong and the media are also trying to paint a false picture of harmony by all kinds of hypocritical acts and lies. Many people imitate these acts of those in power and so society is full of exploitation and injustice.

According to a research report published in 2011 by the American neurological society, the inability to distinguish between a lie and truth is very likely to be an early symptom of frontotemporal dementia. The millions of

people in Hong Kong forced to live in lies have to face the threat of contracting frontotemporal dementia. This is most worrying.

When faced with an autocratic society which was full of lies in 1970, HAVEL made an open appeal to the Czech people and urged them to live in truth and reality. He also said that truth and true love would overcome lies and hatred. HAVEL and many other intellectuals were arrested and jailed many times for speaking out the truth. What is ironic is that in Hong Kong which claims to enjoy freedom of speech, those in power and the bogus democrats keep on cheating the people with their lies. When someone rises and tries to expose these lies, he will be smeared and oppressed by the media. As a result, these lies told by those in power and the bogus democrats continue to engulf our society. The people are unable to tell what is true from what is false. Just imagine how can there be any normal development and health for our mind in this society controlled by lies?

Besides lies, the people of Hong Kong have to face all kinds of hardships in life. They include the lack of any regulation over working hours and the lack of housing supply. In social welfare, it is extremely hard for people to get any assistance. In healthcare, when people fall sick and if they want to see a doctor in a hospital, they may have to wait until their dying day and not be able to get a chance for specialist consultation. When they die, they may not have any niche in a columbarium for their ashes and so they die with no burial place. The air is so polluted that there are fumes and smog everywhere. And so the people have to live in filthy haze and smog.

When we live in such a society full of political lies and hardships in life, President, just think how can we lead a healthy mental life? It can thus be seen that in a society which happily embraces lies, many people will suffer from delusional disorders and frontotemporal dementia. People who champion lies and are praised by the media will also contract delusional disorder. The people who are forced to live against their conscience are compelled to lead a schizophrenic life. When truth is covered up and smeared, people with a conscience will get depression. When policies conflict and are absurd in nature, many people will develop schizophrenia and even a nervous breakdown. The only way to restore mental health in the people of Hong Kong is for the Government to face the true reality and formulate its policies to ease the hardship of the people. The media should exercise self-restraint and discharge their duty

to shatter deception and hypocrisy of the political parties so that truth can prevail over lies and deception. It is only with this that the people of Hong Kong can live in normal conditions and there can be any chance for their minds to develop in a healthy manner.

Thank you, President.

**MR LEE CHEUK-YAN** (in Cantonese): I speak on behalf of the Labour Party in support of this motion proposed by Mr CHEUNG Kwok-che to formulate a comprehensive mental health policy. However, I think that the timing of Mr CHEUNG proposing this motion is not too good because the Government would always do something only after a crisis has emerged. But it will not be able to do anything. Later on I will explain why the Government fails to do anything.

What is a crisis? As a matter of fact, we can see news stories making the headlines every day, like suicides or homicides. Some of these stories are more shocking or sensational than others. When some of these big stories are about the mental health problem, we would think that we have to do something or express our concern. But after the incident is over we would cease to pay attention to it and the issue will die off. So with respect to this motion from Mr CHEUNG, not that he has been inspired to propose this motion because of some big news but it is after all a long-standing issue that has long failed to get any positive response from the Government. There is no positive and comprehensive mental health policy too.

Look at these figures and we will agree that they are quite shocking. For the year 2009-2010, the number of people using mental health services provided by the HA is as many as some 700 000. The number for the year 2008-2009 is 650 000. And the figure for the year 2007-2008 is 615 000. Let us look at the figures of 615 000, 650 000 and 700 000. They show an annual increase of some 30 000 to 40 000 persons. The rate of increase is stunning. Of course, such rates of increase will exert great pressure on the mental health services provided by the HA and service quality will also be affected.

Now with this sudden surge in the number of people needing treatment, have the resources for the HA been increased correspondingly? As Members know, the financial management philosophy of the Government now is one that

constantly contracts recurrent expenditure and the maximum increase in spending allowed for each year would just be comparable to the rate of economic growth, that is, 6% to 7%. But five to six percentage points of this rate is already offset by inflation and so what is left is only 1% to 2%. There are some government departments which do not have any real increase in spending. Now the Government has got fiscal reserves amounting to \$50 billion, but Hong Kong is in tatters. Mental health services are in a likewise deplorable state. Has the Government put in any resources? Perhaps the Secretary may talk later about the resources which the Government has put into mental health policies so that they can face up to such enormous increases in patients. The situation is basically the same every year and resources put in can never catch up with the service demand.

Certainly, we do not wish to see the demand for mental health services keep on growing and in particular we do not wish to see any growth in the number of people seeking consultation and treatment in that respect. But we have before our very eyes an increase in the number of patients by 30 000 to 40 000 people every year while there is only a 5% increase in resources. Just how can the authorities cope with this situation? So I would think that the Government is obliged to increase resources correspondingly. This is especially the case when we know that the Government now has got \$50 billion of surplus but it is still contracting expenditure on this area. It is really doing a disservice to those who need treatment to ease their mental health problems.

Next, I think that the Secretary is doing a disservice to mental health services too. Why am I saying that the Secretary should bear a special responsibility for this? In 2006, the authorities set up a Working Group on Mental Health Services chaired by the Secretary. In a joint meeting of the Panel on Welfare Services and the Panel on Health Services we have asked what in fact has the Working Group done and what issues it has discussed during the five years of its existence. It turns out that it has done nothing and we can only say that it is stone dead.

The Secretary is an accountable official, so why as the chairman of a working group he has found it so hard even to produce a report? Why can a report not be compiled for five years? It beats us and we are baffled. If there are really some difficulties, then please tell us why even can a report not be submitted and who is obstructing it. If the answer is there are no difficulties,



then we can only conclude that the Secretary is incompetent. Secretary, I do not want to say this. Perhaps there are really some difficulties, please go ahead and tell us. But he can never explain why five years have passed and he cannot even come up with a report and propose something to improve the services. Why can this not be done? For how long from now should we wait?

President, the worst thing is even if a report is released, we would still have to wait for a long time before the recommendations are put into practice. When there are delays to a report, there will be more delays to the implementation of the proposals made in that report. When all these drag on forever, it is mental health services that will suffer. Are we not doing the patients a disservice? Are we not doing our society a disservice?

There is another thing which I think the Secretary must apologize and that does not only apply to the Secretary alone. I would think that Hong Kong society as a whole should ponder over it. In 2010, the Government launched the Integrated Community Centres for Mental Wellness (ICCMW) and Members are very supportive of this move. These ICCMWs have a total of 21 service teams, but only two teams have a permanent service venue. All the others do not have any permanent address, and they are either unable to lease a suitable venue or they have to come under the roof of some other centres. This is not a healthy state of affairs. What are the difficulties encountered? Perhaps the Secretary may explain that some local residents object to these centres. Then I would think that this is something which our society and the District Council (DC) members should reflect on. DC members always oppose the setting up of mental health service agencies in their districts. Does this mean they are working for the residents? If DC members always oppose this, sooner or later there may be an outbreak of incidents in their districts. Then the residents will be the victims. Actually, we need to explain to the people that this kind of services should be provided to prevent the outbreak of such incidents. Prevention is always better than cure.

Even though I have only got less than a minute's time to speak, I have to say to the Secretary that this society of ours is driving us crazy. We have to cope with tremendous pressure. Even if we leave out those hundreds of thousands of people who need mental health services or waiting for their turns to see a psychiatrist in the out-patient service, there are still many people who suffer from severe insomnia, and those who have to face great pressure or discord in the

family. They are the causes of many social problems. This is the pressure we feel as we live in Hong Kong. But we have not done anything in prevention. What this society knows is to oppress people. This is what we experience in work, in housing and in transport. Things are driving us crazy. Insofar as this problem is concerned, I think prevention is also very important.

Thank you, President.

**MS EMILY LAU** (in Cantonese): President, I speak in support of the motion proposed by Mr CHEUNG Kwok-che of the Labour Party. President, from 31 August 2008 onwards the United Nations Convention on the Rights of Persons with Disabilities began to apply to the Hong Kong Special Administrative Region of the People's Republic of China. It is our obligation to submit a report to the United Nations on a regular basis on how we have fulfilled our duties under the Convention.

President, this is the report for 2010 which the SAR Government has submitted to the United Nations after a consultation held with various parties. Now the relevant committee of the United Nations has not yet decided on the date when the hearing will commence and it may be later this year or next year the latest. By that time it will be the first occasion on which the SAR Government will give an account to the United Nations on how the duties specified in the Convention are fulfilled. I hope that people from the Labour Party, other people and all those who are concerned about the treatment received by persons with disabilities will all flock to the United Nations by that time and criticize the SAR Government.

President, this topic is in fact a very broad one. What I am going to say today is only an aspect of it, namely, anti-discrimination. That is elaborated clearly in the Convention. With respect to discrimination, what kind of information have we got? We have looked up the records and only found a report which is compiled after some in-depth study. It is published by the Equal Opportunities Commission (EOC) in 2001. The report is on the kind of problems which mental patients or ex-mental patients would encounter. The findings show that these people are leading a very miserable life. They are very passive and they would often cover up their medical conditions, not daring to tell others for fear that they will be subject to persecution and discrimination.

This report also shows that 60% of the people going to psychiatric specialist out-patient service want to cover up their condition, 45.7% take the initiative to reduce or stop the medication or stop going to follow-up consultations. The report also says that the mass media give a very negative image to these people and as a result they are afraid of telling others for fear that this will lead to some disastrous consequences. President, this report was published in 2001. These people think they are marginalized and they do not dare to seek any help. This is pathetic. I do not know what the authorities have done to help them.

In May 2010 the Democratic Party conducted a voice telephone survey and of course we do not have as many resources as the EOC which can conduct some in-depth surveys. We find that 66% of the interviewees think that mental patients and ex-mental patients are discriminated by society. Fifty-five per cent of the interviewees think that they will not accept these people as their neighbours. Forty-six per cent do not accept them as co-workers. Thirty-nine per cent will not accept them as friends. Sixty-three per cent will not agree that they should get an equal pay despite their having the same qualifications. They would think that their job performance should be inferior. However, we can also find that 58% of the interviewees have never had any chance of getting along with these people; and for those who have, only 4.9% say that they do not get along well with them, while 24% say that they get along so-so with them and 18% say that they get along happily with them.

President, we can therefore see a lot of these messages which stem from sheer ignorance or exaggeration. The result is that the people will get scared. After the Democratic Party had conducted this survey in May 2010, I had the chance to chair a seminar on this. We invited the chairman of the EOC, people recovered from mental illness, other groups and people concerned about the issue. Those who took part recounted their experience and most of them said that if their illness or former illness was disclosed, they would be dismissed or transferred to other posts. This is because it was considered that they would affect the corporate image. So they were transferred to other remote places to make other people not be able to see them and they would not have any chance to come into contact with others. Some people said that when they were looking for a job, things were fine at first, but when they had disclosed their problem, the companies said that they could not be hired.

President, the problem is always there and it has never been solved. We have to ask, do the authorities know about it? How should the problem be solved? I would like to ask the media, should they not bear any social responsibility in this? They must not put stories about people with mental illness knifing people on the front-page and in so doing terrify the readers. President, the Legislative Council Secretariat has done some research on this and it is found that in England and Australia, the Governments there launch public education and they also have plans to encourage the media to carry responsible and accurate reports of stories concerning mental patients and ex-mental patients. The aim is to eliminate discrimination against them as much as possible.

President, the report from the authorities touches lightly on the issue we discuss today. But if we look closer at the issue, we will find that countless people and their families have suffered all through these years and they do not even dare to tell others about it. This is because if they do so, they would invite disasters — they will lose their jobs, their neighbours will demand their removal, and they will be left with no friends. I used to think that the society of Hong Kong is a civilized and caring society, but I fail to see why after discussing the matter for more than a decade, there are still so many problems that cannot be solved. So President, I will support this motion from Mr CHEUNG. I hope that the authorities, the media and everyone in society will face this problem with a positive frame of mind.

**MR CHAN KIN-POR** (in Cantonese): President, the definition of mental health is changing all the time. Back in the last century, provided that a person does not display any symptom of mental illness, his state of mind is considered healthy. But in recent years, a more holistic approach has been adopted for the definition of mental health both in the international and local communities and in the medical sector. By and by we come to know that mental health is not confined to the non-existence of mental illness, but it is closely related to mental wellness. For instance, indicators of mental wellness may include whether a person is satisfied with his life, whether or not he has any sense of mission, or room for self-development, or if he can have control over the external environment, can accept himself, has full autonomy and is able to maintain a positive relationship with other people. This is the change which modern society has imposed on the definition of mental health. This is also the cause which affects the policies which the SAR Government is formulating on mental health.

Many studies done in the past pointed out that there was an inalienable relationship between the mental health of a person and his physical health and social conditions. Researches done recently have also found that when a person has good mental health, his physiological system and nervous reactions will enjoy greater protection and this has a very positive effect on his physical health. Therefore, it would be worthwhile for the Government to put in resources on the people's mental health. As the mental health of the people and even their overall health are improved, our healthcare spending will be reduced. The input we make in mental health will result in a return which is not confined to mental health alone.

We should know that people with severe mental illness only take up a tiny fraction of the people with mental illness. For the remaining people, most of them do not have any severe forms of mental illness. Their problems are mild. Even as this is the case, these people should be given proper professional care. Mild mental problems can easily develop into anxiety and it will in turn make a person suspicious and may finally lead to psychosis. And psychosis may lead to depression. In Hong Kong, people have to bear tremendous pressure in life and many of them will develop mental illness because they cannot alleviate their pressure at work in a proper manner or they may be too obsessed with money or love affairs.

Why will a mild mental problem deteriorate into a severe mental illness? A person will not have some very radical thoughts on a certain day he wakes up in bed. On the other hand, the state of his mind must have been exposed to great distress over a long period of time and as his mental health goes from bad to worse, he will be diagnosed as having mental illness eventually. This coincides with the Chinese saying that thick ice is not the result of a day's cold weather.

It is exactly because of this that I urge government officials that when they formulate policies, they should ensure that mental patients under the conventional definition will be taken care of and the officials should not overlook the overall state of mental health of the people as a whole. The Government should endeavour to study how mental health of the people can be improved and what can be done to prevent common mental disorders from developing into mental illness and from having no signs of illness into mild forms of mental illness and then into severe forms of mental illness.

In the policy address, it is said that the focus of work in mental health is to set up Integrated Community Centres of Mental Wellness (ICCMWs) and enhance the community support for ex-mental patients and to extend these ICCMWs to all the 18 districts in Hong Kong. The authorities have introduced a Case Management Programme for those with severe mental illness and provide them with intensive support in a community setting. There are also crisis intervention teams to handle urgent cases on referral. These teams will also follow up high risk mental patients. All these initiatives target at those who used to have or are presently suffering from severe mental illness. But they have overlooked the concern of a modern society in promoting mental health for the entire population through administration and how mental health in Hong Kong should be improved.

On the question of mental health of the entire population, we have to mention the Internet which almost everyone in our society would use and the question of mental problems associated with indulgence in surfing on the net. According to a study done by the institute of mental health of the Peking University, as many as 15% of the Internet users on the Mainland have developed symptoms of addiction. In Washington, there are even facilities for this purpose like the drug treatment centres to treat similar problems of the Americans. A treatment programme lasting for 45 days would charge HK\$100,000. Hooking onto the Internet has grown into a worldwide problem and we cannot afford to stay away from it. We have to ensure that our young people are in a state of mental wellness and will not indulge in the Internet. Some time ago the Government launched a scheme to support Internet learning for the poor students, but has the Government ever tried to ensure that students will mainly use the computer for learning purposes? Suppose the parents of these poor students have to go out to work, how can it be ensured that these students in the absence of parental guidance will not use the Internet incorrectly? So whenever a social policy is to be launched, the Government has the obligation to make an assessment of the impact of the policy on the mental health of the young people.

Although in recent years the funding for mental health in the budget has increased to nearly \$4 billion, the spending in this area takes up a far smaller portion of the GDP than many other overseas countries. This lack of resources will not only lead to a failure to boost the mental wellness of Hong Kong people but also creates a huge negative impact on service delivery in the psychiatric departments of the public hospitals. Now the number of patients in the psychiatric departments of the public hospitals is close to 160 000. But those

who take new psychiatric drugs in 2010 number less than 40 000. The number is only about one quarter of the total. Studies show that although the new psychiatric drugs are more expensive than the conventional drugs, their side-effects are fewer. Then why is there only a small number of patients using the new drugs? I think the authorities must study this problem and conduct a review thoroughly. If the new drugs are clearly better than the old drugs and they have fewer side-effects, then it is absolutely not justified that only one quarter of the patients are prescribed the new drugs.

Lastly, I would like to make special mention of the problem of suicide which is closely related to mental health. In 2010, for every 100 000 persons in Hong Kong, 14 committed suicide. This suicide rate is still higher than that in the United Kingdom, the United States and France. Moreover, the Government has been hesitant in launching a study on people who commit suicide by burning charcoal. There is still great room for improvement in preventing suicides. In the case of suicides of hospitalized patients which is considered to be a kind of serious medical blunder, there were 11 such cases in 2009 and the number rose to 20 in 2010. Although some crisis intervention teams have been set up to follow up those high-risk mental patients, has any attempt been made to intervene and help those hospitalized patients who have an unstable state of mind?

All the above show that in terms of policy, the Government does not have enough support for the state of our people's mental health. So the Government should use some new thinking to help these mental patients and formulate a mental health policy for all the people. The focus of that policy should change in tandem with changes in the definition of mental health and that policy should aim to enhance the mental wellness of the people and raise their abilities to face up to adversities. This will ensure that they can be successful in their families, communities and in their careers because they have a healthy mind.

I so submit.

**MR WONG SING-CHI** (in Cantonese): President, the problem of mental health is not only a problem at the community level. We can also find this problem in the Legislative Council too. We can see that some Members of this Council always suspect that they are betrayed and they even accuse other people of betraying Hong Kong. They have become more and more outspoken in making

a tirade of abuse and we can see that they are visibly very upset with veins appearing on their forehead. They always make these topics the contents of their pet phrases. This shows they are always disturbed by these matters. In the end, they would lose control of themselves and start to throw articles or scuffles with people. I would think that we must be concerned about these matters. We should all be mindful of our mental health, and this applies especially to those of us who are Members of this Council.

With respect to the motion proposed by Mr CHEUNG Kwok-che today, we hope that we would not just be making efforts in curing mental illness but in my opinion, there should be more matching facilities in the communities. Mr CHEUNG Kwok-che has mentioned in his motion that government departments and organizations which are currently providing drugs, treatment and counselling service for mental patients and ex-mental patients follow different policies and the services provided are therefore fragmented. A social worker may think that a patient should be discharged or he should not be discharged from a hospital, but the doctor may have another view on that. Such arguments have posed a lot of obstacles to the recovery of mental patients or to the care given to them.

For these mental patients, apart from curing them and giving them care in a community setting, work can actually boost their self-confidence and their commitment to society. Many mental patients know that their jobs can raise their self-esteem and so they would be more positive in the recovery process. These mental patients need social inclusion and loving care. So we hope that the Government can provide more employment assistance for the mental patients or those from the disadvantaged groups or persons with disabilities. We are striving for the imposition of certain job quotas in different settings so that mental patients can be more committed to their jobs and integrate into their communities.

President, mental patients would easily lose their self-control, but they are not aware of what they do and they do not do it on purpose. But in a community, such acts would easily lead to a feeling of nuisance or annoyance in other people. So these mental patients need to have half-way houses. It is unfortunate that the places for mental patients in half-way houses are seriously in short supply and the waiting time for such places is long. We therefore hope that the Government can put in more efforts to ensure a larger supply.



President, there are not many job opportunities open to mental patients. Before they re-enter society and work, there is actually plenty of room for them to learn and upgrade their vocational skills. Also, they should have chances to get along with other people in the community or other people recovering from mental illness so that they can adapt to life in society and work in it. So there are practical needs for half-way houses and sheltered workshops.

These may have very little to do with Secretary Dr York CHOW's portfolio. In a question raised in this Council I tried to follow up and pointed out to Secretary Matthew CHEUNG that the maximum waiting time for a half-way house place was 14 years. But Secretary Matthew CHEUNG pointed out that it was not true and said that the waiting time was only about 12 to 13 months. It is a pity that Secretary Matthew CHEUNG is not here now, otherwise, I would tell him that someone has told me that he was wrong. It is really true that one has to wait for more than 10 years because places are in short supply. So I hope that the Government can provide more places and soon.

I have talked to the family members of many mental patients and found that many mental patients go to the sheltered workshops because there is nothing else they can do. Moreover, there are no relevant arrangements at the district level and some of these mental patients have to travel from Kowloon to Sheung Shui to work while some others have to travel from Yuen Long to Sheung Shui.

President, apart from the services which I have just mentioned, there is also a disparity in the attitude shown by the community to mental patients. Some people are willing to provide services to them and accept them. But there are also many people who discriminate against mental patients. And as a result of the discrimination they are subject to, the mental patients are very much disturbed. Their families are under much pressure too. The Democratic Party therefore hopes that the Government can offer more public education in this aspect and the people should be urged to face mental patients with a positive frame of mind. Such kinds of work must be carried out with the co-operation of the Government, the community and various NGOs.

President, it is exactly because of the fact that mental patients face severe discrimination in the community that organizations providing services to mental patients face many difficulties in the community. An example is the Integrated Community Centres for Mental Wellness (ICCMWs) that are supposed to be set

up in various communities. Unfortunately, the Government does not have any clear ideas about what constitutes discrimination and what does not. When some residential institutions for mental patients are to be built in a certain district, the Government will carry out many rounds of consultations. The residents are asked whether they can accept the setting up of a rehabilitation centre for mental patients in their district. When the residents object to the idea, the Government will echo. These should not be regarded as correct practices of dealing with mental patients.

The Government should help the residents understand that mental patients are not a special problem, only that something has happened to them. The residents should be encouraged to accept them. It seems that the Government is at its wits' end in dealing with the discrimination against mental patients. The result is that progress of setting up ICCMWs in all the 18 districts in Hong Kong has been slow. When our work is progressing so slowly, how are we going to make mental patients really integrate into the community and gather up the pace of recovery?

President, we hope that government departments will take the lead to not discriminate against mental patients. The practical needs of the mental patients must be addressed and that the barriers and obstacles to the relevant work must be cleared so that these ICCMWs or community services can be set up in the communities more easily. It is only when this direction is followed that we can really solve the problems related to the rehabilitation needs of mental patients, or else we will just be ignoring these people recovering from mental illness. Thank you, President.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, in the wake of an incident in Kwai Shing East Estate in which a mental patient killed two residents and stabbed three others, the Government set up District Task Groups on Community Mental Health Support Services (DTGs), whose membership include the Hospital Authority, the Social Welfare Department, social welfare agencies under the Integrated Community Centres for Mental Wellness, the Housing Department, the Hong Kong Police Force, and so on. Considering the setting up of DTGs a pretty good idea, both the residents and the general public share the view that the Government has taken a positive approach in the hope of reducing the chances of mental patients causing incidents in the community.

Nevertheless, shortly after the occurrence of the aforesaid incident on 8 May 2010, another incident took place in September 2011 in Shek Pai Wan where a mental patient having a problem with her younger boyfriend attempted to dismember him with the weapon and chloroform purchased. Fortunately, her boyfriend woke up later and escaped unscathed. In another incident that occurred on 21 October 2011, a divorced woman suffering from bipolar problems had, due to financial problems, even fed her autistic son with sleeping pills before attempting to die with him by burning charcoal. Fortunately, her ex-husband living next door was woken up by the heavy smoke generated by the burning of charcoal and alerted the police, and the woman and her son were eventually rescued.

Although the two incidents can be said to be lucky amidst the calamities as there were no injuries or deaths, it is evident that the relevant problems have not been resolved as a result of the setting up of DTGs. Certainly, we cannot expect all problems to be solved by DTGs. But the greatest question is: Can it serve its purpose? According to my understanding, although DTGs function as an interdepartmental working group, a meeting will be held only once every six months. Such being the case, how far can it serve its purpose? Furthermore, I have contacted the staff of the Housing Department and asked them what measures DTGs had implemented. Nevertheless, the front-line staff, including security guards, managers, and so on, replied that they had no idea of what they should do. It turns out that everything is back to basics, which means that no concrete measures have been implemented. So, how can the supportive function be enhanced at the district level?

The question is: Is the Government merely focusing on entertaining the various "noises" in the community in dealing with these problems? As a lot of opinions hold that people recovering from mental illness will easily commit risky acts in the community, an interdepartmental working group has been set up to address the problem. Nevertheless, the working group merely seeks to give an account to settle the matter without taking its effectiveness into consideration. In fact, as pointed out by many Honourable colleagues just now, the number of mental patients is currently on the rise, with the attendance rate at psychiatric hospitals rising from 570 000 in 2004-2005 to more than 700 000 in 2009-2010. It can be seen from the figures cited by many colleagues just now that the current patient cases involve 160 000 patients, and there will be an additional 30 000 or

so new cases per annum. With the figures continuing to rise, what is the Government's response?

Certainly, we cannot say that the Government has made no response at all. But today, as cited by many Honourable colleagues just now, the funds allocated by the budget for mental rehabilitation services have merely risen to \$3.8 billion, representing a mere 0.2% of our Gross Domestic Product, which is a far cry from the level ranging from 0.8% to 1% in other places around the world. Insofar as this point alone is concerned, I believe the Government has nothing more to say. Although the authorities have often claimed that many additional resources have been allocated, such resources are so limited, and the response to the actual demand is inadequate, too. It is extremely regrettable that the Government has still not proposed any particularly enterprising or proactive measures even to this day.

As pointed out by Mr CHEUNG Kwok-che, mental illness is attributed to a wide range of factors, including high rentals, high inflation, long working hours, the absence of retirement protection, the lack of a safety net, increasing pressure of living, and so on. Instead of conducting a comprehensive review of these problems, the Government has merely adopted a stop-gap approach by giving a brief response when problems occur without tackling them thoroughly. This is indeed the Government's greatest failure.

Hence, this motion is proposed today in the hope that the Government can "formulate a comprehensive mental health policy, strengthen preventive and remedial services, improve the relevant policies on labour, land, healthcare, welfare and education, and so on, and build a care-based community, so as to improve Hong Kong people's living environment and mental health quality, reduce their chance of contracting mental illnesses, assist people with mental illness to recover and reintegrate into society, and promote all social sectors to accept people recovering from mental illness to integrate into society." I hope the Government can make efforts on this front in a comprehensive manner rather than dealing with a single matter alone. As pointed out just now, although it is a good thing to set up DTGs, they do not serve any actual purpose. How can they serve their purpose with their meeting held once every six months? On the surface of it, the matter has been dealt with; but in practice, the problems cannot be resolved fully. Furthermore, how much has been done? Some staff members of DTGs have told me that their attempts to identify places in the

community for setting up DTGs have eventually failed. In the end, it turns out that the Government is unable to provide any assistance on this front.

Hence, should the Government fail to review the problems in a comprehensive manner and merely examine them in a fragmented manner, there will not be any perfect outcome in the end. *(The buzzer sounded)*

President, I so submit.

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

**MR WONG YUK-MAN** (in Cantonese): President, the motion today is entitled "Formulating a comprehensive mental health policy" and the amendments are mainly about perfecting the system, increasing resources and manpower training, helping those ex-mental patients reintegrate into society, and so on. The two Members from People Power will show their support for these.

Many Honourable colleagues have given very detailed comments on the topic. I heard the speech by a Member from the Democratic Party and he made use of the opportunity to level criticisms against us. He said that people who threw things like us were psychotic. I cannot help but speak in reply. My speech today is entitled "people in this city are half-man, half-devil". About the contents of the motion proposed by Mr CHEUNG Kwok-che, anyone who has read it will think that it is pathetic. Just look at the causes of mental illness stated in the beginning of the motion, there are things like persistent high rentals, high inflation, long working hours, and so on. He thinks that this host of causes lead to mental illness. You will find it pathetic to read about these. For me, the injustice of this man-eating society is the cause of mental illness.

President, I will make use of this topic to make lengthy comments. Please do not stop me. They are related to the motion. It is really true to say that people in this city are half-man, half-devil. How many mental patients do you see in this legislature? Only that they are not aware of it. Mr WONG Sing-chi tried to criticize us, saying that people who throw things are psychotic. He is asking for quarrels, and so I am happy to oblige. The Democratic Party has not only joined the bogus election but it has also drawn a circle in it. It is

conducting another bogus election, deriving delight from it. President, is that not a sign of sickness? Dr PAN Pey-chyou is not in the Chamber now. As far as I know, he is a psychiatrist. Split personality is a character trait for those politicians in this Council. Dr York CHOW, you are not a psychiatrist, but I am sure you must have studied something about psychiatry and you would know something about it. You can tell me more about this later.

President, the political party to which your Honour belongs, that is, the DAB, used to raise vociferous opposition to the hike in electricity tariffs by the two power companies. But when the House Committee of the Legislative Council said that a resolution should be passed to invoke the Legislative Council (Powers and Privileges) Ordinance to demand that the Government shall surrender the relevant documents concerning the two power companies, your political party made a U-turn and became a political fugitive. Then the Democratic Party made use of this opportunity to criticize the DAB, saying that it had deserted its cause. I do not think that this act is like a person who retreats 50 paces and mocks one who retreats a hundred, but it can be said to be an act like a person who retreats 100 paces and mocks one who retreats 50. Was the Democratic Party not a deserter in the referendum of the five constituencies? When the Government first proposed a constitutional reform package, the Democratic Party denied categorically that it would lend its support. But later on, the Democratic Party proposed a number of conditions. Finally, it said that it was prepared to accept the constitutional reform package even if one of the conditions proposed by it was accepted. Moreover, there is this cocky Member from that party who used to clamour in this Chamber, "There is no room for any compromise with respect to universal suffrage in 2012. We are born with a strong backbone and no one can take away universal suffrage in 2012." So that Member was saying these things to Mr Alan LEONG to show his unwavering stand on the issue. This impressed me most.

While these words still ring in our ears, are these people sick? Do they have a split personality or schizophrenia? Check this out with Dr PAN Pey-chyou. These people have turned from being branded as those who oppose the Central Authorities and stir up trouble in Hong Kong to walking right through the door of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region to seek better refuge, very much like a wise bird picking the right tree to nestle. That is what Eunuch LAM said. Is this not schizophrenia? It turns out that there are many incarnations of schizophrenia.

Like emotive schizophrenia, schizoid split personality, schizoid personality disorder, schizoid emotional disorder, schizoid personality disorder, and so on and so forth. Which one? It is really true to say that this city is full of people who are half-man, half-devil.

There is this politico who advocates adopting a strategy of negotiating and fighting with the enemies at the same time. He always dreams of becoming the Chief Executive. Then a person tells him to stop dreaming. Then these two persons are having a dream together. I can imagine that some 30 000 people will vote during the nine-hour period at the 74 polling stations. In other words, one person would be voting in every one minute and 11 seconds. They should really explain how this formula is arrived at. That is to say, the line of people at every polling station is supposed to have never stopped. It turns out that those who plant votes are not only those who belong to the pro-establishment camp as they describe it or what the *Apple Daily* calls it. They are all happy about it. President, is this not a sign of sickness? I am really afraid that you will get depression someday.

Some people say that we have mania. We are not maniacs. We are people who dare to get angry, speak out and make criticisms. This society has gone too far from being normal. We just speak out what we feel. Now I think I have to come back to the topic.

Ever since the reunification, Hong Kong has always been on the trajectory of decline. Our society gets polarized. Social groups are torn apart and society is deeply divided. Just who is responsible for all these? From the recent incident about domestic foreign helpers we can see that a major political party — one which is supposedly very righteous — just see what its party leader has said? Are these not signs of malaise? Those of us who remain undaunted and unwavering from beginning to end do not have any of this malaise. This is because if I were mentally ill, I would stay on like this and I would not pretend that I am a normal person. If you say that I am mentally ill, I can say at least that I am consistently paranoid. President, at least I know what kind of illness I have got and there are ways to cure it if I want to. The worst thing is those people do not know that they are sick.

Hong Kong is being guided by these politicians and everybody is sick. I can tell you all, you are dying together. President, you are likewise miserable.

You are an eloquent speaker, but when you sit in the President's Chair, you cannot even doze off for a second. When you see Members talking nonsense, you cannot even refute what he or she says. I feel pitiful for you. And I am worried that you will get sick. However, you are freshly married and this is like spring has returned to your life. You can be happy and so your emotions can calm down a bit. Well, that is only kidding.

The people here are all sick. Right? I have to repeat the same line again. That is, in Hong Kong, the city is full of people who are half-man, half-devil. I am a devil myself. When I was a politico I found I was very much behaving like a devil. So I think we had better think twice before deciding to run in the next election.

Seeing people like these in the Council, I have become sick though I used to be healthy. We always hear people shouting slogans about democracy and what they say are full of justice and stuff like that. But what is behind all these words? Buddy, someone who belongs to the Central Standing Committee of the Democratic Party could have asked people in the social welfare sector that they should not be members of the Election Committee if they are not to vote for Henry TANG. And the party chairman has never come forth to give an explanation to these remarks. Are they sick? These people are fooled. Mr CHEUNG Kwok-che, is this right? When people in the social welfare sector to which you also belong all vote for the democrats, are you all sick? Some people will say, if Albert HO has got enough votes, then the remaining votes will be given to Henry TANG. Are you all sick? This is not only serving a bad role model to the kids, but it is also making a sick society seen for the first time in this Council.

President, I am really sorry. I have been pouring out the contents of my heart. This is all because Mr WONG Sing-chi provoked us. I do not dare to say that he has been cheap because when talking about this topic, he has dragged us into the heat of the arguments for no justifiable reason and he said that we threw things. We are just people who dare to rage, speak out and scold people. It is a common thing to put up resistance in the political assembly, unlike someone who says that .....



**PRESIDENT** (in Cantonese): Mr WONG, speaking time is up.

**MR WONG YUK-MAN** (in Cantonese): ..... rites and morals have been laid in ruins. What kinds of rites and morals are you talking about when someone who is a member of the Central Standing Committee of a political party goes about asking people to vote in favour of Henry TANG?

**PRESIDENT** (in Cantonese): Mr WONG, please stop speaking and sit down. Does any other Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr CHEUNG Kwok-che, you may now speak on the four amendments.

**MR CHEUNG KWOK-CHE** (in Cantonese): President, I am very grateful to Dr Joseph LEE, Mr CHEUNG Man-kwong, Dr PAN Pey-chyou and Mr Alan LEONG for moving amendments to the motion today. In proposing the motion, I actually seek to provide a framework in the hope that more Members will propose amendments. I find that the amendments proposed by the several Members have enriched the entire motion in terms of its major principle and implementation. In particular, the suggestions made by Dr PAN Pey-chyou are crucial.

Dr Joseph LEE has mentioned delineation of responsibilities as well as working in collaboration in respect of healthcare personnel and social workers. As they both have inadequate resources, how can their limited resources be put to the best use? We can see that the amendments proposed by the several Members are closely related to manpower, especially training, because of inadequate manpower, which is certainly the most important factor. However, even if the Government is willing to provide manpower, it will still take a very long period of time before a psychiatrist, psychiatric nurse or a social worker specializing in mental health can be trained.

Mr CHEUNG Man-kwong has proposed the setting up of a Mental Health Council and mentioned that even the Chairman of the Equal Opportunities Commission had once put forward a similar proposal. I believe there must be some concrete reasons for putting forward this proposal. Basically, if the work of the Mental Health Council can straddle a number of bureaux and departments, it should be able to bring its power into remarkable play. Currently, various bureaux and departments have their own portfolios, and there are many gaps to be filled for bureaux and departments to co-operate with one another. A Mental Health Council, if set up, can bring its function into full play.

Dr PAN has put forward many proposals in his amendment. I believe that he, being a member of the profession, understands the problems perceived by many other members of the profession. Moreover, his proposals are extremely important. He has used a trip to Europe to illustrate the importance of beginning with minor details in examining the whole situation. It is actually just empty talk should we touch on a social issue without preparation, planning and policy.

The points raised by Mr Alan LEONG concerning the provision of evening consultation services and long-term manpower planning are also very important. The point raised by him regarding the provision of social and civic education also reminds us not to pay particular attention to a certain category of people or matters. In fact, there are many people who require our attention in the entire community. Many people are worried that certain people might have disposition to violence and have a grudge against them. If our society can do more in understanding and education, turning grudges into assistance and even care, I believe the happiness index in this society, as stated by the Secretary just now, will rise a bit higher.

Just now, a Member mentioned that some Members of this Council appeared to show psychiatric symptoms. According to some academics, one in every five persons tends to have mental illness. Hence, it is natural for a dozen Members here to have this tendency. I do not doubt or blame some Members for suggesting that we should all go to see a doctor. Thank you, President.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I am grateful to Members for the valuable opinions they have expressed on the motion

and the amendments. Now I would like to respond to the major issues raised by Members.

All along we have been striving to promote the mental health of the people of Hong Kong and an important part of our work in public health is to ensure and promote the mental health of the people. Our policy on mental health can be summed up as being geared in three major directions.

First of all, as mentioned in the motion proposed by Mr CHEUNG, mental health policy and relevant services cover the work of many Policy Bureaux and departments. All along the policy direction of our healthcare and rehabilitation services are delivered in the form of multi-disciplinary and cross-sector teamwork and we will strive to promote synergy between the two service systems in healthcare and social welfare in order to provide a comprehensive set of coherent mental health services and all-rounded care to those in need.

In this connection, the Food and Health Bureau is tasked with co-ordination with respect to policies and services in mental health. The Bureau works in close partnership with the Labour and Welfare Bureau, the Education Bureau, the Department of Health, the HA and the Social Welfare Department (SWD) as well as all other related government departments and agencies. The Working Group on Mental Health Services chaired by me and comprised of members being stakeholders from healthcare, social welfare and other sectors with relevant service experience helps in the formulation and examination of mental health policies and services. Each year we will examine what new services should be introduced.

Also, we notice that there is a gradual shift in the international community in the focus of treating mental illness to an emphasis on community and daytime care services. This would enable mental patients to be discharged early from hospitals when their conditions have stabilized and to receive treatment in the community. Hence they can recover sooner and their chances of relapse are reduced. Due to the increasing importance of mental health services at the community level, in recent years we have launched a number of measures aiming at strengthening medical and community support services for mental patients. These will speed up their recovery and facilitate their reintegration into the community, thereby enabling them to start a new life.

Third, as the saying goes, prevention is better than cure, so mental illness is no different from other diseases and preventive measures and public education are essential. In order that mental illness can be prevented more effectively and that people with mental illness can be detected early and that misunderstanding and discrimination against mental patients can be reduced, we attach special importance to public education and we have put forward a series of measures to enhance public awareness and understanding of mental health.

Since 2001, the Government has been launching new measures and schemes in this regard and we are committed to enhancing and upgrading mental health services. The HA has since 2001 introduced a service programme on psychosis which targets at young people aged between 15 and 25 with first episodic psychosis. The specialized teams under the programme offer one-stop, phase-specific and ongoing support for these target patients for the first two years of illness. The programme has proved successful in the early identification of persons with psychotic disorders and the provision of prompt treatment to prevent deterioration and unnecessary hospitalization.

In the year 2002-2003, we introduced the Extended-Care Patients Intensive Treatment: Early Diversion and Rehabilitation Stepping-Stone (EXITERS) Project to provide intensive rehabilitation training for long-stay mental patients so as to facilitate their integration into the community. In the same year we introduced the speedy treatment service to elderly persons suspected to have suicidal tendency or depression.

In 2007-2008, we introduced the Community Mental Health Intervention Project to provide community support to people suspected of having mental illness as well as their family members. In 2008-2009, the HA set up community psychiatric support teams in the Kowloon West Cluster and New Territories East Cluster to provide support in the community for frequently readmitted psychiatric patients after their discharge from hospital. In addition, the HA has also launched a psychiatric consultation-liaison service at accident and emergency departments in the Kowloon East and Kowloon Central clusters. This is a trial scheme which provides crisis intervention service to patients with a sudden deterioration in their mental state. This service will hopefully alleviate the condition of the patients and prevent unnecessary hospitalization. From the year 2009-2010, the number of patients served and the districts covered by the HA's psychogeriatric outreach services for the elderly have increased. The

services currently cover most of the subvented residential care homes for the elderly and over 200 private residential care homes for the elderly.

In April 2010, the HA launched a Case Management Programme (CMP) in three districts and the case managers are healthcare workers. The CPM provides ongoing and personalized in-depth community support to severe mental patients. In the same year, the HA launched an Integrated Mental Health Programme (IMHP) and five Common Mental Disorder Clinics were set up in the psychiatric specialist out-patient clinics of five of the HA clusters. These measures are meant to foster collaboration between psychiatric specialist out-patient service and primary care services so as to enhance the assessment and treatment of common mental disorders.

In this year the CMP has been extended to another five districts, that is, Island East, Sham Shui Po, Sha Tin, Tuen Mun and Wan Chai and the IMHP has been extended to include all the hospital clusters in Hong Kong.

Next year, we will extend the CMP to another four districts, that is, Kowloon City, Central and Western, Island South and the Outlying Islands. After the expansion, the CMP will cover a total of 12 districts and it is estimated that another 2 000 patients will benefit from the services and more severe mental patients will be given ongoing, in-depth and personalized support.

With respect to the proposal made by a Member earlier that a Mental Health Council be set up, as I said earlier, the Food and Health Bureau is tasked with co-ordinating mental health policies and measures and the Bureau works in partnership with the relevant bureaux, departments and agencies to provide treatment and rehabilitation to mental patients through a comprehensive and multi-disciplinary approach. In addition, we have also set up a cross-sector consultative mechanism, that is, the Working Group on Mental Health Services, which is responsible for conducting ongoing reviews of existing services. We consider that the present mechanism is proven. We will continue to enhance our co-ordination role and formulate policies and measures as appropriate.

Moreover, an amendment suggests that the Government should improve the use of psychiatric drugs. We have allocated additional funding to the HA for the purpose of providing new psychiatric drugs to more patients in need. In the

year 2010-2011, close to 40 000 patients were prescribed new psychiatric drugs by the HA.

In terms of community support, Integrated Community Centres for Mental Wellness (ICCMWs) have been set up in all the districts in Hong Kong. These ICCMWs will provide convenient and holistic one-stop community support services to ex-mental patients and those suspected of having mental problems as well as their family members. Moreover, the ICCMWs can facilitate the dissemination of vital mental health messages in the communities. During the period from October 2010 since the commissioning of these ICCMWs to September last year, a total of about 14 000 ex-mental patients and people suspected of having mental problems have been provided with the relevant services.

The amendments from the four Members all mentioned increasing the manpower of healthcare and social work personnel in psychiatric services. In recent years we have adopted a number of measures to address the manpower problem, including that related to psychiatric healthcare personnel. In 2011-2012, the HA has hired an additional 80 nurses and allied health professionals to take forward work in the expansion of the CMP. The SWD has also increased the manpower in the ICCMWs to cope with the programme.

In addition, we have always been increasing the manpower with respect to medical social workers in the psychiatric departments of public hospitals and clinics in line with the needs of the Early Assessment and Detection of Young Persons with Psychosis Programme and service enhancements for autistic children. This includes an addition of more than 30 medical social workers in the year 2011-2012. Compared to the number of medical social workers which totalled some 160 in the year 2005-2006, the rate of increase is more than 40%.

We know that students with mental illness require the treatment provided by professional medical and nursing staff, and we also need the help of schools and teachers in the provision of medical and nursing treatment and rehabilitative services to help these mentally ill students adapt to school life. There are also multi-disciplinary professional teams set up in the schools composed of counselling teachers, social workers and education psychologists who will provide the necessary support and counselling in their respective professions to these mentally ill students.

The original motion from Mr CHEUNG and the amendments from the four Members all mentioned that the Government should enhance its efforts in public education. In this connection, we have stepped up our educational efforts among the students and the public at various levels, and also through different channels and media.

The education policy as enforced now is to adopt a holistic approach in school education so that students can achieve all-round development. The school curriculum will therefore include contents such as stress management, a healthy lifestyle, and so on. Students are expected to adopt a positive approach to cope with the frustrations and adversities they face in life.

In order to promote mental health of the people and enhance their awareness of the importance of mental health issues and their understanding of these issues, as well as fostering their acceptance of ex-mental patients and building a society of inclusion, the Government has all along been promoting public education on mental health.

The HA has always been committed to making publicity efforts on mental health. It has introduced the Child and Adolescent Mental Health Community Support Project, the aim of which is to promote mental health among the young people and their parents through schools and youth centres in the communities.

The Department of Health has included mental health in its public health education programme, produced specific health education learning kits on mental health, and set up an information hotline and a website.

In order to provide more effective support to the mentally ill students and enhance the relevant professional training for teachers, the Education Bureau offers related training programmes to teachers. The contents of these programmes include identifying students with learning, emotional and behavioural problems as well as the prevention and handling of relevant cases, and enhancing the teachers' understanding of the needs of the students at various stages of their development.

Moreover, the ICCMWs also hold public education activities in the respective districts which they serve to enable members of the public to realize the importance of mental health and acquire a positive understanding of mood

disorders and mental illness, hence reducing their misunderstanding and discrimination. This will hopefully enable ex-mental patients to gain the support and encouragement they need in the community. Since the ICCMWs have come into operation, more than 2 000 such public education activities have been held.

Since 1995, the relevant bureaux and departments, public organizations and NGOs have collaborated in holding an annual event called Mental Health Month. This is a territory-wide publicity activity which aims at enhancing public understanding of mental health, urging greater acceptance of mental patients and encouraging ex-mental patients to reintegrate into society. In recent years, Mental Health Month activities have been held with the co-operation of various District Councils, mutual aid committees and local organizations. Activities are held at the local level and relevant information on mental health, community support and venues of assistance are provided. These activities also seek to foster networks of support centred on the neighbourhoods and families, with a view to facilitating the reintegration of ex-mental patients into the community.

The Rehabilitation Advisory Committee also acts through the subsidies it gives to NGOs and local organizations to hold various kinds of public education activities and to promote mental health and encourage public acceptance of ex-mental patients in the communities.

Some Members have pointed out that the training offered to ex-mental patients should be strengthened. We attach great importance to the support given to persons with disabilities, including ex-mental patients, in their employment and in-service training as these will help them adapt to the working environment, acquire the skills in open employment and create more job opportunities for them.

The SWD works through the NGOs to provide a variety of vocational rehabilitation services. These include sheltered workshops, Integrated Vocational Rehabilitation Services Centres, Training and Activity Centres for Ex-mentally Ill Persons, On the job Training Programme for People with Disabilities, and Sunnyway — On the job Training Programme for Young People with Disabilities, and so on.

In addition, the "Enhancing Employment of People with Disabilities through Small Enterprise" Project run by the SWD provides capital to NGOs for



the setting up of small enterprises in order to give more job opportunities to ex-mental patients and persons with disabilities. Since the introduction of the Project, a total of 550 jobs have been created for persons with disabilities. Of these people, about half of them are ex-mental patients. The Government will inject \$100 million into the Project for the purpose of subsidizing the NGOs in the setting up of more small enterprises so as to increase the job opportunities for persons with disabilities.

In conclusion, as Members have said in the discussion earlier, the mental health policy and services involve many Policy Bureaux and departments. More and better services should be introduced in line with factors like the ever-changing needs of society, developments in medical technology, and so on.

The Government has always been endeavouring to promote mental health services and related work. We have introduced many improvement initiatives related to community support, treatment services, manpower training, and so on, all meant to perfect the mental health services offered to the public. Looking ahead into the future, we would continue to keep a close watch on the use of mental health services and we will make use of the existing mechanisms to keep our existing services under constant review and make adjustments or enhancements as and when necessary.

It is very important to engage the public in building a society of harmony if we are to promote mental health in Hong Kong. We must start from ourselves by watching and keeping our state of mental and physical fitness, and choose a balanced lifestyle that best suits us. If we ever come across difficulties or problems that we cannot solve, we should tell our family members or friends. We can also seek professional assistance when necessary. We should care more about our family members and friends and their help is most important to people with mental problems. At the same time, I also hope that people from all walks of life in society can give play to the spirit of mutual assistance and show their concern for and acceptance of mental patients. In this way, we can promote mental health in our society.

President, I notice that earlier on a number of Members of this Council were pointing their fingers at each other. They thought that the other Members had mental problems and some even considered that as many as 20% of the

Members of this Council were mentally ill.*(Laughter)* But as I have just said, we should not discriminate against anyone who has mental illness. People who have an illness are sick people and they should be accepted. This applies also to the remarks they may make. I do not think that this should be a problem at all. I hope Members can think about why I should bring this idea up. It is because if this is the way this Council would think, it will likewise be what this society would think. This can be said to be the major cause of our ailment.

President, in our opinion, the achievements we have made are not easy to come by at all and these are the results of the hard work and struggles made by people from different strata. I would like to make use of this opportunity to urge Members to show more tolerance, be more appreciative of other people's contributions and attach a greater value to life. They should grumble and haggle less. I hope we can all work hard to build a caring and inclusive society.

Lastly, I hope Members can lend their support to our work in this respect. President, I so submit.

**PRESIDENT** (in Cantonese): Dr Joseph LEE, you may move your amendment to the motion.

**DR JOSEPH LEE** (in Cantonese): President, I move that Mr CHEUNG Kwok-che's motion be amended.

**Dr Joseph LEE moved the following amendment: (Translation)**

"To add "the Government has long neglected the importance of formulating a sound mental health policy," after "That"; and to delete "and build" after "education, etc.," and substitute with "including reviewing the existing psychiatric services provided by the Hospital Authority and non-profit-making organizations to ensure effective resource allocation between the two, while enhancing service quality and efficiency; comprehensively assessing the demand for healthcare manpower and appropriately increasing the number of healthcare personnel to ensure that the manpower is sufficient to cope with the demand of community mental

rehabilitation programmes; and at the same time stepping up the work of mental health education and organizing talks in the community to enable the public to better understand the concept of mental health, with a view to preventing, addressing and identifying at an early stage various types of mental illness as well as building".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr Joseph LEE to Mr CHEUNG Kwok-che'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.

(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 CHEUNG Man-kwong, as Dr Joseph LEE's amendment has been passed, you may now move your revised amendment.

**MR CHEUNG MAN-KWONG** (in Cantonese): President, I move that Mr CHEUNG Kwok-che's motion, as amended by Dr Joseph LEE, be further amended by my revised amendment.

**Mr CHEUNG Man-kwong moved the following further amendment to the motion as amended by Dr Joseph LEE: (Translation)**

"To add "; this Council also urges the Government to: (a) set up a Mental Health Council to co-ordinate policy formulation, programme arrangements, research and public education, and so on, in the area of mental health, so as to promote public understanding and acceptance of people with mental illness and prevent people with mental illness from failing to integrate into the community due to stigmatization and discrimination; (b) implement joint planning for mental rehabilitation services and other community facilities with a view to developing and expanding mental rehabilitation services in the community, and amend the legislation having regard to the changes in the mode of mental rehabilitation services; (c) substantially increase resources and manpower, expeditiously implement a territory-wide case manager system for people with mental illness and people recovering from mental illness, and improve psychiatric drugs, specialist outpatient services as well as community care, so as to address the worsening mental health problem; (d) focusing on the rehabilitation needs of people with mental illness, ameliorate the problem of disconnection between service referral and acceptance, and strengthen the services provided by half-way houses and sheltered workshops as well as the support for patient groups and social workers; and (e) allocate more resources for providing rehabilitation training and developing the Extending Care Patients Intensive Treatment, Early Diversion and Rehabilitation Stepping Stone programme" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr CHEUNG Man-kwong's amendment to Mr CHEUNG Kwok-che's motion as amended by Dr Joseph LEE 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 five minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Ms LI Fung-ying, Dr Joseph LEE, Mr CHIM Pui-chung, 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, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por and Mr IP Kwok-him abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, 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 and Miss Tanya CHAN voted for the amendment.

Mrs Regina IP voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming and Ms Starry LEE abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 10 were in favour of the amendment and 13 abstained; while among the Members returned by geographical constituencies through direct elections, 23 were present, 17 were in favour of the amendment, one 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.

**MS MIRIAM LAU** (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Formulating a comprehensive mental health policy" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Formulating a comprehensive mental health policy" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Dr PAN Pey-chyou, as the amendment by Dr Joseph LEE has been passed, you may now move your revised amendment.

**DR PAN PEY-CHYOU** (in Cantonese): President, I move that Mr CHEUNG Kwok-che's motion, as amended by Dr Joseph LEE, be further amended by my revised amendment.

**Dr PAN Pey-chyou moved the following further amendment to the motion as amended by Dr Joseph LEE: (Translation)**

"To add "; this Council also urges the Government to: (a) formulate a long-term mental health policy, so as to set a clear direction for the prevention, early detection, treatment, rehabilitation, long-term care and public education of mental illness; (b) allocate more resources to train and recruit professionals and ancillary personnel engaging in the prevention of mental illness and rehabilitation services, and provide adequate land for developing community treatment and rehabilitation service facilities; (c) clearly position psychiatric services in the public sector so that resources are effectively utilized to treat people whose mental illness is more severe, and resolve the problems in the distribution of resources and facilities among the clusters so as to enhance effectiveness of the services; (d) strengthen training on professional knowledge on psychiatry for

healthcare personnel in family medicine and enhance the collaboration between family medicine and psychiatric services, so that family doctors can diagnose and treat various types of mental illness at an early stage and make timely referral of serious cases to psychiatric units for follow-up; (e) allocate more resources for mental illness treatment, particularly for psychological treatment and more advanced drugs, so that people with mental illness can receive the most suitable treatment for their illness; (f) further develop the community medical and rehabilitation services to cater for the needs of people with mental illness and people recovering from mental illness, expand long-term case management, re-introduce evening consultation services, increase community rehabilitation facilities, and reinforce the collaboration of various types of services, with a view to assisting people with mental illness, people recovering from mental illness and their families in coping with the various difficulties in daily life; and (g) encourage the private and public sectors to employ people with disabilities including people recovering from mental illness, encourage the participation of the private sector by means of tax concession, etc., pro-actively promote public education and volunteer work on mental health and eliminate discrimination in the community" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Dr PAN Pey-chyou's amendment to Mr CHEUNG Kwok-che's motion as amended by Dr Joseph LEE 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 Alan LEONG, as the amendments by Dr Joseph LEE and Dr PAN Pey-chyou have been passed, you may now move your revised amendment.

**MR ALAN LEONG** (in Cantonese): President, I move that Mr CHEUNG Kwok-che's motion, as amended by Dr Joseph LEE and Dr PAN Pey-chyou, be further amended by my revised amendment.

**Mr Alan LEONG moved the following revised amendment to the motion as amended by Dr Joseph LEE and Dr PAN Pey-chyou: (Translation)**

"To add "; (h) increase resources for various psychiatric specialist services, including child psychiatric service and psychogeriatric service, in order to meet the increasing demand for psychiatric specialist services, such as specific learning disabilities and dementia, etc.; (i) expeditiously perfect and establish Integrated Community Centres for Mental Wellness in the 18 districts and strengthen the manpower of such centres, so as to enhance the community support and care for people recovering from mental illness, carers or people in the communities; (j) increase the manpower and training of relevant personnel such as psychiatric community nurses and social workers, etc., so as to reduce discharged patients' chances of relapse; and (k) regularly conduct studies on the mental health situation and policies in Hong Kong, and adopt corresponding measures to upgrade Hong Kong's mental health services" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr Alan LEONG's amendment to Mr CHEUNG Kwok-che's motion as amended by Dr Joseph LEE and Dr PAN Pey-chyou 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 CHEUNG Kwok-che, you may speak in reply. You have two minutes and 23 seconds.

**MR CHEUNG KWOK-CHE** (in Cantonese): President, apart from the four Members who have proposed amendments respectively to the motion, 11 Members have spoken on it. I would like to show my gratitude to them first.

The problems raised by many Members all show their concern about ex-mental patients. And with respect to manpower and evening consultation service, these are all matters of concern to Members. Mr CHAN Kin-por has talked about addictive surfing on the net and indulgence of the same, but we look at the problems in a rather simplistic manner, we will find that there is a problem of addiction with many people in society. So I would think that the Working Group on Mental Health Services should look at the matter from a wider perspective so that these groups of people can be taken care of.

Ms Emily LAU has said that public education is needed to combat discrimination. I am sure Members will not oppose it. The Secretary has just demonstrated that we should not discriminate against people who admit that they are mental patients. But when the Secretary was giving a response, he was only

repeating the services now available. He did not state his stand with respect to the idea raised by many Members, that there should be a comprehensive mental health policy. However, in the course of repeating all these many services, the Secretary was better than Secretary Matthew CHEUNG because he was very concise. This is perhaps the only thing I am appreciative of him.

But he has not responded at all to a point proposed and supported by many Members, that is, to formulate a comprehensive mental health policy. I hope that the fact that he has not made any response does not mean that he opposes it. I hope that this motion will be firmly planted in his heart and the seeds of action can start to bud during his term of office. Lastly, I hope that this Council can support my motion. Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHEUNG Kwok-che, as amended by Dr Joseph LEE, Dr PAN Pey-chyou and Mr Alan LEONG, be passed.

**PRESIDENT** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(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): Second motion: Reviewing the population policy.

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

I now call upon Mr Vincent FANG to speak and move the motion.

## **REVIEWING THE POPULATION POLICY**

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

President, recently, the issue of Mainland pregnant women flocking to Hong Kong to give birth has aroused widespread discussion, but the concern is generally focused on the impact on the access of local pregnant women to public healthcare services, how to combat gatecrashing into Hong Kong by Mainland pregnant women and how to protect the obstetrics and gynaecology departments in the public healthcare sector.

However, the motion on reviewing the population policy proposed by me today is not solely directed at the issue of Mainland pregnant women coming to Hong Kong to give birth, rather, it seeks to request the SAR Government to face squarely the expenditures and responsibilities arising from children whose parents are both not permanent Hong Kong residents (commonly referred to as "doubly non-permanent resident children") borne by Hong Kong from their birth to their coming of age in terms of healthcare, education, transport, housing, employment, law and order, social problems, and so on. All these incur fiscal expenses. I also hope that the SAR Government would also face squarely the implications of their birth on the composition of the population in Hong Kong and even the immigration policy of Hong Kong because their birth affects the formulation of long-term policies, direction of administration and allocation of resources by the Government in Hong Kong.

Some people may think that my comments show that I have put on tinted glasses to label "doubly non-permanent resident children" as a burden for Hong Kong. However, frankly speaking, at present, I really do not know whether they are or not. This is why I am demanding the Government to include, when conducting a review of its existing population policy, the problems associated with Mainland pregnant women giving birth in Hong Kong in four major areas,

that is, welfare, education, housing and CSSA, and the number of family members who would settle in Hong Kong together with each "doubly non-permanent resident baby", as well as their age, level of educational attainment, financial situation and employment situation after coming to Hong Kong. I believe that it is necessary to get hold of the relevant data before it is possible to see if "doubly non-permanent resident children" are a liability to Hong Kong, or if Mainland women giving birth in Hong Kong would indeed serve to ameliorate the problem of population ageing in Hong Kong and import young and quality manpower into the territory, as the Chief Executive claimed in his reply to a question on the population policy asked by me in a Chief Executive's Question and Answer Session held earlier on.

In fact, it is possible to "dilute" population ageing by means of a population policy and this is the usual measure adopted by developed countries. For example, in countries like Singapore, the United States and Canada, which Members are familiar with, immigrants would be admitted according to the needs of their labour markets but whether or not these immigrants are entitled to the welfare benefits provided by these countries immediately is linked to their contribution to these countries, since new immigrants who do not make contribution to the economies of these countries will become a burden to them.

Therefore, we must use the fundamental data on the people admitted into Hong Kong recently as the basis of the review of the population policy. Reference can be made to the population policies of developed countries when reviewing whether or not Hong Kong should continue to give "doubly non-permanent resident babies" the right of abode.

I understand that since Article 24(2)(1) of the Basic Law defines the permanent residents of the Hong Kong Special Administrative Region as "Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region", some people hold that if "doubly non-permanent resident babies" are not allowed to have the right of abode in Hong Kong from now on, it would be necessary to amend the Basic Law. The implications of this move will be very far-reaching.

If the Basic Law is to be amended, both the Liberal Party and I would not agree with doing so and I would not have proposed today's motion. In fact, the issue of the status of Chinese nationals born in Hong Kong of parents who are

both non-Hong Kong permanent residents has already been discussed and explained before the reunification. It was adopted at the Fourth Plenary Meeting of the Preparatory Committee for the Hong Kong Special Administrative Region of the National People's Congress (NPC) held on 10 August 1996 that "Chinese citizens born in Hong Kong as provided in Article 24(2)(1) of the Basic Law refer to people who are born during which either one or both of their parents were lawfully residing in Hong Kong, but excluding those who are born to illegal immigrants, overstayers or people residing temporarily in Hong Kong.". This shows that at that time, the NPC Preparatory Committee could already foresee the scenario nowadays.

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

In 1999, when the SAR Government sought an interpretation of the Basic Law by the Central Authorities on the issue of "undocumented migrant children", it was pointed out explicitly by the Standing Committee of the Ninth NPC at its Tenth Session on 26 June that the legislative intent of all the provisions of Article 24 of the Basic Law has been reflected in the Interpretation adopted in the meeting on 10 August 1996.

Therefore, according to these two documents, after the reunification, it is wrong for Hong Kong to grant babies who are born during which either one or both of their parents were unlawfully residing in Hong Kong right of abode. Since a mistake was made, it is necessary to rectify it, rather than making further mistakes to try to cover up the first one, thus imposing unnecessary additional burdens on Hong Kong residents and preventing Hong Kong women from receiving quality obstetrics and gynaecology services and healthcare services to which they are entitled as Hong Kong residents.

As regards such problems as an ageing population in Hong Kong, the serious mismatch in the employment market and the difficulties in recruitment, they can all be solved through the formulation of a new population policy. For example, in Canada, such a policy was adopted, with success, to attract a lot of nurses in Hong Kong to emigrate to Canada. Hong Kong can also borrow from this experience, and the target of such a measure should not be confined to professionals alone. For example, in view of the serious shortage of nursing

staff in care and attention homes, we can prescribe conditions to let in this kind of manpower under a merit points system. After these people have paid taxes in Hong Kong for seven years, they can then become permanent Hong Kong residents.

In addition, government figures show that at present, the daily quota of 150, which is designed mainly to facilitate the reunion of Mainland residents with their family members in Hong Kong, has not been fully utilized. In view of this, I propose that the current utilization rate of the daily quota of 150, the ages, academic qualifications, skills of successful applicants and their employment situation after coming to Hong Kong, the ratio of people among them who applied for CSSA, and so on, should also be reviewed altogether. If this quota is not fully utilized by the end of a year, can the remaining quota be used to meet the actual needs of the employment market in Hong Kong? This flexible approach would not affect Mainland people in coming to Hong Kong for family reunion. Besides, it can also truly achieve the goal of importing young and quality manpower that can make immediate contribution to Hong Kong.

However, none of the Governments of the past laid down any direction or policy for Hong Kong's long-term development. I believe that this is related to the fact that the Government lacks any data on population growth, the demographic trends and when "doubly non-permanent resident students" living on the Mainland would come back to live in Hong Kong in the future. Each year, over 40 000 "doubly non-permanent resident babies" are born in Hong Kong. Coupled with the daily quota of 150 for family reunion, which translates into 54 000 people each year, they together mean over 100 000 people are eligible to come and obtain permanent residency here.

In contrast, the figures for the United States show that only some 70 000 "green cards" were issued in the United States in 2010. We all know that the national welfare benefits that green card holders are entitled to are far more limited than those for Hong Kong permanent residents. May I ask how such a small place with no natural resources as Hong Kong can withstand this kind of population growth in the long run?

If the Government does not have any population policy, it is practically impossible for it to make any projections on demographic changes and population distribution. May I ask how a Government can formulate a set of long-term

sustainable development policies for its own administrative region if it cannot even get hold of the information on the population on its soil? This is why we often criticize the policies of the SAR Government as *ad hoc* and piecemeal.

After the Financial Secretary had released his Budget last year, there were strong calls in society on the Government, which was sitting on a huge fiscal surplus, to take bold measures to share its wealth with the public. However, in the end, the Financial Secretary chose to adopt the simplest one-off measure — handing out money. To give this one-off measure a positive spin, it was said that it would not leave any unfulfilled responsibility for the next Government but in reality, this decision reflects the fact that the Government had never considered sharing the huge fiscal surplus with the public, still less did it have any idea of using the huge fiscal surplus on any long-term plan because even the method for handing out money was discussed only after the decision to hand out money was announced.

The Government also thought fondly that after receiving this red packet, the public would surely be delighted and thank the Government, thus winning some applause for the Government at that time. However, I believe it had never occurred to the Government that it turned out the great majority of the Hong Kong public did not support the handing out of money by the Government. Instead, they hope that the Government can spend this amount of some \$30 billion on healthcare services for the elderly or projects that can enable the sustained development of the economy, and perhaps even on buying back the stakes in the two harbour crossings. This reflects the fact that Hong Kong people are all concerned about population ageing in Hong Kong and the use of public funds. A timely policy on population can precisely address the concerns of the public.

It can thus be seen that a population policy formulated having regard to the circumstances of Hong Kong and its composition, income pattern and welfare needs is very important to Hong Kong's future development. It is only by using such a population policy as the indicator that the Chief Executive can formulate a set of policy objectives and policy addresses suited to Hong Kong and conducive to Hong Kong's sustained development. It is only in this way that the Financial Secretary can use the data to calculate and examine the amounts of provisions earmarked for contingency requirements. Moreover, unlike the Basic Law, policies can be revised and reviewed in the light of the development of Hong



Kong society whenever necessary to ensure the appropriateness of the population policy.

Deputy President, there will be a change in the incumbent of the Chief Executive of Hong Kong soon. The reason that I am proposing a review of the population policy at this time is that I know this Government will definitely refrain from dealing with this "hot potato". Therefore, I hope that the new Chief Executive can understand the importance of the population policy to his administration in the future.

So far, the several aspiring candidates have talked little about the population policy. Even if they did, the measures are only designed to solve existing issues and do not amount to a set of policies. This is why I want to elicit valuable views by initiating a discussion on this subject matter in the legislature, so that the new Chief Executive can make reference to them.

I so submit. Thank you, Deputy President.

**Mr Vincent FANG moved the following motion: (Translation)**

"That, the continuous increase in the number of Mainland pregnant women giving birth in Hong Kong constitutes growing pressure on hospitals and the relevant healthcare services in Hong Kong, and the aforesaid Hong Kong-born babies also impose potential pressure on Hong Kong in various respects, such as education, welfare, long-term healthcare, housing and employment, etc., while both the SAR Government's governance and financial resources allocation lack long-term planning, leading to piecemeal policies to deal with problems on an ad hoc basis; besides, the daily quota of 150, which mainly aims at facilitating Mainland residents' settlement in Hong Kong for family reunion, has not been fully and properly utilized to resolve the serious mismatch in the employment market and fails to fulfil the original good intent of fostering family reunion and bringing young labour into Hong Kong, but has instead drastically increased Hong Kong's burden in respect of the Comprehensive Social Security Allowance ('CSSA') and coping with population ageing; in this connection, this Council urges the Government to:

- (a) comprehensively review the existing population policy and include in the scope of the review the current problems in the four major areas of welfare, education, housing and CSSA arising from Mainland pregnant women giving birth in Hong Kong; make reference to the population policies of developed countries for reviewing whether Hong Kong should continue to allow babies born in Hong Kong to parents who are both non-permanent residents of Hong Kong to enjoy the right of abode in Hong Kong;
- (b) conduct a comprehensive review on the current utilization rate of the daily quota of 150 which mainly aims at facilitating Mainland residents' settlement in Hong Kong for family reunion, successful applicants' ages, academic qualifications, skills and employment situation after coming to Hong Kong, as well as the ratio of their applications for CSSA, etc., and, where necessary, adjust the utilization of the quota of 150 having regard to the actual circumstances and needs of Hong Kong's employment market; and
- (c) based on the outcome of the review, formulate a new population policy that suits the long-term development needs of Hong Kong so as to provide reference for the formulation of Policy Addresses and Budgets, and conduct reviews from time to time having regard to Hong Kong's social development in order to ensure the appropriateness of Hong Kong's population policy."

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

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

I will call upon Mr Albert HO to speak first, to be followed by Mr IP Kwok-him, Mr WONG Kwok-hing, Mr Paul TSE and Mr Alan LEONG; but no amendments are to be moved at this stage.

**MR ALBERT HO** (in Cantonese): First of all, Deputy President, I would like to thank Mr Vincent FANG for giving me an opportunity to express my views on the population policy, an issue of great interest to him, when I am about to make preparations for standing in the Chief Executive Election.

In the Report of the Task Force on Population Policy (the Report) published in 2003, Donald TSANG made it clear that the Administration would "review annually the implementation of relevant decisions and programmes, with a view to publishing a report every two to three years".

Nevertheless, during the period from 2003 to 2011, no review outcome was presented by the Task Force on Population Policy (the Task Force) led by Chief Secretary Henry TANG and Stephen LAM. As a result, our population policy is lagging behind the times, thereby giving rise to many social problems, and such examples abound.

The most criticized example is Mainland pregnant women whose husbands and they themselves are both not permanent residents of Hong Kong ("doubly non-permanent resident pregnant women") giving birth in Hong Kong. The Government has failed to deal with the source of the problem whereby babies born in Hong Kong to parents who are both non-permanent residents of Hong Kong are allowed to enjoy the right of abode here. Instead, the Food and Health Bureau and the Hospital Authority (HA) are left to cope with the problem at the level of healthcare services. Consequently, everything is in a mess, and healthcare services, health centres and schools in some districts are in shortage.

The second example is that the 2003 population policy stipulates that, unlike Hong Kong residents, non-Hong Kong residents cannot enjoy full or substantial subsidies in receiving public healthcare services. As a result, Mainland spouses of Hong Kong people are required to pay more than \$3,000 in cost price per day for obstetric services. Subsequently, the package fee for obstetric services was raised by the HA to \$40,000 with the arrival of "doubly non-permanent resident pregnant women" in droves to give birth in Hong Kong.

Many Mainland-Hong Kong families are deeply disturbed since Mainland spouses, like "doubly non-permanent resident pregnant women", are required to pay a fee higher than the cost price. Nevertheless, the Government is still turning a deaf ear to many calls in the community for a fee reduction for these Mainland spouses.

The third example is that foreign domestic helpers are only required to pay fees applicable to Hong Kong residents in receiving healthcare services. Although a review was proposed in the 2003 for medical insurance coverage to be taken out by employers, no concrete result was achieved in the end.

Society as a whole will have to pay a price in the long run should the Government fail to review and adjust the population policy in a timely manner having regard to the socio-economic and demographic changes. It is obviously a dereliction of duty on the part of the Task Force, for it has failed to review the existing population policy over the years.

In reviewing the population policy, some major concepts must be clarified.

The first concept concerns population growth and the tackling of the population ageing issue.

The goals set out in the 2003 Report are to "improve the overall quality of our population ..... redress population aging, foster the concept of active and healthy aging .....", "it is more meaningful to pay regard to the quality of the population as against just the quantity ..... there will still be mounting constraints on overall population growth in the long run, imposed by the very limited land mass of the territory." (end of quote)

But this was what Chief Executive Donald TSANG told *The Financial Times* in an interview in 2007, and I quote, "We cannot allow the population to age and subsequently shrink. Our population must continue to grow in order to retain our competitive edge." (end of quote) He added that Hong Kong should increase its population to 10 million before it could match New York and London as global financial centres.

As Hong Kong is already one of the most densely populated places in the world, how can it accommodate the additional millions of people? The

Government has recently pointed out that, as our population is projected to reach 8.9 million by 2039, it is proposed that major reclamations be carried out at 25 locations, including linking up Hei Ling Chau with Peng Chau and carrying out reclamation to the south of Cheung Chau to make six artificial islands as large as Cheung Chau.

With the birth rate in Hong Kong continuing to fall, we originally had no serious problem of a rapidly expanding population. Thanks to Mr Donald TSANG's quest for population growth, the Hong Kong Government welcomes the arrival of tens of thousands of Mainland pregnant women per annum to give birth in Hong Kong. The fact that the quotas offered recently will be used up by all means has given rise to numerous problems, including the current shortage of obstetric and accident and emergency services, maternal and child health centres reaching capacity, influx of cross-boundary schoolchildren, and serious shortages of primary and kindergarten places in North District.

Is this what members of the public would like to see? Certainly not. In a survey conducted by the Democratic Party in April last year, members of the public were asked whether they accepted babies born to parents who were Mainland people to enjoy the right of abode in Hong Kong in view of population ageing in Hong Kong in the future and the fact that some babies born in Hong Kong to Mainland people will return to Hong Kong for schooling or residence, which would help alleviate the population ageing situation in the future. The outcome of the survey revealed that 59.2% of the respondents were reluctant to see this happen, which means that they did not welcome such a large number of people giving birth in Hong Kong and consequently acquiring the right of abode.

In fact, we need to give careful consideration to the issue of whether or not doubly non-permanent resident children can alleviate the problem of ageing population. Hong Kong has now entered a population ageing cycle. The admission of new born babies and children will increase its total dependency ratio. In the years to come, we all the more need to consider the additional pressure arising from the rise in public expenditure on education, child care, and so on, while increasing expenditure on elderly services.

In the face of an ageing population, a common method adopted by overseas countries is to make long-term financial planning by taking into account the

long-term financial pressure posed by an ageing population in drawing up public expenditure. Some countries have even set up reserve funds whereby funds will be injected by the government per annum for interests to be accumulated to meet expenditure increases arising from population ageing.

Reforming the retirement system is another common measure. According to the Report, however, some retirement practices remove older people from the workforce prematurely, thereby creating financial dependency. Such being the case, the Report proposes to revisit and redefine the notion of retirement and old age. But regrettably, such studies have made no progress at all since 2003.

Furthermore, I would like to say a few words on investment immigrants.

The Democratic Party strongly demands that the investment immigrant policy should not fuel financial and property hegemony.

Prior to the Government's Report, the Democratic Party had already completed a study and published a proposal on the population policy, proposing that a quota system be set up for the admission of Mainland investment immigrants with investment projects and amounts, operating ability, and the number of jobs created as the vetting and approval criteria. As early as 2003, we already proposed that some investors could help Hong Kong develop new industries and boost its productivity and hence should be admitted as investment immigrants. For instance, the setting up of regional headquarters in Hong Kong can consolidate Hong Kong's position as a business centre; investments in such industries as information technology and biotechnology can help Hong Kong develop new industries; and such industries as media and advertising can help Hong Kong fight for Mainland markets. From this we can see that the investment immigrant scheme is helpful to these industries. In my opinion, the minimum amount of investment required by these investment projects should be lower than that required by property investments.

Investments in stocks and funds alone will not be too helpful to enhancing Hong Kong's competitive edge, alleviating the disparity between the rich and the poor in Hong Kong and creating jobs. Hence, investment immigrants must not be confined to stock, fund and foreign exchange investments.

The Government's investment immigrant policy precisely runs counter to the Democratic Party's proposal. In our opinion, it is inappropriate for the Government's investment policy to benefit the financial and real estate sectors.

In view of the sluggish property market after the SARS in 2003, the Government has allowed some people to come to Hong Kong to invest in real estate to alleviate the problem of negative equity. As time has changed, we all know that this policy should have been scrapped a long time ago.

All in all, insofar as the Government's population policy is concerned, the Government has done what it ought not to have done, reviewed what it ought not to have reviewed, and even engaged in perverse acts by implementing what it ought not have implemented. If it does not change its direction, we cannot be optimistic about Hong Kong's future. We propose amending this motion to call on the Government to review its population policy to take precautionary measures to address population ageing. Later on, Mr James TO will elaborate in a comprehensive manner the Democratic Party's views on issues including the "doubly non-permanent resident pregnant women", one-way permits, and so on. Thank you.

**MR IP KWOK-HIM** (in Cantonese): Deputy President, a population policy is an important policy that regulates the profile and characteristics of a population. While such a policy may promote long-term economic and social development, it should also look after the interests of various parties and the need for family reunion.

The Government proposed the formulation of a population policy as early as 2002. However, ever since the release of the Report of the Task Force on Population Policy in February 2003, the Government has never released any more new reports and the recommendation in the first report to formulate a comprehensive population policy and review and adjust it every two or three years has never been implemented.

We can see that since 2003, although the trend of large numbers of Mainland pregnant women coming to Hong Kong to give birth has become increasingly prevalent and the resultant problems have also become increasingly serious, the authorities have never faced this aspect squarely.

Mr Vincent FANG's original motion relates mainly to two aspects of the population policy, that is, Mainland pregnant women giving birth in Hong Kong and the present utilization of the daily quota of 150 one-way permits (OWPs).

Concerning the first part, all along, the DAB has been monitoring the various problems associated with the constant influx of Mainland pregnant women entering Hong Kong to give birth, especially those "doubly non-permanent resident pregnant women". The DAB supports and agrees with the proposal in the original motion to include this in the population policy and examine it.

However, the DAB believes that given the large number of Mainland pregnant women comprising mainly "doubly non-permanent resident pregnant women" who come to Hong Kong to give birth, the pressure on the services of the obstetrics and gynaecology departments in Hong Kong has reached a breaking point. As a result, it is now very difficult for local pregnant women to find a hospital bed for delivery. Even the intensive care beds for babies and the maternal and child health centres have also been overwhelmed and healthcare workers are working themselves to exhaustion. Last year, there were almost 1 700 cases of Mainland pregnant women rushing to Accident and Emergency Departments (A&ED) to give birth, thus seriously affecting the operation of A&ED and hindering the general public in using the services provided by them.

Unfortunately, the original motion only proposes that medium-term and long-term studies and planning be carried out, but such distant remedies can hardly solve an immediate and urgent problem. Even the issue of reviewing whether or not children born of "doubly non-permanent resident pregnant women" should be entitled to the right of abode is very complicated since such a review would involve the Basic Law, so I am afraid this problem would not be solved within half a year or a year's time. For this reason, the DAB proposes the formulation of effective and immediate counter-measures to alleviate the impact of "doubly non-permanent resident pregnant women" on the local healthcare system, including adjusting the entry control policy, combating offences relating to Mainland pregnant women giving birth in Hong Kong, controlling the number of "doubly non-permanent resident pregnant women" coming to Hong Kong to give birth and enhancing the management of obstetric and gynaecology services in the public and private sectors.



On interception at checkpoints, the DAB proposes that the Government consider the introduction of a declaration system to require Mainland women who have not made any delivery booking in advance to state on entry, by means of a simple declaration, whether or not they have the intention of coming to Hong Kong to give birth. If it is confirmed in the future that they have acted contrary to their declaration by giving birth in Hong Kong, the authorities may bar them from entry again. It is believed that this measure can serve as a deterrent to instances of pregnant women rushing to A&ED to give birth.

As regards the second issue, that is, the utilization of the quota for OWPs, we also notice that in the past 11 years, except in 2000 and 2005, the daily quota of 150 was not fully utilized in the other years. This situation has been particularly pronounced in recent years. According to the figures of the Immigration Department, from 2007 to 2010, the numbers of people coming to Hong Kong on OWPs daily were 93, 114, 133 and 117 in each of the years. The DAB believes that in the original motion, there are several debatable points regarding the claims and proposals on making adjustments to the OWP system.

First, the original aim of establishing the OWP system and the existing criteria for awarding points are all mainly geared towards helping Mainland residents come to Hong Kong for family reunion in an orderly manner. Since it is not the original aim of the system to resolve the mismatch in the employment market in Hong Kong or import labour into Hong Kong, the original motion has mismatched the mission of resolving the serious mismatch in the employment market with the OWP system, so the two are totally irrelevant. In a similar vein, the original motion also blames the OWP system for failing to bring "young labour into Hong Kong", but it seems this is not being fair.

In addition, according to the present requirements for applying for CSSA, Mainlanders coming to Hong Kong on OWPs cannot apply for CSSA before they have resided in Hong Kong for seven years, so they do not have any immediate and serious impact on the CSSA system.

Although the existing system gives the Social Welfare Department (SWD) discretion to grant CSSA to residents who have not resided in Hong Kong for seven years, the figures of the SWD show that as of February 2011, 17 621 such applications were made by Mainlanders and they accounted for only 5.6% of the total of 314 437 people coming to Hong Kong on OWPs who had not yet resided

for seven years in the same period. In the three years since 2008-2009, the CSSA expenditure in this regard decreased from \$1.02 billion in 2008-2009 to \$640 million in 2010-2011, a drop of almost 40%. These figures really cannot show that people entering Hong Kong on OWPs will "drastically increase" the burden of CSSA for Hong Kong. We believe that the comments in this regard may not be an accurate description and are not fair to people coming to Hong Kong on OWPs.

Third, according to government figures, in the decade from 2001 to 2010, among the people who came to Hong Kong on OWPs, each year, only an average of 3.33% of them were aged 50 years or more. It really cannot be seen how new arrivals would significantly increase the burden of coping with population ageing. Quite the contrary, people coming to Hong Kong on OWPs mainly belong to the age group of 25 to 34 years and on average, they accounted for about 35% of those who came to Hong Kong each year. This group of relatively young people, together with other people aged below 50 years, would not increase the pressure of population ageing. Quite the contrary, they can slow down population ageing and help realize the hope of bringing young labour into Hong Kong expressed in the original motion.

Deputy President, the OWP system was established with a view to facilitating family reunion, therefore, we do not agree with the proposal to assign all or part of the quota under the scheme to a proposal that would serve to import workers in another guise.

In fact, a number of schemes for importing labour, talents and attracting investment migrants are currently in place in Hong Kong. If there is a need to admit talents or capital into Hong Kong having regard to the actual circumstances and needs of the employment market in Hong Kong, the DAB believes that this issue should be dealt with through these schemes. However, the DAB also agrees with and understands the good intention of the original motion to admit talents. For this reason, we added a fourth point in our amendment to request the Government to review the various existing schemes for importation of workers and talents, so as to respond to the demand of the original motion in this regard.

Deputy President, I so submit.

**MR WONG KWOK-HING** (in Cantonese): Deputy President, I will explain the amendment proposed by me from several angles. However, it is a shame that both the Secretary for Home Affairs and the Secretary for Security are not present and only the Secretary for Food and Health is. If the speeches delivered by Members later on are related to the Secretary for Home Affairs and the Secretary for Security, I hope Secretary Dr York CHOW can convey our views to them and I also hope that the two Secretaries can give us responses.

Deputy President, the first issue that I wish to talk about is related to the first point of my amendment, that is, the adverse consequences of the failure by the Administration to distinguish between Mainland pregnant women whose spouses are Hong Kong residents and those "doubly non-permanent resident pregnant women". As a result, the Mainland spouses of Hong Kong residents are subjected to discrimination and unfair treatment.

Today, on the occasion of this motion debate, many groups have accompanied pregnant women with a baby bump and their representatives to the entrance of the Legislative Council to raise the issue of the unavailability of beds for the Mainland spouses of Hong Kong people to deliver their babies. Some of these pregnant women already have baby bumps and some still have not. They said that almost 80 pregnant women who would be due between January and August this year had said they could not find a bed. I hope Secretary Dr York CHOW have learnt about this problem and will deal with it urgently. What should these mothers who can neither find a bed in public hospitals nor afford to book a bed in private hospitals (as this may cost almost \$80,000) in advance and their babies do? I hope the Government can deal with this problem urgently.

The Government does not distinguish between Mainland pregnant women whose spouses are Hong Kong residents and those "doubly non-permanent resident pregnant women" and I will not go into the details to avoid wasting time. The Government encourages Hong Kong people to go to the Mainland to seek employment and business opportunities. Those people who go to the Mainland for business and employment opportunities also want to find their loved ones, get married and raise children freely, so why are their wives and children not entitled to equal right of birth and delivery, just like any other Hong Kong people? Why is it necessary to impose a punitive delivery charge of \$39,000 on them? Why can beds not be allocated to them? Why are they discriminated against? This arrangement adopted by the Government is downright unfair and discriminatory.

Therefore, I hope the Government can deal with the unfairness arising from such an indiscriminate measure as quickly as possible.

Before the Government has solved this problem — I believe it will take quite a long time — I ask the Government to make haste in helping those babies who cannot find a bed for delivery. In fact, those pregnant women and their representatives want to raise a lot of points, but I do not think I can spare any time now.

The second point that I wish to talk about is related to the issue of Mainland residents coming to Hong Kong on OWPs for family reunion. Just now, Mr IP Kwok-him criticized the relevant proposal in the original motion as being too utilitarian and I think this is very much to the point. We cannot agree with turning OWPs into a tool for labour importation in disguise as this is too utilitarian. I think such a spirit and proposal in the original motion are not right, so I have to propose the amendments. However, I am also grateful to Mr Vincent FANG for raising this issue, so that we can propose amendments. Since Mr IP Kwok-him has already levelled criticisms at this utilitarian measure, I am not going to dwell on it further.

What we hope for now is that the SAR Government can learn from the example set by the Macao SAR Government in solving this problem in a smooth, satisfactory and comprehensive way. After the Macao SAR Government had had discussions with the Central Government in 2009, it began to deal with this problem properly from 1 October 2009 and the relevant work is nearing completion. The issue relating to the settlement of some 7 000 people in Macao has been resolved and the people concerned have been assisted in reuniting with their families. In fact, the single most important aim of OWPs is to solve the historical problem of family reunion.

The SAR Government began to accept applications under the first phase on 1 April 2011. Yesterday, the Government told us that 28 286 applications had been received in the first phase; that 14 146 cases had undergone preliminary vetting and that OWPs had been issued in 5 335 of these cases. However, when will the remainder of some 22 000 cases be dealt with? We have kept asking about the timetable and following up the progress of the work. The problem now is that applicants are feeling anxious because of the lack of transparency, and also because they cannot see from the timetable when the work would be

completed. However, the Government said yesterday that the SAR Government and the Mainland Governments had a common goal, that is, to accept applications under phase two in the middle of this year. The Government also said that even though the applications received under phase one had not all been dealt with, applications under phase two would still be accepted. I hope the Government could honour its words.

I sincerely hope that the SAR Government can strive to resolve the difficulties faced by applicants when processing the applications. What difficulties have they encountered? In the course of making applications, they encountered problems with some documents and certificates, including birth certificates, marriage certificates, and so on. In addition, during the processing of their applications, these applicants in Hong Kong may encounter familial changes, for example, divorce, the disappearance or death of their spouses, and so on. As a result, these families became single-parent families and have encountered unique difficulties in the course of application. I hope the authorities can exercise discretion, deal with their cases as quickly as possible and do their utmost to help these people solve their problems in family reunion early.

In addition, I also wish to talk about the measure of multiple entry into Hong Kong within a year. I raised this issue in 2009 in the hope of helping people who had to go back to the Mainland to renew their two-way permits during the application period and as a result, had difficulties in taking care of their children. Fortunately, after the SAR Government had made efforts to discuss with the Mainland, the new measure of "one-year multiple exit endorsement for visiting relatives" was finally introduced on 25 October 2009. I welcome the successful implementation of this measure by the SAR Government in conjunction with the Mainland.

However, after the implementation of this measure for more than a year, recently, some problems relating to renewals have emerged. As some Members pointed out in a meeting of a subcommittee yesterday, some people encountered instances of non-renewal or unpredictable outcomes of vetting. Those who used to be granted renewals continually were only granted a period of three months and some even had to go back to the Mainland and go through a lot of formalities, and even had their periods of stay shortened. As a result, this measure of one-year multiple entry into Hong Kong cannot continue to function smoothly.

I hope that the SAR Government can redouble its efforts in discussions with the Mainland, so as to solve this problem as soon as possible. First, long-term endorsements should be granted and the outcome of the vetting each time should not be erratic; second, the renewal procedure should be streamlined and third, consideration should be given to handing in the information relating to the applications from Hong Kong on behalf of these people, so as to streamline the procedure as far as possible since at present, applicants have to return to the Mainland personally to apply for renewal on the date of expiry. This poses a great deal of difficulty to them.

In addition, I also hope that the Government can step up its efforts in providing assistance in the training of these people coming on OWPs and allocate more resources to assist them in such areas as employment, learning and social integration.

I wish to use the last few seconds of my speaking time to express my views on the amendments. On the respective amendments proposed by Mr Albert HO and Mr Paul TSE, we can only abstain. Mr Albert HO proposes that we lobby for the power of vetting and approving the applications but the party responsible for dealing with this kind of exit and entry applications is the Mainland, not Hong Kong. As regards Mr Paul TSE's amendment, we believe that at present, we have not yet reached a stage at which it is necessary to seek an interpretation of the Basic Law. The SAR Government should strive to use all available administrative measures to deal with the problem. Moreover, the Government must seek an interpretation of the Basic Law only after in-depth and extensive discussions by the Hong Kong public.

Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): Since Mr Paul TSE has left the Chamber on business, he will speak later.

**MR ALAN LEONG** (in Cantonese): Deputy President, in a debate of the Legislative Council in January 2007, I already said that the Government had to conduct a scientific study on the social effects of children born of non-local pregnant women expeditiously before the problem of Mainland pregnant women

got out of control. That was five years to the month and obviously, the problem of Mainland pregnant women gatecrashing into Hong Kong has got out of hand. The situation has even become unbearable to Hong Kong people but the Government still has nothing to offer in terms of any population policy for the short, medium and long terms and the problem of "doubly non-permanent resident pregnant women" is testing the bottom line of Hong Kong people daily.

The situation of Mainland pregnant women gatecrashing into Hong Kong or rushing to Accident and Emergency Departments (A&ED) for urgent delivery is deteriorating steadily. The Hospital Authority (HA) announced that last year, there were almost 1 700 cases of Mainland pregnant women rushing to A&ED for urgent delivery, a sharp increase of 108% from 796 cases in the year before. The disaster zones include Tuen Mun Hospital, Prince of Wales Hospital in Sha Tin and Queen Elizabeth Hospital. On gatecrashing into Hong Kong, in the past three months, the Immigration Department refused the entry of 762 Mainland pregnant women, a sharp twofold increase compared with the figure recorded early last year.

Not only does gatecrashing into Hong Kong and A&ED put the lives of pregnant women and babies at risk, the healthcare services in Hong Kong are also overburdened. Since the A&ED in hospitals have to cope with cases of pregnant women suddenly showing up for delivery, other patients in A&ED have no one to treat them and since private hospitals often shift the responsibility of babies requiring intensive care to public hospitals, the utilization rates of intensive care units for newborns in public hospitals are often over 100% for extended periods of time. In addition, it is reported that maternal and child health centres have also been overrun, so it can be seen what scourge has been caused by officials who were slow to realize the problem.

Deputy President, this year, the Government has set a quota of 35 000 for Mainland pregnant women, with private hospitals being given a quota of 31 000 and public hospitals, 4 000. All along, the Civic Party has demanded that local healthcare services give priority to local pregnant women. According to a public opinion survey conducted by us last month, 70% of the more than 2 000 members of the public interviewed agreed that the obstetrics and gynaecology services of public and private hospitals in Hong Kong should cater to local residents and the Mainland spouses of Hong Kong people first of all, and 70% agreed that the Government should restrict pregnant women whose spouses are

non-permanent Hong Kong residents from coming here to give birth through administrative measures as soon as possible. For this reason, I have voiced the demands of the public in paragraph (d) of my amendment.

Deputy President, next, I will focus on talking about paragraph (a) of the amendment proposed by the Civic Party. The original motion says that reference should be made to the population policies of developed countries in reviewing whether or not Hong Kong should continue to allow babies born in Hong Kong of parents who are both non-permanent Hong Kong residents to enjoy the right of abode in Hong Kong. We believe that the present problem of pregnant women gatecrashing into Hong Kong is a policy problem, so we should not take the path of greater resistance by approaching it from the angle of law.

First, we can see by looking at the figures that after the Court of Final Appeal had delivered its judgment on the case of CHONG Fung-yuen, the number of Mainland pregnant women coming here to give birth only stood at 7 800 annually, accounting for about 16% of all pregnant women in Hong Kong. However, since the introduction of the Individual Visit Scheme in 2003, the number of Mainland pregnant women giving birth in Hong Kong has increased drastically. In 2007, over 27 000 Mainland pregnant women gave birth in Hong Kong, and in 68% of such cases, both husband and wife were not Hong Kong residents. By 2010, the number rose sharply to over 40 000 people, and in 80% of such cases, both husband and wife were not Hong Kong residents. The proportion of Mainland pregnant women to all pregnant women in Hong Kong rose to 46%, an increase of 30% in a decade.

We can make reference to the situation in the United States. In recent years, the number of Mainland pregnant women going to the United States to give birth has also increased drastically. One of the reasons is that in 2007, the United States formally became one of the destination countries for the overseas organized tour groups of Chinese nationals. Subsequently, the number of Mainland pregnant women giving birth in the United States increased every year. Some people running hotels for pregnant women said that five or six years ago, the number of Chinese pregnant women going to the United States to give birth had been less than 2 000 each year but by 2010, the number had already risen drastically to 5 000 or 6 000 people. Last year, it even broke the 10 000 mark. Therefore, to say that the emergence of the problem of Mainland pregnant women



flocking to Hong Kong is solely attributable to the judgment of the Court is not painting the whole picture.

The Basic Law stipulates that Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region are entitled to the right of abode. Similarly, in the United States, it is stipulated in the Constitution that people born within its territory are entitled to citizenship, or what is called birthright citizenship. After these people have grown up, their immediate family members may even obtain American citizenship on account of this relationship. Since in recent years, the United States has been troubled by the problems of illegal immigrants and Mainland pregnant women giving birth there, many states have proposed acts to abolish the birthright citizenship under the Constitution. However, any amendment to the Constitution requires the endorsement of over two thirds of the members in both the House of Representatives and the Senate, as well as the approval of 75% of all states, so the chances of such an act gaining passage are very slim. For this reason, the United States also tackles this problem from the angle of immigration. When immigration officers suspect the intention of pregnant women in entering the country, they have the power to bar them from entry.

The Civic Party believes that the most expeditious and effective way of dealing with the problem of Mainland pregnant women is actually to discuss with the Central Government ways of improving the arrangements for Mainland visitors to enter Hong Kong to exclude the possibility of pregnant women hiding in Hong Kong on arrival to give birth to their babies. At present, when Mainland pregnant women enter Hong Kong through e-Channels, they had to produce valid Certificates on Confirmed Antenatal and Delivery Booking and supervisors are also present to check if visitors are pregnant by visual inspections, so it is very difficult for Mainland pregnant women to evade detection. Can the work in this area be extended to cover all women applying to join the Individual Visit Scheme? This point merits serious consideration by the executive authority.

Deputy President, as we all know, there are concerns in Hong Kong about the problems of a low birth rate and an ageing population. We must consider carefully if adopting an across-the-board tactic in dealing with the problem of the so-called "doubly non-permanent resident pregnant women" is the most suitable for Hong Kong. Are we using a sledgehammer to crack a nut, or even using a

wrong tool after all? For this reason, we have some reservation about the parts on reviewing the right of abode in the original motion and the amendments.

As regards an interpretation of the Basic Law, even if the Civic Party does not mention it, if the Deputy President had paid any attention, she would have noticed that even members of the public who phoned in to radio programmes to comment on the issue of Mainland pregnant women were also wise enough to say that an interpretation of the Basic Law was not the right course of action. Even though there is obviously a more expeditious and effective course of action, it has not been adopted. If we choose to seek an interpretation of the Basic Law, the rule of law in Hong Kong will be impacted on and I believe all members of the public do not wish to see this happen. As the Vice Chairman of the Legislative Affairs Commission of the Standing Committee of the National People's Congress, Mr LI Fe, said a fortnight ago, the Mainland has to regulate the issue of Mainland pregnant women rather than clamp down on it, that it is necessary to solve it appropriately, and that the executive organ is studying specific ways to regulate it. For this reason, the Civic Party calls on Mr Paul TSE to think twice and refrain from acting on the wrong priorities by clamouring for an interpretation of the Basic Law rashly.

Deputy President, I so submit.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Deputy President, the SAR Government established the Task Force on Population Policy (Task Force) in September 2002 to study the major challenges to Hong Kong arising from its demographic trends and characteristics, and to recommend a set of coherent policy. The Task Force issued a report in February 2003 and proposed a series of policy recommendations on skills upgrading, education and manpower development, attracting talents and streamlining public benefits. The Task Force laid down clear policy objectives for Hong Kong's population policy with a view to:

- (1) addressing the population ageing problem;
- (2) improving the overall quality of our population, securing and nurturing talents and optimizing the demographic structure;

- (3) promoting social integration of new arrivals; and
- (4) ensuring the long-term sustainability of our economic growth.

Many of the recommendations of the Task Force have been implemented or adopted as ongoing measures by the relevant Policy Bureaux. Considering the fact that a number of population policy issues cut across different policy areas, and the need to review from time to time population-related measures based on the latest population projection, the SAR Government set up the Steering Committee on Population Policy in October 2007 to monitor and co-ordinate efforts on policy in this respect. The Steering Committee was chaired by the Chief Secretary for Administration and comprising the Financial Secretary and directors of the bureaux and departments concerned as core members. Over the past year, the Steering Committee has been focusing its study on two specific issues as stated by the Chief Executive in the Policy Address, namely, measures facilitating elderly people in settling in the Mainland after retirement, and the issue and challenges to Hong Kong arising from children born in Hong Kong to Mainland couples in recent months. The study includes numerous public consultation exercises and panel discussions with a view to gauging public views on the two issues; the Census and Statistics Department and Central Policy Unit also conducted focus studies on the two issues.

Deputy President, the Steering Committee's review of elderly people settling in the Mainland after retirement and the impact of children born in Hong Kong to Mainland women has achieved notable progress and the result of the review was elaborated in the 2011-2012 Policy Address, with various corresponding measures proposed accordingly.

As to the challenge brought by ageing population, the Steering Committee considered that the Government might provide better financial and service support to senior citizens who wish to retire and settle on the Mainland. Major measures included the setting up of the "Guangdong Scheme" to allow eligible elderly Hong Kong residents who opted to settle in Guangdong to receive their old age allowance in Guangdong, so that they could receive a full-year allowance in Guangdong without the need to come back to Hong Kong.

We understand that society is gravely concerned about children born in Hong Kong to Mainland women, and the ramifications of these children returning to study and live in Hong Kong, in particular the concern about whether our

public facilities and the supporting measures are adequate to cope with the future demand. The number of children born in Hong Kong to Mainland women has drastically increased. In 2010, there were 40 000 children born in Hong Kong to Mainland women, accounting for 46% of the total number of births, and the majority of such children were born to Mainland couples. The number of these children exceeded 32 000.

Children born to Mainland pregnant women can be divided into two major types. The first type is that their fathers are permanent Hong Kong residents while the second is that both of their parents are not permanent Hong Kong residents. The Census and Statistics Department conducted several rounds of statistical surveys on Babies Born in Hong Kong to Mainland Women. After referring to the findings of the surveys and cross-boundary entry and exit data, we have come up with the analytical result and we anticipate that 92% of type one and 52% of type two babies would settle down in Hong Kong.

With regard to the issue of Mainland women giving birth in Hong Kong, the Steering Committee considered the basic principle was that Hong Kong residents should have priority access to healthcare services. Therefore, the number of non-local women giving birth in Hong Kong must be capped to avoid overloading our healthcare services. On the other hand, as these Hong Kong-born children may replenish our ageing population, we should treat them in a positive light and watch closely when these Hong Kong-born children would come to settle and study in Hong Kong, so as to nurture these children as a valuable human resource for Hong Kong's long term development. I will explain later the specific measures and relevant plans adopted by the Government adopts.

In addition to all of such work, the population policy covers various policy areas and the Steering Committee is studying the relevant issues and collecting the relevant data, and it will give further explanation on the review work of the overall population policy in due course.

Today's motion and amendments cover a number of areas relating to the population policy. The Secretary for Security, Secretary for Food and Health and I will respond to views put forward by Members later on.

Thank you, Deputy President.

**SECRETARY FOR SECURITY** (in Cantonese): Deputy President, I will explain briefly the One-Way Permit (OWP) Scheme.

Article 22 of the Basic Law stipulates clearly that "For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval. Among them, the number of persons who enter the Region for the purpose of settlement shall be determined by the competent authorities of the Central People's Government after consulting the government of the Region". Mainland residents who wish to settle down in Hong Kong should apply for the exit permit to Hong Kong and Macao (commonly known as "one-way exit permit") from the public security authorities' exit-entry administration branch in their domicile. The OWP Scheme is implemented with the aim to enable Mainland residents to come to Hong Kong for family reunion in an orderly manner through the approval system handled by the Mainland's competent authorities. Over the years, about half of the Mainland residents settling in Hong Kong through the OWP system were Mainland spouses of Hong Kong residents, and the other half were Mainland children of Hong Kong residents.

As a matter of fact, the SAR Government has all along been reflecting views and aspirations of all walks of life in Hong Kong to the relevant Mainland authorities, and the latter have from time to time adjusted and enhanced the arrangements as necessary. For example, Mainland authorities have already lifted the restriction that the applicant can bring only one accompanying child to settle in Hong Kong, and the waiting time has been further shortened to four years.

Furthermore, in order to address the aspiration of "overage children" of Hong Kong residents to come to Hong Kong for family reunion, from 1 April 2011, eligible "overage children" of Hong Kong residents may apply for OWP according to sequence. The Mainland authorities will process the applications of "overage children" of Hong Kong residents according to the time when their blood fathers or mothers obtained Hong Kong identity cards under a phased scheme. As to the first phase, that is, where the Mainland residents' blood fathers or mothers obtained Hong Kong identity cards before 1980, the Mainland authorities have received around 28 000 OWP applications from "overage children" who wish to come to Hong Kong. The Mainland authorities are actively processing these applications by way of optimizing the remaining OWP quota with a view to enabling eligible "overage children" to come to Hong Kong

for the purpose of settlement in an orderly manner. As far as we know, depending on the work progress, the target of the Mainland authorities was to receive phase two applications in the first half of this year. The details will be announced later on.

I have heard views from several Members on the OWP system, I will listen to the views of other Members and give a response in my concluding speech.

Thank you, Deputy President.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Deputy President, I will focus on the Government's policies and arrangements relating to the provision of obstetric services.

The healthcare system in Hong Kong is designed for Hong Kong residents, who are also the primary targets of healthcare services. It is the Government's policy to ensure that residents are provided with appropriate healthcare services. Regarding the provision of obstetric services, the Government's policy is very clear, that is, Hong Kong women should be given proper and adequate obstetric services, and non-local residents will be provided with such services only when spare service capacity is available.

The authorities are very concerned about the problem of the rapid increase in the demand for obstetric services in Hong Kong by non-local women (mostly Mainland women) in recent years. For this reason, the Government and the Hospital Authority (HA) have introduced a number of measures since 2007 to tackle the problem. Among them, with effect from 1 February 2007, the HA will only accept booking from non-eligible persons when spare service capacity is available. Once the service capacity is reached, the HA will stop accepting booking from non-local pregnant women. In fact, the HA had stopped accepting booking for obstetric services from non-local pregnant women at certain times in 2008, 2009 and 2011, so as to reserve sufficient places for delivery by local pregnant women.

Moreover, the Immigration Department has stepped up arrival clearance checks on all non-local women from places outside Hong Kong who are at an advanced stage of pregnancy (that is, 28 weeks or more). Mainland pregnant

women who are suspected of entering Hong Kong to give birth will be asked by immigration officers upon entry to produce the booking confirmation certificates issued by Hong Kong hospitals. They will be allowed to enter Hong Kong only if they can prove that a local hospital has confirmed the arrangements for their admission to the hospital. Those who fail to do so may be refused entry.

In the middle of last year, we announced a series of measures to further regulate such arrangements. Among them, the number of non-local pregnant women coming to Hong Kong to give birth in 2012 was limited to 35 000, representing a drop of about 7% as compared to that in 2011. Moreover, the Department of Health had standardized the format of booking confirmation certificates for delivery services in public and private hospitals. We will continue to liaise closely with the HA, private hospitals and deputations comprising obstetricians, gynaecologists and paediatricians, so as to exchange views on the problem of surging demand for obstetric and neonatal services by non-local women, and formulate measures to address the problem together in a timely manner.

Deputy President, I so submit. After listening to the views of Members, I will give another response in this regard. Thank you, Deputy President.

**MR JEFFREY LAM** (in Cantonese): Deputy President, the problem of Mainland pregnant women flocking to Hong Kong to give birth is escalating and now, even the phenomenon of "double gatecrashing" has emerged. Not only did they rush into A&ED for delivery when their term is almost due, they even sneak through boundary checkpoints into Hong Kong and such instances are occurring all the time, thus making healthcare workers in Hong Kong work to exhaustion and bringing the healthcare services in Hong Kong to the brink of collapse.

According to the figures of the Hospital Authority, last year, there were a total of some 1 600 cases of Mainland pregnant women rushing into A&ED for delivery, a drastic twofold increase compared with the year before. Even worse, after the maternity wards in public hospitals have been overwhelmed and A&ED overrun, maternal and child health centres have also fallen. The figures of the Department of Health show that maternal and child health centres, which provide vaccinations and physical check-ups to babies and small children, are also in

difficulty, with the number of babies born of non-local parents among newly registered births increasing from 10 400 in 2007 to 14 800 in the year before the last, an increase of 42%.

It is very dangerous for pregnant women not to undergo any pre-natal check-up and rush into A&ED only when they are close to delivery. Doctors have no way of knowing the conditions of such pregnant women and their babies. This is just like being confronted with a time bomb with no idea of how to deal with it. Hospital managements also have to deploy manpower from other services to cope with this group of "unexpected guests". They exert tremendous pressure on such hospital departments as obstetrics and gynecology departments, paediatrics departments, intensive care units and A&ED. This is most unfair to patients waiting in long queues for treatment and surgery in Hong Kong. Moreover, this has also resulted in a continual wastage of healthcare workers in the public sector and a spate of medical incidents. The healthcare system in Hong Kong just cannot cope.

Even if public hospitals completely refuse the admission of all "doubly non-permanent resident pregnant women", that is, non-permanent resident Mainland pregnant women whose spouses are not Hong Kong people, this cannot prevent Mainland pregnant women from resorting to "double gatecrashing" to give birth in Hong Kong. At present, we can only rely on the limited manpower of the Immigration Department (ImmD) to man the gate and intercept gatecrashing pregnant women. However, from October to December last year, the number of Mainland pregnant women intercepted by the ImmD each month stood at more than 200 and the number even rose to as many as 281 in November, a sharp increase from the average of some 120 to 150 people monthly in the first half of last year.

Recently, some people claimed that the authorities can take administrative measures to completely bar Mainland pregnant women from entering Hong Kong, but I do not know what administrative measures can bar them completely from coming to Hong Kong to give birth. The manpower of the ImmD is limited and not all boundary checkpoints are manned by healthcare workers. There are practical difficulties in relying solely on clerical staff to judge the condition of pregnant women. Moreover, the e-Channels for Mainland visitors came into operation on the third of this month. With various inducements, more Mainland pregnant women will be attracted to take the risk and gatecrash into



Hong Kong. Even if immigration officers had three heads and six arms, they still could not keep this onslaught of pregnant women at bay, so in talking about the administrative measures, do some people mean that Hong Kong has to close its boundary and ports? I wonder if they are being too foolish or naïve, thinking that administrative measures can completely bar these Mainland pregnant women from coming here to give birth. Moreover, taking administrative measures to intercept Mainland pregnant women may violate human rights and may be open to challenge by judicial reviews.

(THE PRESIDENT resumed the Chair)

Earlier on, the Central Government agreed to implement three counter-measures, including assisting the Hong Kong side in investigating the intermediaries arranging for pregnant women to give birth in Hong Kong, intercepting pregnant women trying to sneaking through the boundary checkpoints and cancelling the licences of vehicles involved in the smuggling of pregnant women. However, the effectiveness of these measures is dependent on the co-ordinated efforts of the law-enforcement agencies in China and Hong Kong. Moreover, they can only treat the symptoms but not the causes. Not only has the arrival of Mainland pregnant women in Hong Kong to give birth seriously infringed on the rights of local pregnant women and patients, it has also become one of the sources of public discontent. In addition, the resultant social problems can also be quite serious. They include "doubly non-permanent resident children" coming to Hong Kong for schooling and crossing the boundary for schooling, as well as the problem of their needs in social services, welfare expenditure, healthcare and housing. I believe the Government should draw up long-term planning under the existing population policy. In the long run, if it is practically impossible for Hong Kong to support this group of "doubly non-permanent resident children" in terms of resources, or if Mainland pregnant women cannot be stopped from gatecrashing into Hong Kong despite the introduction of a series of measures by both China and Hong Kong, should the Government not further review the population policy to solve the problem at root? That means we should review if children born of parents who are both non-permanent Hong Kong residents should continue to be given the right of abode in Hong Kong. In fact, this issue has been debated in society for a long time. I believe the Government should not evade the issue, rather, it should

discuss the solutions with the Central Government actively. If it is really necessary to make an interpretation of the Basic Law, the controversy on whether or not foreign domestic helpers are entitled to the right of abode in Hong Kong can also be dealt with at the same time.

At present, only 125 of the daily quota of 150 for entry on OWPs are used. The vetting and approval of such applications is still vested in Mainland Authorities. I hope the SAR Government can discuss actively with the relevant departments of the Mainland to acquire the power to decide new migrant categories and the priority for entry into Hong Kong according to such backgrounds as the level of educational attainment, age and occupation of the applicants, so as to increase the youthful manpower in society and facilitate the evaluation of the relevant information by the Government, for purposes of formulating long-term plans for the population policy and the social resources of Hong Kong.

I hope the Government would cease to behave like a deserter. It should face up to the tide of Mainland pregnant women flocking to Hong Kong to give birth and defuse this time bomb completely.

President, I so submit.

**DR RAYMOND HO** (in Cantonese): President, many countries or regions would use population policies to shape the size and composition of their population to align with their national or regional development needs. Regarding Hong Kong's population policy, my impression is that it is quite indefinite. Of course, I dare not say that there is no such policy in Hong Kong because occasionally, I would also hear officials of the SAR Government talk about it. The last occasion was on 21 December 2011, when an Honourable colleague of this Council asked a question on the "review of and planning for a sustainable population policy for Hong Kong". The Chief Secretary for Administration said in its written reply that "the key objectives of the population policy of the Hong Kong Special Administrative Region are to attract and nurture talents, to enhance the population quality so as to develop Hong Kong into a knowledge-based economy, and to achieve a balanced demographic structure to sustain Hong Kong's development".

The Quality Migrant Admission Scheme and Capital Investment Entrant Scheme have already been implemented in Hong Kong for a period of time. They mainly seek to attract elites needed by Hong Kong from the Mainland and overseas to reside in Hong Kong, so as to assist in Hong Kong's long-term development. In this way, they can be considered one of the measures to achieve the aforementioned objectives. However, apart from these two measures and the aforementioned key objective of the population policy, I am not sure if there is a specific population policy in Hong Kong.

In the 2010-2011 Policy Address, the Chief Executive asked the Steering Committee on Population Policy to focus its study on two subject matters: First, to examine ways to facilitate and support our elderly people in settling in the Mainland after retirement if they so wish and second, to study in detail when the children born in Hong Kong to Mainland women each year would return to Hong Kong to study and live, as well as the ramifications. One year has passed and other than saying that facilitating measures can be introduced for elderly people to settle in the Mainland after retirement, the Government has not disclosed any more information in this regard.

A population policy is an important basis for Hong Kong in planning its future development and it has a direct bearing on the major decisions in committing resources to such areas as infrastructure investments, education and public healthcare services in the future. At the same time, through a population policy the Government can also enhance the quality of the population and align it with the needs of development. Although the Quality Migrant Admission Scheme and the Capital Investment Entrant Scheme enable us to choose the talents needed by Hong Kong, Hong Kong is quite passive when it comes to choosing the people in other migrant categories.

Recently, there has been a drastic surge in the number of babies born of parents who are both Mainlanders rather than permanent Hong Kong residents, and who have the right of abode in Hong Kong on account of their being born here. This is a thorny issue faced by Hong Kong, and also one of the two subjects the Steering Committee on Population Policy will study. Since the relevant authorities can only project the number of Mainland babies born in Hong Kong who would come back to Hong Kong in the future according to the information of the Census and Statistics Department, the provision of public facilities and services in Hong Kong in the future is highly dependent on the

accuracy of these projections. With these children growing up gradually and entering school age now, problems are also emerging. Meanwhile, the number of Mainland pregnant women coming to Hong Kong to give birth is ever increasing, thus causing the pressure on public and private healthcare services to increase significantly. I believe the authorities should study how the relevant problems should be dealt with as quickly as possible, including seeking an interpretation of the Basic Law by the Standing Committee of the National People's Congress in accordance with the stipulations of the Basic Law when necessary.

The issue of these children born in Hong Kong having the right of abode here has aroused widespread concern and discussions in society. If we consider this issue in a fair-minded way, it is only when either one of the parents of a child was a permanent Hong Kong resident when the child was born in Hong Kong that the child should be entitled to the right of abode here. This is more in line with the requirements of Hong Kong in the past. I believe the Central Government can understand the views and thinking of Hong Kong people in this regard.

For many years, the power of vetting and approval of applications under the daily quota of 150 for OWPs has remained in the hands of the relevant units on the Mainland. After the reunification, our co-operation with the Mainland in various areas has been ever increasing. It is now time we had discussions with the Mainland to see if Hong Kong can play a more active role in the choice of people and the use of the quota, so that the decisions of vetting and approval can be made having regard to the actual situation in Hong Kong.

President, to prepare and plan for Hong Kong's future development, we need to formulate a long-term population policy. However, the authorities must also strive to have greater say on the demographic changes in Hong Kong to align them with the needs of society and prevent the population policy from becoming an abstract idea detached from reality. I so submit. Thank you, President.

**PROF PATRICK LAU** (in Cantonese): President, in recent years, a large number of Mainland pregnant women have come to Hong Kong to give birth. In particular, the number of "doubly non-permanent resident babies" has increased significantly, standing at over 30 000 in 2010, so this issue has indeed developed into a social problem. Apart from making it impossible for many

pregnant women who are permanent Hong Kong residents to find a hospital for delivery, this problem has also disrupted the overall long-term planning of Hong Kong.

In fact, most of the babies born in Hong Kong of Mainland women would return to their hometown on the Mainland and live there after birth. Since they were born in Hong Kong, they are all permanent Hong Kong residents and after they have grown up in the future, it is possible that they may come back to study and live in Hong Kong, so the implications on education, housing and welfare are far-reaching.

However, we must not forget that Hong Kong now faces the problem of an ageing population, as the Chief Secretary for Administration pointed out just now. Since the birth rate in Hong Kong is not high enough, if these children born in Hong Kong return from the Mainland and settle here, they may become a productive force in the Hong Kong population. Due to Hong Kong's geographical limitations, it has practically no natural resources and human resources are the greatest capital of Hong Kong.

Most importantly, we have to get hold of accurate data, make proper plans and formulate corresponding measures to assimilate them and foster them, so that they can become the human resources for Hong Kong. For this reason, the Chief Executive has clearly spelt out the importance of reviewing the population policy in his past two policy addresses and he has also asked the Steering Committee on Population Policy (the Steering Committee) to study this important issue specifically and co-ordinate the relevant work. However, so far, the Steering Committee has still not released its report on population policy.

Moreover, as Mr IP Kwok-him pointed out in his amendment, since the release of the Report of the Task Force on Population Policy in 2003, the Government has never released any more new report on the population policy. Just now, I heard the Chief Secretary for Administration mention some initiatives of the Government and give an explanation in this regard.

As regards the Census conducted last year, the Census and Statistics Department will release the summary results only in February this year and the more detailed results will only be released in phases afterwards. In my opinion,

if we want to formulate a comprehensive, accurate and timely population policy, it is necessary to commit resources to conducting ongoing, comprehensive and detailed studies and analyses, so as to keep track of the changes in the social environment and the demography to enable the Government to formulate a population policy that can keep closer tabs on the pulse of society.

I propose that analyses and projections on the population, in particular, on the distribution of the labour force, should be made on an annual basis for a period of five years, so as to address the inadequacy of the study report entitled "Hong Kong 2030 — Vision and Development Strategy", namely, the lack of medium- and short-term follow-up reports. In fact, we should also find out the reasons why the Quality Migrant Admission Scheme designed to attract quality talents to Hong Kong has apparently failed to attract a large number of Mainland people to Hong Kong but in contrast, people who would constitute a burden on Hong Kong are streaming into the territory.

President, we will implement various planning projects to increase the land reserve, for example, "Energizing Kowloon East", building artificial islands, reclamations, developing rock caverns, opening up the closed area and the land in the Northern District, and so on. To successfully develop these sites into new commercial, residential and tourism areas, the Government must gain a good grasp of the data on the population, so as to carry out well-conceived planning and development, as well as putting in place complementary community facilities to meet the actual needs of residents.

Most importantly, we must not repeat the mistakes made in the development of such new towns as Tuen Mun and Tin Shui Wai, that is, even though there was good regional planning, due to the lack of co-ordination in vetting and approval by government departments, the progress was very slow. As a result, after residents had moved in, the community facilities were still not constructed or commissioned. Worse of all, due to the lack of employment opportunities in their own districts, residents were compelled to work and study in other districts. As a result, local economic activities cannot be stimulated and employment opportunities cannot be created in these districts.

President, we also cannot neglect people who came from various places waiting for refugee screening results in Hong Kong, for example, people from South Asia or Africa. I once visited the detention centre operated by the

Immigration Department and met many such people. The information shows that currently some 6 400 refugees are stranded in Hong Kong and waiting for screening as refugees by the United Nations High Commissioner for Refugees. Although they are staying in centres with fairly good conditions, since the screening procedure is protracted and they have not committed any offence, they cannot be made to work like inmates in prisons. For this reason, they can do nothing else but wait in these centres, which is really a waste of human resources.

I hope that the Government can consider formulating some measures to let this group of able-bodied people find work, for example, to take part in infrastructure projects. In this way, on the one hand, they would not idle their time away and on the other, they can also earn money and make contribution to Hong Kong society, thus realizing the goal of the population policy to "nurture talents". Why do we not do something so desirable?

Thank you, President.

**MS LI FUNG-YING** (in Cantonese): President, early this month, the Government announced 25 sites beyond the Victoria Harbour where reclamation and land development can be carried out and consulted the public for opinions. These options were proposed by the Government against the backdrop of an increasing population in Hong Kong. At present, the population of Hong Kong stands at 7.1 million people and the Government estimates that by 2030, the population in Hong Kong will reach 8.4 million, and by 2039, 8.9 million, so it is necessary to enlarge the land reserve for future use when necessary.

That new land has to be developed due to the increase in the population of Hong Kong is only one aspect of the population policy. Moreover, this aspect relating to hardware can be dealt with relatively easily. However, at present, the greatest challenge posed by the population to the Government is not the increase in Hong Kong's population but the escalating conflicts between locals and non-locals. Last Sunday, over 1 000 people besieged a fashion shop in Tsim Sha Tsui to protest against the shop for allowing only visitors to take photos and discriminating against Hong Kong people. According to the reports of the mass media, whenever a coach or Mainland visitors were passing by, the members of the public amassed there would boo them immediately, yelling "Go home!"

Next Sunday, a spontaneous group calling itself "members of the public with no political party affiliation" will hold a sit-in and rally in Victoria Park to oppose the entry of Mainland pregnant women to give birth in Hong Kong and it is believed that a certain number of members of the public will take part in it. Hong Kong was once a city that accepted people from all corners of the world like a sea that accepts all rivers. However, in recent years, xenophobic sentiments have become an area of intense social conflicts fragmenting society.

In May last year, the Legislative Council House Committee discussed with the Chief Secretary for Administration how Hong Kong could take measures to complement the National 12th Five-year Plan. I asked the Government to first assess the implications on Hong Kong before strengthening co-operation with the Mainland and developing markets. At that time, I said, "On the integration of the two places, I think there are positive effects, particularly in the economic domain. This we can all see. However, regarding the negative sentiments in society, for example, those resulting from the effects on property prices caused by Mainlanders buying properties in Hong Kong, and at an earlier stage, the purchase of formula milk resulting in all formula milk being snatched up and its price pushed up, cannot be dismissed or shrugged off lightly. When implementing the 12th Five-year Plan, the Government should face up to these issues. After doing so, the magnitude of the impact should be assessed, then timely adjustments and responses should be made. Failure to do so will only undermine the measures to complement the 12th Five-year Plan."

President, at that time, the Chief Secretary for Administration did not give any concrete response. Since the Government is only preoccupied with financial benefits, all that it knows is to keep boasting about the record number of visitors to Hong Kong and it even went further to turn our healthcare and education services, which have a direct bearing on people's life, into businesses geared towards earning the money of outsiders, totally disregarding the impact on public living and the continual accumulation of discontent in society.

On this motion on a review of the population policy today, I can see that in both the original motion and the amendments, many specific measures are proposed to protect the interests of Hong Kong people. I agree with the direction of these proposals. For example, with the large number of "doubly non-permanent resident pregnant women" coming to Hong Kong to give birth, it is not just the local obstetrics and gynaecology departments that are affected.



With the sudden stampede of Mainland pregnant women into A&ED, the A&E services for the general public are also affected, so these problems must all be solved. But I do not think that the SAR Government can solve them all by itself. Any effective solution must be founded on a consensus between the Central Government and the SAR Government and their co-ordinated efforts. I hope the relevant departments in the Government can communicate with the Central Government as soon as possible and brief the public on the progress of this matter.

The daily quota of 150 intended for Mainland residents to come to Hong Kong for family reunion is a historical product of Hong Kong's separation from China in the past, so it has failed to keep up with the present situation of integration of China and Hong Kong. At present, we even have the Guangdong Scheme to help elderly people in Hong Kong go back and live on the Mainland for extended periods of time. In view of this, it is necessary to review the relevant policies comprehensively.

President, on the issue of a population policy, first of all, I hope the Government would not stoke up conflicts in society by stressing the contribution of outside visitors to the GDP on the one hand, and saying explicitly or implicitly that migrants are seizing social resources on the other, as well as commercializing social services in Hong Kong to meet the needs of outsiders. This will only fuel populism and surely bring adverse effects on social development and even the integration of Hong Kong and China.

President, I so submit.

**MR RONNY TONG** (in Cantonese): Often times, the acts of the SAR Government are totally mystifying. On some problems, this Government always treats them as non-existent and refuses to face up to them.

President, 12 years ago — that should be 1999 — regarding the cases of the right of abode in Hong Kong, the SAR Government told Hong Kong people that 1.6 million Mainlanders would come to Hong Kong and make Hong Kong submerge. In this connection, in a move that dented the system of Basic Law, the SAR Government sought an interpretation of the Basic Law from the NPC. However, can the consequences and facts confirm that 1.6 million people did

come to Hong Kong? President, yesterday, we had a meeting and no matter how we calculated, the total number could not reach several hundred thousand people. The Government's argument was that a large number of outsiders would make it impossible for the resources of Hong Kong to cope. In fact, that was to incite a form of social discrimination and even hatred among the grassroots in Hong Kong with the spectre of competition for resources.

Over a decade has passed and now, the same situation has arisen. The Government has said again that over 200 000 foreign domestic helpers would flock to Hong Kong and that there would be a shortage of jobs and even food. Then, it said that the resources in Hong Kong could not meet the needs of Mainland pregnant women whose spouses are Hong Kong residents or "doubly non-permanent resident pregnant women". What kind of social trend would this create? Just now, Ms LI Fung-ying pointed out, and we also said in a television programme a couple of days ago that if you speak with an accent, you would be railed at as a "locust". President, they are called locusts. Why is our society like this now?

President, all countries have to defend their economy and the needs of people's living and they also have their own immigration policy, so this is nothing heretic because the right of entry and exit is not a basic human right. However, it must be founded on convincing justifications. If it is said that Hong Kong would submerge and that the system in Hong Kong cannot support any outsider, can we actually cite some convincing justifications? President, I certainly do not support opening up Hong Kong to other people, be it foreign domestic helpers, Mainland pregnant women whose spouses are Hong Kong residents or "doubly non-permanent resident pregnant women", or children on the Mainland. This is not what I mean at all. I absolutely agree that if necessary, we should prevent society from being subjected to unnecessary impacts by means of an immigration policy.

However, I think that in a civilized society, there must be a set of convincing justifications underlying the policies enforced. Why is it that from 1999 to the present, the SAR Government has never put forward a set of figures or an outlook on the long-term population policy of Hong Kong to let us know how society would develop, or does it think that it can stick to the old rut and muddle through by making slight increases to each item? President, this is certainly not what the situation calls for. Let us look at the figures. In 2007, a

comparison of the worldwide birth rates revealed that the birth rate among women in Hong Kong was 0.98, the lowest in the world, that is, each woman was not willing to bear even one child, so the rate was less than one. However, by 2008, our ranking rose to second last and was higher than that of Taiwan, which had the lowest ranking, and the birth rate of women in Hong Kong was 1.1.

President, even without the impact from outsiders, without the impact of Mainland pregnant women whose spouses are Hong Kong residents or "doubly non-permanent resident pregnant women", our resources are already inadequate. President, we have lobbied for countless years in the hope of establishing obstetrics and gynaecology services in Tseung Kwan O. We had implored the Government for several years but even though our wish was granted, what happened? The Government said that sorry, due to a shortage of doctors, even though it had planned to establish an obstetrics and gynaecology department, this could not be done. Our Government is so rich, but why is it incapable of doing even such a small thing, all for meeting the internal demand of Hong Kong? President, this is an utterly "reflexive" Government rather than one with vision and long-term planning.

President, recently, I asked a question seeking a written reply about whether or not the Government would conduct a review of and develop a sustainable population policy. President, of course, the reply that I got leaves much to be desired. Let me quote the Government's reply, "The key objectives of the population policy of the Hong Kong Special Administrative Region (HKSAR) are to attract and nurture talents, to enhance the population quality so as to develop Hong Kong into a knowledge-based economy, and to achieve a balanced demographic structure to sustain Hong Kong's development.". How is the balance to be achieved? How is the quality to be enhanced? Apart from making exaggerated and empty remarks and stating the obvious, can it tell us about the actual figures or actual planning? We discriminate against migrants but in fact, Hong Kong is a society made up of migrants, more or less the same as the United States. Who dare say that their parents or grandparents were not migrants? Who dares say so? Why do we not deal with the population issue in a scientific way and with vision and planning?

Therefore, President, we strongly insist that Hong Kong, as an international city and a city of migrants, must establish a dedicated and permanent framework to conduct studies on the population policy, cope with various social changes

arising from demographic changes, as well as implementing and formulating various feasible measures and plans, including the criteria for entry and exit. It is only in this way that we can meet the expectations of Hong Kong people. I also hope that the SAR Government can look squarely at why some people in society can discriminate against and ostracize people with different backgrounds in such a way.

Thank you, President.

**MR LEE CHEUK-YAN** (in Cantonese): President, the SAR Government said that it has a population policy and that it already compiled a report in 2003. If Members look at the period from 2003 to the present, what exactly is the population policy of the Government? I think it is all a mess and chaos. Those who should be entitled to the right of abode are not allowed to have it, but those who should not be but can pay are given identity cards indiscriminately. Such is the present population policy of the SAR Government.

Why did I say that some people should not be entitled to the right of abode but are given it? I think there are two types of people whom we should look at clearly to see if we should give them the right of abode. The first type is investment migrants. I believe that if they are beneficial to the Hong Kong economy, we should give our support to this but the investment migrant policy of Hong Kong is so lax that in the past, it was only necessary to buy properties to be considered investment migrants and get an identity card, that is, an identity card can be obtained with just \$6.5 million. Now, the eligibility threshold for investment migrants has been raised to \$10 million and this sum of \$10 million cannot be used to buy properties. However, using this sum of \$10 million to speculate in stocks is still allowed.

How should truly quality capital investments be like? Truly quality capital investments are those invested in the Hong Kong economy to create employment opportunities and take part in real economic activities. Nowadays, there are already too many activities in financial speculation in Hong Kong, so we do not need more money for speculation. What kind of funds do we need? We need funds for genuine investments in the real economy and in economic activities that create employment opportunities. However, the Hong Kong Government has never thought about such matters. So long as funds are brought

into Hong Kong, identity cards are issued. This is tantamount to auctioning identity cards, but is this the right thing to do? Is this what the Government's population policy is about? Does the Government think that so long as these people are investment migrants, there is no need to examine where the capital is placed or if the capital is beneficial to the real economy of Hong Kong, and that pure and simple speculation is already acceptable?

The second type of people is those so-called "doubly non-permanent resident children", and they are now flocking to Hong Kong in droves. First of all, you say that we have to look at them in a positive light; this, I think is correct. We must not say all the time that they may avail themselves to all kinds of welfare benefits in Hong Kong in the future. However, the biggest trouble is that you cannot calculate, and there is also no way of calculating the contribution they may make to the Hong Kong economy in the future. However, you have no way of knowing if they would come here or when they would come, so it is completely impossible to make any estimates.

However, the Government simply does not care and again, it issues identity cards to these "doubly non-permanent resident children". This would only fatten those intermediaries. Again, the approach is to issue identity cards to those who can pay and let them give birth in Hong Kong. The consequences of this money-mindedness in all matters are very dire. Public hospitals care only about money and for no good reason, they say that a fee of \$39,000 has to be charged, and the fee of private hospitals is even higher. At present, the fee can be as high as some \$100,000 to \$200,000. This has fattened those intermediaries. Those who can afford it are allowed to come to give birth in Hong Kong, yet those who do not have the means but should be allowed to do so are barred. This is the most exasperating thing.

This is the reason why I am going to say next that some people should be entitled to the right of abode but you do not grant it to them. There is one category of people that I believe deserves strong sympathy from all of us. Yesterday, I met with Mr Anthony WU with the representatives of the Mainland-Hong Kong Families Rights Association. They said that after their babies were born, they could not find any bed. These people are the Mainland pregnant wives of Hong Kong residents. At present, marriages between Hong Kong residents and Mainland residents account for almost 35% of all marriages and this is a very natural development. These people went back to the Mainland

to work and married Mainland women, so this is a very normal and natural development. However, may I ask the Chief Secretary for Administration why it is so difficult for Mainland pregnant women whose spouses are Hong Kong residents to come to Hong Kong to give birth? What happened yesterday aroused a lot of feelings and thoughts in my mind. When I met with Mr Anthony WU of the Hospital Authority, he said he was very sympathetic towards these people. However, what did they say? They said, "I beg you, please give me a bed!" This pained me so. They are Hong Kong residents and they were only making a very humble request, that is, they want their wives to give birth in Hong Kong, so that their babies can be born in Hong Kong just like other ordinary families and they can take care of their wives who are about to give birth.

Chief Secretary for Administration, you people are talking about paternity leave. If you tell these people to arrange for the delivery of their children on the Mainland, how can they accompany their wives in delivery? They work in Hong Kong but you tell their wives to go back to the Mainland to give birth. Not only would their wives be miserable, their babies would also have to wait for a year to come here after birth and they are also most miserable indeed. They said very humbly, "Please, I beg you." They have to "beg" and some husbands even broke into tears. I think they have been greatly wronged and we should let their wives give birth in Hong Kong. We in the Labour Party believe that family reunion is the overriding principle of a population policy. The family is very important, so why do you not let the Mainland wives of these people give birth in Hong Kong?

What is your present approach? It is to provide an annual quota of 3 400 in public hospitals to Mainland pregnant women but we once implored the Government for one thing — or maybe it is not to implore as such — a Subcommittee of the Legislative Council passed motions on several occasions, has talked with the Government for two years and invited the Chief Secretary for Administration to come for a discussion for two years — Henry TANG did not come and Stephen LAM has not yet agreed to come — to discuss if, concerning the population policy, NEPs, that is, non-eligible persons can be divided into two categories, one being Mainland pregnant women whose spouses are not permanent Hong Kong residents and one being those whose spouses are. In the case of those whose spouses are permanent Hong Kong residents, they should be allowed to give birth in Hong Kong and as regards the question of whether or not

they should be charged \$39,000, this can be discussed further. I think we should treat them just like Hong Kong people and levy the same charges because their husbands also pay taxes.

President, now, there is only a quota of 3 400 but regarding this quota of 3 400, he just would not divide it into two categories no matter how and he just would not say that "doubly non-permanent resident pregnant women" cannot deliver in public hospitals no matter how. Why? Mr Anthony WU said that he had talked with York CHOW, Henry TANG and Donald TSANG but they just would not agree. Why not? I still do not understand. Why do they discriminate against these women? May I ask you what sort of population policy this is? Why are the wives and children of Hong Kong people treated so harshly? When will the Chief Secretary for Administration be willing to come to our Subcommittee for a discussion? We have sent you a letter, but you have not yet agreed to come. If you say you would not come, does that mean you are unwilling to face up to this issue?

Another type of people whom our Subcommittee has all along been very concerned about is single mothers. They came to Hong Kong on two-way permits with their children and they have to renew their permits frequently. They often have to apply for the endorsement for visiting relatives, so they have to travel frequently between Hong Kong and China, but they cannot get OWPs. The Secretary is unwilling to come here for a discussion on letting them wait in queue. They do not even have the opportunity to wait in queue. Why not let them reunite with their families? What kind of population policy is this? Their children live in Hong Kong, so why can these mothers not come to Hong Kong for family reunion? We must discuss this. Unfortunately, our Subcommittee just cannot have a discussion with the Government no matter how. I hope the Chief Secretary for Administration can come to the Subcommittee to have a meeting with us.

Thank you, President.

**MR IP WAI-MING** (in Cantonese): President, I believe that our discussion on the population policy can be traced to the issue of "doubly non-permanent resident Mainland pregnant women" coming to Hong Kong to give birth. A

good population policy should result in an appropriate growth in population and the provision of an adequate labour force for Hong Kong's economic development. Insofar as the policy on the migrant population is concerned, it should allow quality talents or talents needed by the community to come to Hong Kong in an orderly manner to develop a career here and assist in Hong Kong's economic development.

However, according to what we can see, for some time in the past, it seems that although the daily quota of 150 for OWPs has not been fully utilized, the situation has got out of control in this area, particularly with regard to the problem of "doubly non-permanent resident Mainland pregnant women" coming to Hong Kong to give birth. Many Honourable colleagues have pointed out that it is not just the healthcare system in Hong Kong but also education, social welfare, housing and the demand for jobs that will be subjected to great pressure in the long term. I guess it is not true that the Government is unaware of this or is not taking steps to introduce some counter-measures, only that the impression given by its policy is that it can only scratch the surface, as in the case of many other policies.

In fact, apart from talking with us, what has transpired in the discussions between the Administration and the Central Government? We hope that the Government can give us a clear account. In particular, I have heard the claim that regarding the problem of "doubly non-permanent resident Mainland pregnant women" coming to Hong Kong to give birth, the Government may be intentionally or unintentionally lax in control because less and less Hong Kong people are willing to have children and the Government is trying to make up for the shortfall in the population growth of Hong Kong by this means. However, is this the thinking of the Hong Kong Government? I think that even if it really thinks this way, it may not say so explicitly. However, I think that if the Government really thinks this way, it has to consider it carefully. This is because the present or the future Government may not be able to control effectively when these children will come to Hong Kong and whether or not they will really come to Hong Kong in an orderly manner. In the long run, we think this is a time bomb for Hong Kong. Therefore, I hope the Government can think about this aspect more carefully. If it really wants to increase the population in Hong Kong, we think it should consider this matter from various angles instead, including encouraging local people to have more children.



Very often, it is said that although a bed can be found after great travail, the people concerned may still not be willing to have children. Therefore, we believe that the Government should approach this issue from this angle and encourage local people to have children through measures in healthcare, education and welfare. I know that the Singaporean Government has contrived all sorts of ways to encourage their people to have children. However, our Government is now taking the path of least resistance by doing the easiest thing — finding some "doubly non-permanent resident people" on the Mainland to make up for the shortfall in population growth. I think doing so will only make the Government even more unwilling to find other ways to encourage local people to have children.

I think the Government can take some measures. For example, when the number of pregnant women exceeds the quota of 3 400, the Government should not increase the quota further. However, in fact, there are somethings that the Government has failed to do but maybe Secretary York CHOW does not want to be heavy-handed. In respect of the admission of Mainland pregnant women by private hospitals, more drastic measures can be taken, for example, to restrict the admission of Mainland pregnant women by private hospitals to make more beds available to local pregnant women. We can see that the keen demand in the healthcare sector is attributable to the downsizing of other services in many private hospitals in order to increase the number of beds to cater to the large number of Mainland people coming to Hong Kong to give birth, so as to make huge profits. We have learnt from press reports that some private hospitals have downsized some less profitable services and shifted their responsibilities in this regard to hospitals under the Hospital Authority, so that the beds can be used for the admission of this kind of pregnant women.

In addition, due to inadequate manpower, high pay is offered to headhunt from public hospitals. Of course, people always look for greener pasture, so in these circumstances, there is an exodus of doctors or nurses from the public sector to the private healthcare sector. As a result, the manpower in the whole public healthcare sector is increasingly strained. This has brought the local healthcare system to the brink of collapse.

Therefore, Secretary, I believe that a heavy-handed tactic should be adopted to deal with some private hospitals that are blinkered by pecuniary interests, and these hospitals should be required to spare more beds to cater to

local pregnant women. Why? Because the Government is saying all the time that it wants to introduce medical insurance. If middle-class people have taken out medical insurance but when they go to private hospitals, they find that they cannot even get a bed, would they still believe in the medical insurance system marketed by the Government?

Finally, I wish to talk about single-parent families, that is, families in which the husband is deceased. I believe the Government should review the system under which the mother is left behind but her children are allowed to come here. This is total inhumane. So I hope the Government will engage in thorough discussions with the Mainland authorities on how these people can come to Hong Kong for reunion with their children.

**MR CHEUNG KWOK-CHE** (in Cantonese): President, in 2007, the Government established a Steering Committee on Population Policy, chaired by the Chief Secretary for Administration, to identify the main social and economic challenges to Hong Kong having regard to the changes in the local population profile in the next 30 years, follow up the areas that require further study, as well as developing strategies and practical measures for pursuing the objectives of Hong Kong's population policy. Unfortunately, in the past few years, we could not see the formulation of any comprehensive population policy. The Steering Committee on Population Policy only proposed the Quality Migrant Admission Scheme but has completely failed to put forward any solution for the problem of an ageing population or the problems relating to such matching facilities as education, housing, healthcare and social welfare arising from the return of 100 000 children whose parents are both non-Hong Kong residents.

The CHONG Fung-yuen case dealt with by the Court of Final Appeal in 2001 confirms that Chinese citizens born in the Hong Kong are entitled to the right of abode in Hong Kong. This sowed the seeds for the influx of Mainland pregnant women into Hong Kong to give births and their campaign for the right of abode for their children nowadays. This is also the main reason for the Government's establishment of relevant task forces on two occasions. The task force set up by the last Government published a report in 2003 recommending that the conditions for admitting professionals and talents from the Mainland be relaxed, a new category of investment immigrants be introduced and a Capital

Investment Entrant Scheme be introduced, with a view to coping with population ageing. Although the report stresses *inter alia* that only a so-called "quality population" should be imported, there is no specific policy to address the potential problems posed by the CHONG Fung-yuen case, nor was the opportunity taken to review the overall population policy. However, when we talk about the formulation of a population policy, we should not just focus on this case. Rather, in order to make the population policy effective, we should assess the relationship between Hong Kong's social development and the profile of its population in the future holistically, then complement it with various social policies.

In fact, population ageing in Hong Kong has persisted for many years. Members all know that by 2031, a quarter of the population in Hong Kong will be aged 65 years or more. Although the present elderly dependency ratio is at a low level of every 1 000 workers supporting about 180 elderly persons, it does not mean that we can relax on account of this. Experts have told us that the rate of increase of the elderly population pre-2009 was 1% every five years but from 2009 onwards, it would be 3% to 4% every five years. This is solely attributable to the fact that post-War "baby-boomers" are approaching retirement age between 2012 and 2014. By 2019, the elderly dependency ratio will increase drastically from the level of every 1 000 workers supporting about 247 elderly persons. Hong Kong is now at a demographic window of opportunity and the problem has not yet deteriorated. Therefore, the Government should formulate a policy immediately to deal with the imminent issue of an ageing population.

To cope with an ageing population, both sufficient funding and human resources are indispensable. It has now become a consensus in our community that the Mandatory Provident Fund System cannot provide adequate retirement protection. It is hoped that the universal old age pension proposed by the community will enable the Government to respond to the need seriously. Not only has the Government failed to do a proper job in retirement protection, at present, there is also a serious shortage in the services and manpower for the care of the elderly. There are great difficulties in recruiting nurses, occupational therapists, physiotherapists and even care workers. Moreover, community care services and the places in nursing homes have all along been in extremely short supply. The needs of the elderly for healthcare, including body check-ups, dental care and those in respect of cataract and chronic illnesses, are also

neglected. Therefore, the Government must face the problem squarely and formulate a solution.

With the increasing flow of people between the Mainland and Hong Kong, since 2005, Mainland mothers who come to Hong Kong to give birth have led to a reversal of the rather low birth rates seen in Hong Kong for some years. Each year, about 10 000 Mainland wives of Hong Kong people would give birth in Hong Kong. In fact, in the past couple of years, a drop in this figure could be seen. However, some 20 000 to 30 000 Mainland parents who were non-Hong Kong residents also came and gave birth in Hong Kong. Today, many Honourable colleagues have expressed strong views on children of "doubly non-permanent Hong Kong resident parents" and wish to restrict their entry into Hong Kong. However, if they come to Hong Kong, we will have to take care of their needs and treat them as a new productive force that will supplement the loss in the local workforce as a result of population ageing in the future. To absorb this workforce, the most straightforward way is to fully utilize the current daily quota of 150 for OWPs to encourage children on the Mainland born of Hong Kong residents and their Mainland spouses in wedlock to come to Hong Kong for study and employment as soon as possible. The requirements on the entry of Mainland spouses of Hong Kong residents should also be relaxed, so as to allow them to come to Hong Kong with their children at the same time and adapt to life here at an early date. Regarding the manpower for various services, associate degree and higher diploma programmes relating to services for the elderly can be offered to train the manpower for services for the elderly. In this way, not only will new blood be injected into the services for the elderly, which are short of manpower, the standard of these services can also be enhanced.

President, the formulation of a population policy has a bearing on people's living and Hong Kong's economic development in the future. My foregoing comments have only focused on the elderly and young people, but insofar as the urgent need to formulate a population policy is concerned, they represent only the tip of the iceberg. I strongly demand that the Government conduct a comprehensive evaluation of the present situation in Hong Kong. It definitely must not just take the economic development of Hong Kong into consideration, rather, it should pay particular attention to the needs of the grassroots and realize the principles of fairness and justice. It should plan for the future direction of social development, such as policies on education, housing, healthcare, social welfare and immigration. The views of the stakeholders in various sectors of

society should be collected effectively, so as to pool collective wisdom and formulate in earnest a population policy that is beneficial to all members of the public.

President, I so submit.

**MRS REGINA IP** (in Cantonese): President, Mr Vincent FANG's proposed debate on the issue of our population policy is most timely indeed. As many Honourable colleagues have already pointed out, the influx of Mainland pregnant women to Hong Kong to give birth has imposed a great problem on our city. Areas which have been stormed by this stampede of people such as hospitals, A&EDs of hospitals, Maternal and Child Health Centres, or our school districts and even housing within these school districts which have subsequently felt the ripple effect, have aroused great public concern. In addition, as Ms LI Fung-ying pointed out earlier, the situation has intensified the conflicts between local people and the Mainlanders. Although Hong Kong people have benefited from such policies as relaxation of the Individual Visit Scheme by the Mainland which aims at stimulating the Hong Kong economy, yet Mainland pregnant women have also taken up the childbirth resources for local people, thus aggravating local people's resentment towards certain categories of people from the Mainland. Hence, a disservice will sometimes be done out of good intention.

The integration between China and Hong Kong will bring some negative impacts. In my opinion, the protest by more than 1 000 protesters gathered outside a famous brand store in Canton Road against discrimination against Hong Kong people recently should not be taken lightly by the Government. Reviewing the history of Hong Kong, the fare increase of merely five cents by the Star Ferry in 1966 sparked riots. As the masses are emotional, the Government should not play down such social conflicts and turn a blind eye to the potential problems.

The number of Mainland pregnant women giving birth in Hong Kong is in fact soaring rapidly. According to the ruling on the CHONG Fung-yuen case in 2001, the number of babies born in Hong Kong to parents who were both non-permanent residents of Hong Kong before the CHONG Fung-yuen case was only 555 per annum. The Court then considered that the problem was not

serious. However, the number of these infants has increased to 32 653 by the end of 2010, representing an increase of nearly 60 times. Why did these pregnant women come to Hong Kong for delivery? The reason is very simple. They want to obtain the right of abode (ROA) in Hong Kong.

I was surprised to see a cover story entitled "Giving birth in Hong Kong, high-stake gambling for the future" in an inflight magazine of an airline when travelling in the Mainland last year. This article mentioned the temptation of giving birth in Hong Kong, namely, children born in Hong Kong are entitled to permanent ROA in Hong Kong, eligibility for the SAR passport, lifelong free medical care, nine-year (12-year in fact) free education, visa-free access granted by 135 countries/territories in the world, as well as receiving bilingual education in Hong Kong to acquire biliterate and trilingual competence so that "the baby can have dual starting lines, winning at the starting line!" These messages, which have been reported on the financial channel of *sdchina.com*, are spread nationwide. There are quite a number of intermediary companies actively engaging in such business. So, I do not think that administrative measure can curb the trend of Mainland pregnant women coming to Hong Kong for delivery.

As the middle-class people in our country are getting increasingly affluent, they wish to come to the SAR so as to enjoy various welfare benefits and advantages as holders of the SAR passport. As I have noted, the Chief Executive, after reporting duty in the Mainland at the end of last year, immediately announced three administrative measures to be implemented by the Mainland for regulating the surge of Mainland pregnant women coming to Hong Kong for delivery. I have particularly taken heed of the remarks of Mr LI Fei, the Deputy Director of the Legislative Affairs Commission of the Standing Committee of the National People's Congress (NPC). According to a report in *Wen Wei Po*, he said that the problem should be regulated rather than combated. I really hope that the SAR Government can explain whether the subtext of this report implies that the SAR Government and the Central Government has come to a tacit understanding that this problem cannot be resolved in an across-the-board manner. Whatever the reasons, be it due to the ageing population in Hong Kong resulting in a lack of human resources replenishment, or the views of many interest groups that Mainland pregnant women should be allowed to come to Hong Kong for delivery so that hospitals, schools and even social workers will have "more business", if these are their considerations, there is really a lack of

comprehensive planning, oblivious to the long-term interests and social stability of Hong Kong.

As pointed out by Mr Vincent FANG, the 150 OWP holders coming to Hong Kong daily implies that around 50 000 people will settle in Hong Kong every year. In addition to nearly 40 000 children born to parents who are both non-permanent residents of Hong Kong per annum, the annual growth in the population of Hong Kong will be 90 000 people. As such an increase may see a further rise in the future, even the three administrative measures may not be effective. As the proverb goes, "The law is strong, but the out-laws are ten times stronger", I really want to ask the Chief Secretary this question. Has the Chief Executive or the Chief Secretary himself reflected Hong Kong people's concerns to the Central Government?

Here I wish to particularly mention this honourable and upright official called Mr YANG Shen in Ming Dynasty. Emperors of Ming Dynasty were notorious for being harsh to officials. Any official who had uttered any words which were displeasing to the emperor would be beaten to death on the spot. But what did Minister YANG Shen say? He said, "The State has nurtured officials for 150 years and today is the day for officials to die for a righteous cause." Has the top echelon of the Government reflected our concerns to the Central Government, like officials in former dynasties who knelt and wept in submitting petitions to the throne, in the hope that the Central Government will help us solve the problem? If the Hong Kong Government's population policy has lost its initiative, simply allowing Mainland people to come to Hong Kong through various channels such as using the e-channels in the future or pretending to be transit passengers on foreign passports or other avenues, Hong Kong's population policy will certainly be knocked out of control. Therefore, I agree with Mr Paul TSE's amendment. In fact, I believe all administrative measures can treat the symptoms only. The Government will ultimately be unable to manage the problem on its own. It will be unable to solve the over-population problem faced by Hong Kong, the collapse of our healthcare system and the exacerbation of social conflicts in the long term. The SAR Government should really muster up the courage to reflect the problem to the Central Government and seriously consider seeking an interpretation of the Basic Law by the Standing Committee of the NPC.

Certainly, I know many colleagues think that an amendment to the Basic Law is in order. But I do not think that it is appropriate to do so because according to the legislative intent, children born to parents who are both non-permanent residents of Hong Kong are not entitled to ROA in Hong Kong. As pointed out by members of the legal profession, according to the legislative intent, children born to parents who are both non-permanent residents of Hong Kong are not entitled to ROA, irrespective of the arrangements before the reunification, or discussions of the Sino-British Joint Liaison Group or the relevant committee on the Basic Law. So, I hope that the SAR Government will seriously consider the long-term impact on society arising from a population policy which has gone out of control.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, the CHONG Fung-yuen case in 2001 has affirmed that babies born to parents who are both non-permanent residents of Hong Kong are entitled to permanent resident status. Donald TSANG, who took office as Chief Executive after TUNG Chee-hwa in 2005, regarded Mainland pregnant women giving birth in Hong Kong as a measure to increase population so as to relieve our ageing population in the light of the low birth rate in Hong Kong. Coupled with the Government's intention to promote the healthcare industry, Mainland pregnant women giving birth in Hong Kong has become a big business. I believe that by regarding Mainland pregnant women giving birth in Hong Kong as a means to increase the young population should not be too problematic if there is appropriate control, in addition to the implementation of complementary policies and measures as well as an input of more resources.

Nevertheless, while the number of Mainland pregnant women giving birth in Hong Kong has continued to rise, the Government has not made any proper planning, resulting in the perpetual creation of problems which have erupted one after another. First, we see the overcrowding of the obstetric departments of public hospitals, followed by a continuous drain of medical staff from public hospitals to private hospitals. So far, the authorities can only deal with the problem by imposing a "cut-off". However, can this solve the problem? The answer is in the negative because there are still a lot of Mainland pregnant women coming to Hong Kong. They will utilize not only the services of public hospitals, but also seek admission to private hospitals for delivery. The massive influx of pregnant women to Hong Kong for delivery has not only resulted in



serious social problems, but also a myriad of medical incidents direct. If private hospitals regard obstetric service as a big business, it is a most irresponsible way of dealing with the issue. It is most regrettable that they have ignored the principle of safety. It is also lamentable and extremely absurd for the Government to regard obstetric service, which is a kind of business, as part of the population policy. This has become an international joke. However, since this gate has been thrown open, Mainland pregnant women will take risk in seeking last-minute hospital admission before delivery through the A&EDs of public hospitals in Hong Kong, even though they have not attended sufficient antenatal check-up.

According to the Government, 1 656 non-local pregnant women gave birth through the A&EDs of public hospitals in Hong Kong last year, representing a double of the figure 796 in 2010. It also implies that there are five admissions to the A&EDs for delivery per day on average. Although it is claimed that control measures in Hong Kong will be strengthened and the authorities have emphasized that 3 560 Mainland pregnant women were rejected entry last year, I believe the trend of Mainland pregnant women resorting to "gatecrashing" in an attempt to come to Hong Kong and seek last-minute hospital admission for delivery will show no sign of abating in the future. It is estimated more than 40 000 Mainland pregnant women will come to Hong Kong for delivery, of whom, 6 000 to 7 000 are married to Hong Kong residents while the remainders are "doubly non-permanent resident pregnant women". The problem lies in the fact that the Government has handled the issue so poorly that Mainland pregnant women whose husbands are Hong Kong residents and the "doubly non-permanent resident pregnant women" are treated in the same way. As a result, there is a very unfair and unjust phenomenon in respect of charges, and so on. But the Government has turned a blind eye and a deaf ear to the problem. I consider it extremely inappropriate.

The Chief Executive, Donald TSANG, when meeting with Premier WEN Jiabao on a duty visit to Beijing last month, urged the Central Government to provide assistance in combating unscrupulous intermediary agencies so as to prevent Mainland pregnant women from seeking last-minute hospital admission through the A&ED for delivery. The Central Government has agreed to implement three measures, namely, the police of both sides will jointly investigate those intermediary agencies which have been involved in bribery, the Mainland authorities will help intercept pregnant women at boundary

checkpoints, and licences of commercial vehicles smuggling pregnant women into Hong Kong will be cancelled.

Although the Central Government has rendered assistance in combating the problem of Mainland pregnant women trying to gatecrash the checkpoints of Hong Kong, these initiatives remain stopgap measures. More importantly, infants born in Hong Kong will be entitled to the status of Hong Kong permanent resident, which is good enough to induce lots of Mainland pregnant women to violate the Immigration Ordinance and take the risk of being jailed in order to give birth in Hong Kong. Recently, it has been reported that according to the findings of the five surveys on Mainland pregnant women's intention of living in Hong Kong conducted by the Census and Statistics Department in 2007, 2009 and 2011, 20% of the parents intend to send their children to Hong Kong for schooling. According to the findings of the 2011 survey, 80% of the parents who are both non-permanent residents of Hong Kong have striven to leave their children in Hong Kong mainly because Hong Kong's education system is better, while 29% indicated that it is because of the sound legal system in Hong Kong. Around 20% of the parents who are both non-permanent residents of Hong Kong said that their children could enjoy a better quality of life and medical benefits in Hong Kong, apart from the convenience of pursuing further studies abroad in the future. In their opinion, Hong Kong is a much better place to live, through which they can go to other countries and territories for work, study or travel more conveniently. These are the attractions to them.

Certainly, there is another problem that they wish to evade, namely, the "one-child policy" in the Mainland. They can give birth to more than one child in Hong Kong. Among these reasons, some are true but some may not be. Nevertheless, such awareness persists in the Mainland as rumours spread.

So, regarding the problem we have to tackle today, I think the Government should seriously face up to several aspects: first, as Mainland pregnant women will take every means to come to Hong Kong for delivery, thereby imposing enormous pressure on Hong Kong, we cannot turn a blind eye to the problem which should be tackled expeditiously.

Second, children born to parents who are both non-permanent residents of Hong Kong will pose great pressure on Hong Kong society, as many Honourable colleagues have already mentioned. They will cause very serious problems in

various aspects such as school places and housing. In my opinion, the SAR Government should not turn a blind eye to it. In addition, social welfare is also a problem to which we should pay attention. So, I think it is necessary to close the gate to Hong Kong. However, how this can be done properly without affecting those Mainland pregnant women whose husbands are Hong Kong residents (*The buzzer sounded*) ..... is a more important issue.

**MS CYD HO** (in Cantonese): President, we always say that governance should be people-oriented. This is right because the first question to ask when formulating policies on various areas is the number of service recipients. In the face of limited resources, what should the standard be for the quality of these services? In fact, a population policy, which will affect the economy, environment, housing, transport, healthcare services, education, urban planning, and even political and cultural aspects, can be regarded as the basis of all policies.

A population policy should be based not only on figures, but also the consideration of family ethics. For instance, in discussing the "one-child policy" or the problem of families' unwillingness to raise children, we have to visualize that if every family raises only one child, then this singleton will have no cousins or aunts after two generations. Besides, how did these children grow up in a one-child family? When they have grown older, can they shoulder the responsibilities of supporting their parents? In a society which implements a one-child policy, should we consider child adoption legislation and the problem of people's increasingly dampened desire to raise children?

President, a population policy should not be based on figures only. Even if it is based on figures only, the incumbent Chief Executive Donald TSANG has taken a very simplistic view on figures. To him, it seems that the essence of a population policy is to raise three children. The Government has superficially regarded the population policy as a means to address the ageing population and a tool to project Hong Kong's future manpower and demand for resources in society.

Hong Kong has benefited from the baby boom and economic takeoff after World War II. In the mid-1970s, around 600 000 single men came to Hong Kong from the Mainland providing cheap labour to our community. Hong Kong

is an economy which has benefited from the baby boomers and immigrants from the Mainland.

Having benefited from these, we are obliged to maintain a stable population so as to prevent the problem of ageing population. But unfortunately, small families have no confidence to raise children in view of the situation of the community as a whole. In fact, this is also part of our population policy. Why do couples in their thirties not raise any children, must we ask? Do they have their own homes? Do they have confidence in their jobs, the future planning and education system of Hong Kong? If not, they will prefer not to have any children. Consequently, we will have an ageing population.

However, the Government has not studied the root of these problems. On the contrary, it has absorbed immigrants in a short-sighted manner, hoping that the problem of ageing population can be addressed. According to the Government's population projection in July 2010 — the formula adopted is amazing — the population in Hong Kong will reach 8.9 million people in 2039. However, the Government will only rely on immigrants to reduce the dependency ratio rather than seeking a radical solution. The fact that the Government has short-sightedly absorbed adult immigrants from other countries to replenish our population will only postpone the eruption of the problem. In the meantime, the relevant problem will worsen. When our population has risen from 7 million people to 8.9 million people, the burden caused by an ageing population will even be more enormous in the future.

President, Mr LIN Yuet-tsang wrote an article on ageing population two years ago. He pointed out that, thanks to the cheap labour provided by the baby boomers and new immigrants after the World War II, the saving rates in Hong Kong were very high. The authorities should make the best use of this edge to cope with the increasing dependency ratio caused by an ageing population in the next two decades. In doing so, the authorities should have the capital to make proper planning on the maximum number of people that Hong Kong can support.

As Hong Kong is not a big city, the authorities should set a population cap. According to the 2010 projection, Hong Kong population will reach 8.9 million people. If so, we have to build environmentally-friendly islands as Secretary Carrie LAM said. Even though these islands can provide 1 500 hectares of land, they are in fact "rubbish islands" created out of thin air. Without imposing a

population cap, the construction of these environmentally-friendly islands will be futile.

President, the current problem lies in the authorities having failed to adopt a targeted approach in absorbing immigrants, apart from the fact that the rise or fall in population is ridiculously controlled by private hospitals. It is most astonishing that a population policy, which is most crucial to a city, is led by the market for obstetric services. Furthermore, the authorities have not formulated any population cap, leading to a situation where the actual population of Hong Kong may exceed the official projection of 8.9 million people. In this connection, we need to tackle the problem in a serious manner.

On the one hand, the authorities have delayed the entry of Hong Kong residents' spouses and children who have family ties in Hong Kong, without regard to their aspirations for family reunion. But on the other hand, the door of Hong Kong remains wide open to anyone who can pay \$200,000 or \$300,000 as charges for obstetric services to a private hospital in order to come to Hong Kong and "buy" a Hong Kong identity card through an intermediary company. We do not see any intention of the Government to set a population cap either.

The Chief Executive hopeful, Mr Henry TANG, has released his election platform recently, urging that Hong Kong people need not be worried because the authorities can "close the gate" through administrative measures. He added that law-enforcement officers would reject entry of women who were suspected of being pregnant for more than 30 weeks. Why did Mr Henry TANG fail to do anything when he was still serving as the Chief Secretary for Administration two months ago but pronounce his views now? I really hope that every month is an "election month" so that innovative, practical and useful ideas will be put forth.

President, a population policy should not be led by any candidates in the Chief Executive Election or private hospitals. On the contrary, the authorities should conduct a consultation expeditiously so that Hong Kong people can participate in the formulation of our population policy.

**MR CHAN KIN-POR** (in Cantonese): President, I find the motion "Reviewing the population policy" moved by Mr Vincent FANG today most meaningful. From the motion of Mr Vincent FANG and various amendments by other

Honourable colleagues, one common point is crystal clear. The crux of various problems such as those concerning our medical services and subsequent social problems arising from Mainland pregnant women coming to Hong Kong for delivery, or the fact that the daily quota of 150 has not been properly utilized boils down to the lack of a comprehensive population policy formulated by the Government in the past decade in the light of the brand-new situation of Hong Kong.

In fact, the current population policy of Hong Kong has not embraced all population-related measures for analysis or consideration with a view to formulating a long-term plan for social and economic development. Problems arising from such an approach are not only those concerning the "doubly non-permanent resident pregnant women and children". Social conflicts which have existed for years, especially mismatch of manpower, the wealth gap, the impoverishment of the grassroots and even the middle class, the lack of upward mobility opportunities for young people and all kinds of deep-rooted conflicts facing Hong Kong are in fact inextricably linked with our population policy.

I would like to discuss the issue from the perspective of the daily OWP quota of 150 places as a measure affecting Hong Kong population. Owing to this measure alone, significant changes have been caused to Hong Kong's demographic structure, social and economic activities.

At present, among the daily OWP quota of 150 places, 60 are allocated to children holding Certificates of Entitlement; 30 to spouses separated for 10 years or more and their accompanying children; and 60 to other categories of applicants. According to the information of the Immigration Department (ImmD), from 1998 to the first three quarters of 2011, the number of OWP holders coming to Hong Kong per year ranges from 33 000 to 57 000, bringing the total number of people who have come to Hong Kong to 667 000, and this accounts for 9.4% or nearly 10% of the total Hong Kong population. In other words, one in every 10 Hong Kong people has come to Hong Kong on the strength of OWP during this period.

There are two set of figures on which I would like Members to make an analysis. According to the information of the ImmD, among these 660 000-odd people, 70% or more than 460 000 people were 15 years old and above when they came to Hong Kong, and their average age was 27 to 28 years.

We can also take a look at their level of education. According to official statistics, 20% of them have attained primary school level, while the majority or about 70% of them are secondary school leavers. Only 10% of them have obtained post-secondary qualifications or above, and they have been working in the Mainland.

Next, let us take a look at their work experience in the Mainland. We can see that nearly half of them are domestic helpers, totalling 200 000-odd in number.

From these figures we can see that 70% of the OWP holders were over 15 years old when they came to Hong Kong. At an average age of 27 to 28, they have generally attained secondary school level and half of them worked as family caretakers in the past. In the light of their work experience and the knowledge-based economy of Hong Kong nowadays, it is inevitable that they have to accept low-pay jobs or even face the threat of unemployment.

Besides, since most of them have grown up or gained work experience in the Mainland, they will need a period of time to adapt to the new environment after coming to Hong Kong. It is also necessary for society to allocate some resources to cater for their different needs.

The Home Affairs Department has been conducting surveys on the difficulties and situations faced by new arrivals from the Mainland. The targets of these surveys are those aged 11 years or more who have come to Hong Kong on the strength of OWPs. According to these surveys, on average nearly half of the respondents said that they have encountered difficulties at work; more than half of them said that they need support in finding employment; with the remainder indicating that they need support in such areas as vocational training and application for public rental housing. About 70% to 80% of the interviewees indicated that wages are their main source of income. But it is also found that the median household income of the interviewees for the past 14 years is only \$7,155 on average, which increased to \$8,000 in the third quarter of 2011. The poverty problem facing Hong Kong is closely linked with this.

According to the above analysis, a single population policy has in fact caused changes to our demographic structure every day. In addition, the problems arising from the "doubly non-permanent resident pregnant women and

children" have further aggravated the pressure on the resources of our community, the Government cannot and should not evade these problems. According to the figures of the Census and Statistics Department (C&SD), children from the "doubly non-permanent resident" families are growing up. Many of them have reached school age. The number of three-year-olds in these families have increased significantly from 709 in 2003 to nearly 30 000 this year, representing an increase of 41 times in nine years.

The abovementioned phenomena only refer to the pressure on education, without taking into account the pressure on housing and healthcare. According to the figures of the C&SD, the cumulative number of babies born to parents who are both non-permanent residents of Hong Kong has reached more than 150 000 over the past decade. If half of them will return and settle in Hong Kong as projected by the Government, the pressure facing our society in the future will certainly not only come from the education sector, but also from housing, healthcare, and even the social security system as a whole. Obviously, the standard-bearers in charge of handling the whole issue should not be various Policy Bureaux, but the top leaders in the Government.

As problems related to the "doubly non-permanent resident pregnant women and children" have not come about overnight, the Government should have envisaged it. Moreover, it is difficult to track and understand the situation of Hong Kong-born children after returning from the Mainland simply by relying on the surveys done by the C&SD over the past five years. Therefore, I suggest that more resources be allocated for the launching of more in-depth studies on this.

President, I very much agree to most of the proposals in today's original motion and various amendments. I hope that the Government will listen carefully to Members' suggestions and be brave enough to formulate a visionary population policy after analysis. President, I so submit.

**DR MARGARET NG** (in Cantonese): President, Hong Kong people are strongly concerned about the problem of "doubly non-permanent resident pregnant women" giving birth in Hong Kong and urge the Government to protect local pregnant women's right to appropriate obstetric services and give priority to the



Mainland spouses of Hong Kong residents in access to such services. All these are completely understandable and we very much support it.

Regarding Mr Vincent FANG's motion, however, we think that there are a number of points which are unacceptable. The views put forth by Mr Vincent FANG cannot manifest justice and are short-sighted. Item (a) of his motion reads: "reviewing whether Hong Kong should continue to allow babies born in Hong Kong to parents who are both non-permanent residents of Hong Kong to enjoy the right of abode (ROA) in Hong Kong".

The ROA in Hong Kong is not granted by Hong Kong, but conferred by the Basic Law. According to Article 24(2)(1) of the Basic Law, "Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region" are entitled to the ROA in Hong Kong.

Mr Vincent FANG said that he did not agree to amend the Basic Law or request to repeal the provision. On the contrary, he wanted to seek an interpretation of the Basic Law so that an omission could be rectified. Given that this provision is so clear, what interpretation does he expect? What interpretation does he expect from the Court? Why should a proviso be added to stipulate that either parent of the baby should be a permanent resident of Hong Kong or residing in Hong Kong? How can this legislative intent be added in a proviso?

All such interpretations will go against our conscience. Neither the Court nor ordinary people will make such an interpretation. In particular, Article 24(2)(3) of the Basic Law has pointed out that "Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2)" are entitled to the ROA in Hong Kong. So, does he want to seek an interpretation on this provision as well?

Mrs Regina IP just now mentioned the CHONG Fung-yuen case, which was a court case heard during her tenure as the Secretary for Security then. And she did not seek an interpretation of the Basic Law at that time. Eleven years down the road, why does Mr FANG want to seek an interpretation? How can he convince the public? We have to respect the Basic Law as the relevant provisions have been written in black and white. So, what kind of an interpretation does he expect?

President, it is absolutely inappropriate to tackle the issue concerning the ROA in Hong Kong through an interpretation of the Basic Law. However, Mr Vincent FANG, in discussing the population policy, said that an interpretation of the Basic Law could manifest justice. Such a view is most short-sighted.

Quite a number of Members mentioned the Report of the Task Force on Population Policy (the Report) released by the Hong Kong Government in February 2003 when they spoke on the population policy. Apart from touching upon the ageing population, the Report has also pointed out that it is necessary to introduce the entry of young arrivals to Hong Kong in order to alleviate the pressure of a rising dependency ratio.

The Report considers that Hong Kong residents' children in the Mainland holding Certificates of Entitlement are Hong Kong's reinforcements. It has also pointed out that if these children can come to Hong Kong before they are nine years old, they will be able to integrate into our society more easily.

This was the thinking of the Hong Kong Government back then. The Report has also indicated that as these new arrivals are young people, they should be well treated and helped in their integration into our society. The Hong Kong Government holds the same view in this regard.

President, I would like to mention a report on Hong Kong's population policy released in 2005 by three academics of the Hong Kong Institute for the Humanities and Social Sciences of the University of Hong Kong. The report, which was written by Prof Helen SIU, Prof Richard WONG and Prof David FAURE, promotes a so-called "population mobility" concept. They considered that the success of Hong Kong in the past was due to its good system, as well as the population mobility between Hong Kong and the Mainland. They pointed out that the problems facing Hong Kong then originated from the fact that such mobility had withered or even been blocked.

In the report, President, a number of recommendations were made. I strongly recommend that Members read the report. I wonder whether the Hong Kong Government has paid any heed to the report. The first recommendation is that since Hong Kong people's children in the Mainland will become permanent residents of Hong Kong, we should adopt a proactive attitude in helping them and

nurturing them so that they will make contribution to Hong Kong's economic development and bring us long-term benefits when they come to Hong Kong.

Second, they advised against prejudice against new arrivals from the Mainland due to our ignorance because not all of them are poor, illiterate or villagers. On the contrary, there is an increasing number of urbanites coming to Hong Kong from the Mainland and this is most conducive to the strategic positioning of Hong Kong in the future.

Third, we should gain a fuller understanding of their origins so that we can let them know more about Hong Kong, such that their sense of identity can be enhanced before they come to Hong Kong.

Fourth, one of Hong Kong's attractions is its policies and systems, while the rule of law and our respect for the Basic Law is an important element under the systems. We should attract Mainlanders to Hong Kong with our systems.

Finally, they advised against bundling the reception of Hong Kong's welfare with its territory. The authorities have made one step forward in that Hong Kong people can continue to receive welfares across the border in order to achieve the purpose of Hong Kong people moving to the Mainland. This will also enhance the sense of identity of our reinforcements in the Mainland so that they will make contribution to our economic development after they have come here.

In my opinion, all these should be covered by a proactive population policy and worthy of our consideration. The Hong Kong Government should also actively study these suggestions instead of merely considering how the trend of "doubly non-permanent resident pregnant women" coming to Hong Kong to give birth can be curbed. As this problem is a policy issue, it is not easy to resolve. While it is also an issue about the setting of priorities in the utilization of resources, the authorities must face up to it. However, we should not put the cart before the horse and regard seeking an interpretation of the Basic Law as a panacea.

Thank you, President.

**MR WONG SING-CHI** (in Cantonese): President, regarding the motion on reviewing the population policy today, we have only focused on the issue of Mainland pregnant women coming to Hong Kong for delivery. In fact, children born in Hong Kong to Mainlanders as well as people from various other places will become permanent residents of Hong Kong. Why should we focus on the issue of Mainland pregnant women giving birth in Hong Kong? The reason is that these women are so large in number that many beds for delivery in local hospitals are taken up by them, thus resulting in many medical problems. In fact, local medical facilities or manpower seem to be in severe shortage in recent years. The Government should consider how to train more doctors and nurses in order to cope with the problem.

In the final analysis, Hong Kong people should be proud of themselves in some way. The fact that so many Mainland pregnant women should wish to give birth in Hong Kong is proof that Hong Kong must have some comparative advantages. As a result, these heavily pregnant Mainland compatriots have to resort to gatecrashing into Hong Kong in order to give birth despite all difficulties. So, Hong Kong should be proud of itself and, in the meantime, it should also figure out through what channels our compatriots in the Mainland can also enjoy the same benefits as Hong Kong people do. In this way, the problem of Mainland pregnant women coming to Hong Kong for delivery may be alleviated. Otherwise, I believe there is no option that can tackle this problem other than amending the Basic Law. They will still come to Hong Kong on the sly even though administrative measures have been adopted or they are held at gunpoint. Why? Here is a leaflet of an intermediary trying to allure Mainland pregnant women to give birth in Hong Kong. In this leaflet, 10 advantages of giving birth in Hong Kong are set out. Let me read them out to see if we agree or not.

First, visa-free access to 135 countries or territories. I believe this is quite attractive as it is very difficult for Mainlanders to travel abroad. Second, they can go to European countries and the United States easily for studies and doing business. This is also a bright spot. Third, children born in Hong Kong can enter prestigious universities in the Mainland without the need of taking the national entrance examination, apart from the choice of studying at local universities. This is in the interest of the children when they have grown up. Also, they can enjoy 12-year free bilingual education. As Chinese is the sole medium of instruction on the Mainland, we wonder whether Mainland students'

English standard is in a mess. Besides, they can enjoy various kinds of social welfare, such as public housing, Comprehensive Social Security Assistance and Old Age Allowance. Sixth, as there is no birth control in Hong Kong, no one will be fined on the birth of a second child in Hong Kong. Seventh, with the provision of lifelong healthcare in Hong Kong, they can enjoy quality medical services at low cost, particularly services provided in local public hospitals. Secretary Dr York CHOW should take pride in this. Moreover, while Hong Kong is a safe place to live with low crime rates, natural disasters such as earthquakes and floods are also rare and so Hong Kong is like a paradise. Furthermore, they can enter and leave Mainland China freely. In other words, they can return to the Mainland at any time. Some people born in Hong Kong do not even enjoy such a privilege as those who are born in Hong Kong to Mainland pregnant women do. On top of that, they can enjoy dual nationality in the United States, Canada, the United Kingdom, Australia, and so on. This is really great. Finally, they can save \$10 million, and why? Because being born in Hong Kong, they will become Hong Kong people automatically without the need of paying \$10 million as capital investment when they have grown up.

President, from this we can see the attractiveness of giving birth in Hong Kong. Therefore, I really wonder what administrative measures can be effective enough to stop them from coming to Hong Kong for delivery. If I were a Mainland resident, I would have told my wife to give birth in Hong Kong quickly.

Members are fully aware of all of these points mentioned, which are used as a carrot to tout business by intermediaries in the Mainland. What can we do? After all, if the conditions on the Mainland continue to persist as set out in this leaflet and there are so many advantages in Hong Kong comparatively, will Mainland couples who can afford the tens of thousands of dollars for coming to Hong Kong for delivery not do so? That being the case, we should not wait for the further deterioration of the problem because there are really too many people who are prepared to gatecrash into Hong Kong for delivery.

Therefore, I hope the Government will seriously examine our views put forth today and explore whether planning should be made ahead as it is an indisputable fact that one will enjoy various advantages in giving birth in Hong Kong. So, when there is an endless number of people coming to Hong Kong for delivery but the formulation of a comprehensive population policy is still lacking,

not to mention the rolling out of any complementary measures, thereby resulting in a situation where anyone who has come to Hong Kong can enjoy all these services, the local residents of Hong Kong are likely to face enormous difficulties. By then, the 10 advantages mentioned just now may become something beyond the reach of Hong Kong people, but children born in Hong Kong to parents who are both non-permanent residents will be able to fully enjoy them.

President, a phenomenon has emerged in North District recently. Owing to the impact of the problems mentioned, there is a shortage of school places in kindergartens or even primary schools. Owing to a reported shortfall of hundreds of school places, some children may be unable to get enrolled. If the authorities do not seriously deal with this problem, I believe Hong Kong children will bear the brunt. Therefore, I hope the Government can give serious and meticulous consideration to this.

Regarding Mr Vincent FANG's proposal that the authorities conduct a review on the daily OWP quota of 150 places in the light of other employment situation in Hong Kong, I think this is contradictory to its original intent as those who come to Hong Kong on the strength of this quota are mainly for the purpose of family reunion. I hope this objective will remain unchanged. However, the authorities may conduct a further study and make adjustments in the allocation of quota to tie in with the employment situation, instead of making the employment market the primary consideration, thereby depriving those who aspire to family reunion of their right to OWPs.

At present, President, most of the new arrivals holding OWPs do not, as many people said, rely on the support of Hong Kong Government after coming to Hong Kong. According to the Census and Statistics Department's latest statistics, the percentage of OWP holders who have received tertiary or post-secondary education has increased from 12.1% in 2006 to 16.5% in 2011 as compared with the figures in the past. *(The buzzer sounded)* Therefore, they can be self-reliant. Thank you, President.

**MS MIRIAM LAU** (in Cantonese): President, the problem of Mainland pregnant women coming to Hong Kong for delivery is deteriorating. According to the figures in 2010, 3.7 in every 10 babies born in Hong Kong are born to parents

who are both non-permanent residents of Hong Kong. Whether these "doubly non-permanent resident children" will stay in Hong Kong and when they will return here will have far-reaching implications on the socio-economic development of Hong Kong, apart from the fact that they will create a gigantic bottomless pit in Hong Kong's social resources allocation system!

However, the Administration has turned a blind eye to this impending crisis, overlooking the importance of formulating a comprehensive population policy for a long period of time. Precisely because of the lack of a population policy to underpin the formulation of various other policies, the Government has made many administrative blunders in recent years and the relevant policy objectives have also fallen short of public expectations.

In recent years, the "doubly non-permanent resident baby boom" has strained the public healthcare system in Hong Kong. The situation in both hospitals and Maternal and Child Health Centres has gone nearly out of control. It is not difficult to imagine that the education system will be the second hard-hit area due to these children!

According to the findings of the Babies Born in Hong Kong to Mainland Women published by the Census and Statistics Department last year, even with the projection benchmark that only around 20% of the "doubly non-permanent resident children" will intend to receive schooling in Hong Kong, the additional demand for places generated by such children coming back to Hong Kong for schooling may be more than 6 000 per annum in the future. Nevertheless, the actual total number of such children coming back to Hong Kong for schooling is highly uncertain, adding difficulty to the formulation of education policy.

For example, the figures released by the Education Department recently show a significant increase in cross-boundary students, including the facts that the number of kindergarten pupils in the last school year has surged by 51% year on year and the enrolment of kindergartens in North District has reached capacity. These kindergartens may face an additional demand for places by 6 500 "doubly non-permanent resident children" in the next school year. Such a trend of overcrowding in the education system caused by these children will spread to primary schools, secondary schools and then universities year after year.

The sectors to be affected by the "doubly non-permanent resident baby boom" will be social welfare and housing, to be followed by the healthcare and education system which have already been seriously strained one after another. Therefore, the Government should take decisive and effective measures to prevent such children from eroding our social resources continuously.

Hence, the Government should first of all strengthen the existing interception efforts at border control points, including increasing the staff of the Immigration Department and arranging for the stationing of more medical personnel at various control points to screen pregnant women who attempt gatecrashing. Furthermore, the Government should respond proactively to the Central Government's three new initiatives to intercept Mainland pregnant women who want to come to Hong Kong for delivery, in addition to exchanging intelligence with the Mainland law-enforcement agencies with a view to prohibiting intermediary syndicates from engaging in such activities anymore.

Besides, the Government should also consider imposing additional charges on Mainland pregnant women giving birth in local public hospitals. Particularly for those who do not have prior bookings of obstetric services in Hong Kong, the Government should also consider imposing large fines on them or putting them on the *persona non grata* list, banning them from re-entry into Hong Kong in order to enhance the deterrent effect. The authorities may consider suspending the quota of public hospitals and tightening the quota of private hospitals for admitting Mainland pregnant women seeking to give birth in Hong Kong.

In my opinion, however, even if the Government strongly tightens up the restrictions on Mainland pregnant women seeking to give birth in Hong Kong, it is difficult to stop all of them from coming to Hong Kong for delivery because the main reason for doing so is to obtain the right of abode (ROA) in Hong Kong for their children so that they can enjoy better education and better social and living conditions.

We can only radically resolve the problem of "doubly non-permanent resident baby boom" at source by amending the law. It is because the swarming of Mainland pregnant women into Hong Kong for delivery is mainly due to the judgment of the Court of Final Appeal in 2001 on the CHONG Fung-yuen case. It was decided that CHONG Fung-yuen, who was born in Hong Kong to parents who were both non-permanent residents of Hong Kong, could enjoy the ROA



under Article 24(2)(1) of the Basic Law that Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region are entitled to the ROA in Hong Kong.

In order to tackle the problem at source, we are left with two options only, namely, to seek an interpretation or amendment of the Basic Law. Although the seeking of an interpretation of Article 24(2)(1) of the Basic Law by the Standing Committee of the National People's Congress in accordance with Article 158 of the Basic Law will lead to a greater legal dispute and the Liberal Party also holds that this should be avoided by all means, an amendment of the Basic Law, which is the another option, is unprecedented and procedures involved are so complicated that it is difficult to assess the time to be taken. Meanwhile, the problem of "doubly non-permanent resident baby boom" will be worsening and a domino effect will be seen in various sectors such as education, housing and social welfare. If we do not make a resolute decision, a time bomb of massive destruction will certainly be planted for the next generation or the future development of society.

Under the principle of choosing the lesser of two evils, the Liberal Party, though extremely reluctant and in the light of having no alternative, has to urge the Government to actively consider tackling the problem of Mainland pregnant women giving birth in Hong Kong through seeking an interpretation of the Basic Law where appropriate and in the absence of other effective means to resolve the relevant problems.

President, I so submit.

**MR JAMES TO** (in Cantonese): President, the formulation of a population policy for Hong Kong actually faces a lot of constraints, including two major ones. The first one, as we have just mentioned, is that children who are born in Hong Kong to parents who are both non-permanent residents of Hong Kong are entitled to right of abode in Hong Kong. Second, regarding the OWP quota of 150, Hong Kong, without the power of approval, cannot determine who can come to Hong Kong in the vetting process.

President, these two constraints fall within two different areas. First, speaking of "doubly non-permanent resident children", it is inevitable to talk

about the CHONG Fung-yuen case. President, I remember that in the evening of the day when the judgment of this case was handed down, I told a reporter that in my opinion, there would be two possibilities. First, I reckoned that neither the Hong Kong SAR Government nor the Central Government would allow the continual development of such cases in future. I reckoned then that the authorities might seek an interpretation of the Basic Law right away. I believed even though this might not be the follow-up action, both the Hong Kong SAR Government and the Central Government would question whether Hong Kong could cope and planning could tie in with it. An amendment to the Basic Law was likely. According to my instinct, this was a population problem that Hong Kong could hardly cope with.

Certainly, from another perspective, as our population ages, the problem of ageing population can be alleviated by these babies so as to reduce the pace of ageing or even reverse the ageing trend. I have no idea at what level the SAR Government or the Central Government had discussed these issues. However, I am really baffled after listening to the speech of Mrs Regina IP who was the then Secretary for Security when the CHONG Fung-yuen case was heard because her speech sounded as if it has nothing to do with her. Of course, I do not know whether she has to comply with any confidentiality undertaking and therefore cannot disclose whether, after the case had been closed, she, as the Secretary for Security, had proposed that the SAR Government seek an interpretation of the Basic Law by the Standing Committee of the National People's Congress or an amendment to the Basic Law. Had she taken such actions? In any case, she spoke as if it has nothing to do with her. Furthermore, she criticized the Government and warned against inaction by the Government.

I cannot help but ask: From the perspective of Hong Kong ..... President, I maintain that we have to conduct a review of the consequences of the CHONG Fung-yuen case. As a matter of fact, there are only two options before us. If we think that Hong Kong is able to absorb these "doubly non-permanent resident children" who are born in Hong Kong and will be permanent residents in Hong Kong; if we also believe Hong Kong can allow these children to return from the Mainland in order to receive education at any time so as to ameliorate the problem of ageing population; and if we have total confidence in all these aspects, this may be a way out. However, we must bear in mind that constraints must be imposed. We should not allow an unlimited influx of these children, thinking that this is for the benefit of Hong Kong on the ground that our population will be

rejuvenated. On the contrary, we have to consider whether arrangements in Hong Kong can cope with it. Therefore, if provisions have really been laid down in the Basic Law and our limited administrative arrangements cannot absorb so many people, the ultimate solution is very simple: to deal with the problem by amending the Basic Law.

Why did I say that it is not feasible to seek an interpretation of the Basic Law? Dr Margaret NG has also mentioned the reason. I am sure that if the legislative intent had been violated, many officials, including the then Secretary for Security, Mrs Regina IP, Chief Executive TUNG Chee-hwa, or Chief Secretary for Administration, and so on, would have held meetings to discuss the issue. There is no reason for them not to seek an interpretation of the Basic Law. Therefore, if anyone, when reading Article 24(2)(1) and (5) of the Basic Law, insists that either parent should be a permanent resident of Hong Kong, it is in fact a distortion of the provision. If such a distortion is allowed, the safeguard in the Basic Law will vanish in the future because everybody is free to attach any explanation to any provision. Therefore, in my opinion, to amend the Basic Law is a way out.

President, the second issue is related to the daily OWP quota of 150. I think this issue is different compared with the "doubly non-permanent resident children" mentioned just now because these children are young population. On the other hand, the daily OWP quota of 150 is intended for facilitating young Mainland residents' settlement in Hong Kong for family reunion. But the targeted young people have almost all come to Hong Kong actually. Many who come now are adults. Certainly, I am not saying that adults are not welcome. But I wish to point out that although family reunion of immediate relatives is regarded as human rights in other places, no country or territory will set a quota for it, and no country or territory from which people emigrate will be responsible for processing the applications to determine who should be granted approval.

Certainly, this approach was adopted in the past due to historical reasons. President, it is because of the dispute of sovereignty over Hong Kong which was formerly a colony. Therefore, the Central Government would certainly object if approval was granted by the British Government or British Hong Kong Government. However, we must understand that if the Central Government can delegate the vetting power to the SAR Government, this will better meet its development. I think this is definitely what the Central Government should do.

Of course, we should present our justifications to it. Certainly, this may involve bureaucracy, powers, and even pecuniary interests and corruption arising from such powers. However, if the SAR Government is cherished by the Central Government which considers that to delegate such power to the SAR Government can better meet its development, it is only right and proper to do so. I believe a reasonable, liberal and broad-minded Central Government could be convinced by us.

President, concerning other details, specifics, technical issues and interception of pregnant women, I do not have time to go into the details. But I think if we do not amend the Basic Law so as to stop the "doubly non-permanent resident children boom" or regain the initiative to vet applications for the daily OWP quota of 150, it is totally pointless to discuss the formulation of a population policy as it will be totally fruitless.

**MS STARRY LEE** (in Cantonese): President, whenever problems such as the delivery rooms in Hong Kong being crowded with "doubly non-permanent resident babies", Mainland spouses of Hong Kong residents being unable to make bookings of obstetric service and the intermediaries having resorted to all means, and so on, are reported in the newspapers, it will pinch the nerves of many people. If the Government does not handle these issues properly, conflicts between Hong Kong people and Mainlanders will intensify continually, thereby harming the integration between the two places instead of facilitating it.

I have to stress that the Government should deal with Mainland pregnant women whose husbands are Hong Kong people — meaning that they will become Hong Kong people, Hong Kong permanent residents in the future — separately from those "doubly non-permanent pregnant women", while public hospitals should also reallocate quota to them so that they can utilize obstetric and gynecology services.

I believe all Members must have received a letter from the Mainland-Hong Kong Families Rights Association. Members may feel unhappy after reading the letter as 80 Mainland wives of Hong Kong residents are pregnant and expected to give birth during the period from January to August this year. However, they are unable to book a hospital bed so far. I hope the Secretary can

exercise discretion in dealing with these pregnant women so that they can give birth in Hong Kong because they will become Hong Kong people in the future.

Today, I heard a number of Members mention seeking an interpretation or amendment of the Basic Law by the Standing Committee of the National People's Congress so that through this channel, the problem can be dealt with at source. But today, I am not going to discuss these two issues. We must understand that we will see a baby boom in the Year of the Dragon. Apart from measures aiming at resolving this problem radically, near- and medium-term initiatives are not to be ignored.

In order to tackle the problem of "doubly non-permanent resident children", we have put forth a number of solutions in respect of charges, booking of service, quota, and so on. But all of these, which are proposed from the perspective of protecting the local pregnant women's right to give birth, are unable to arrest the rising trend of Mainland pregnant women attempting to gatecrash into Hong Kong.

The number of cases concerning non-local pregnant women gatecrashing the Accident and Emergency Departments reached 1 700 last year, representing a one-fold increase compared with that of the previous year. The number of the last quarter alone has exceeded the total number of the whole of previous year.

There are comments that it is not effective to intercept non-local pregnant women at the border alone. I agree with that. As the saying goes, "The law is strong, but the outlaws are ten times stronger". Given that this is a profitable business, the intermediaries can always come up with different means to cope with it. Although a quota system has been implemented in Hong Kong and the Mainland has recently announced three measures to prevent Mainland pregnant women from gatecrashing, in the final analysis, the crux of the problem lies in the fact that as long as the "doubly non-permanent resident pregnant women" can give birth in Hong Kong as planned after gatecrashing successfully, their babies will be issued identity cards. According to my knowledge, it is most likely that they will be able to travel between Hong Kong and the Mainland with impunity in future. Therefore, as they will not suffer any loss, coupled with the great incentives mentioned just now, how can we stop these Mainland pregnant women, who see no harm in trying it, from gatecrashing?

So, how can we tackle the problem of illegal gatecrashing at the border control points and how can they be intercepted before attempting gatecrashing? It is not enough to step up enforcement at the border. To be effective, there must be a set of clear policies in support, particularly enhancing the penalties. The authorities should at least enhance the penalties in order to achieve the desired deterrent effect.

The consent of the Central Government must be obtained in order to implement the policy I mentioned just now. In other words, Mainland pregnant women should not be allowed to come to Hong Kong unless they have been given a booking confirmation by a hospital in Hong Kong or they come to Hong Kong for special reasons other than giving birth. If this policy can be implemented, the immigration departments of both sides will be able to process applications for entry and exit documents from different directions.

Specific measures can be many. For instance, while the immigration authorities on the Mainland have granted a Two-way Permit to an applicant, the Hong Kong authorities may request the Mainland authorities to help remind the pregnant woman who has applied for such document that she should not come to Hong Kong unless a booking confirmation has been issued by a hospital in Hong Kong. Once these pregnant women are found to have violated the relevant requirements in Hong Kong, punitive measures such as prohibition from entry into Hong Kong should be imposed.

Besides, there is no corresponding declaration system set up by the Hong Kong Immigration Department (ImmD) — if Members have noted it — to combat this deteriorating situation. If the authorities had laid down a clear policy, the ImmD could consider requiring the entrants to make such declarations. Mainland pregnant women, if identified, will be reminded of the need to hold a booking confirmation. A person who has made any misrepresentation or dishonest declaration has to bear the consequences upon verification. For instance, the person will not be issued a permit to Hong Kong within a period of time. Members can hold discussions on these measures. Otherwise, in the absence of deterrent measures, I really do not know how Mainland pregnant women can be stopped from gatecrashing by all means.

In addition, the Governments of both sides should also deal with the problem by combating the intermediaries. President, I must emphasize that as

many activities associated with Mainland pregnant women giving birth in Hong Kong originate in the Mainland, the SAR Government should faithfully reflect Hong Kong people's concerns to the Central Government and request the Mainland authorities to enforce the law correspondingly. These intermediaries, which have engaged in dissemination of false news, fabricating information which is not consistent with the current policy of Hong Kong, and even abetting or assisting Mainland pregnant women in giving birth outside the Mainland through non-normal channels, should be strictly dealt with. For all these, the Hong Kong Government cannot handle them alone.

I believe many similar activities have been taking place in the Mainland. Therefore, if there is no corresponding policy from the Central Government, it is impossible to stop Mainland pregnant women from gatecrashing by stepped-up interception of these people by Hong Kong authorities at the border alone. Therefore, I hope the SAR Government will attach importance to this issue because whenever I visit the local communities, I would find that their resentment towards Mainlanders continues to escalate.

President, I so submit.

**MR PAUL CHAN** (in Cantonese): President, I am most grateful to Mr Vincent FANG for moving the motion debate on "Reviewing the population policy" today. I would like to share with Members three points of my observation.

First, all countries will formulate their own population policies in the light of their unique situations and economic development with emphasis placed on attracting talents. As Hong Kong lacks natural resources, the greatest asset it has is talents. However, over the past many years, the Government has neither formulated a long-term and forward-looking population policy nor proactively conducted regular reviews through departments concerned in order to enhance the quality and competitiveness of Hong Kong population and cope with this well-known problem of a rapidly ageing population. It is irresponsible of the Government indeed.

The last year's controversial topic in our city about Mainland pregnant women coming to Hong Kong for delivery, thereby straining our delivery wards and the Maternal and Child Health Centres is precisely due to the Government's

lack of a population policy over the years and its passive attitude or even its blind eye turned to the problem. Consequently, local mothers have been victimized.

Although we have the Quality Migrant Admission Scheme and Capital Investment Entrant Scheme, they are nothing but passive and piecemeal measures. We do not see any focused initiative in attracting talents to cope with our economic restructuring. The Government has never proactively attracted talents in various fields, such as cultural and creative industries, information technology and scientific research, to settle in Hong Kong. President, this is the first point I wish to make.

Second, President, the Government has entirely overlooked the impact on our society of babies born to parents who are both non-permanent residents of Hong Kong. Here, I would like to emphasize one point. I agree that Mainland pregnant women whose spouses are Hong Kong residents should have priority over the "doubly non-permanent resident pregnant women" in access to medical and other social services in Hong Kong.

The number of babies born to parents who are both non-permanent residents of Hong Kong keeps rising over the past decade. There are a total of 170 000 such babies who saw their number increase from 620 in 2001 to more than 32 000 in 2010. I believe the number in 2011 will be much bigger than that in 2010. In 2011, the number of such babies accounts for 37% of the total number of newborns in Hong Kong, much exceeding the shortfall to be replenished due to the declining local birth rate.

Although the Government has capped the number of non-local pregnant women to be admitted by public and private hospitals, the number of non-local pregnant women seeking last-minute hospital admission through the Accident and Emergency Departments of hospitals has risen sharply, according to some front-line medical staff. The situation has gone out of control. Besides, according to some medical staff, the utilization rate of Neonatal Intensive Care Units has stood at 130% to 160% over a long period of time, thus seriously affecting other babies in need.

President, although the problem is hanging over our heads, I am most surprised not by these figures but the Government's attitude towards them. The Government, which seems to be still in its dream, has not the least idea of the



impact of these babies on Hong Kong's medical service, education and other social services in the short, medium and long terms. The Government, which adopted an attitude of "out of sight, out of mind", is now, in my opinion, at a loss as to what to do. This is disappointing.

Let me cite an example. In a reply to my question on how best the figures on babies born to Mainland women in Hong Kong attending local secondary schools can be accessed at a meeting of the Panel on Education, the Administration pointed out that a series of surveys on the aspirations of these parents had been conducted. The first round of survey was conducted in 2007, President, but we have yet to see any specific measure being implemented by the Administration so far. The number of babies born to parents who are both non-permanent residents is more than doubled in 2011 compared with 18 816 in 2007.

President, the Chief Executive has pointed out in his Policy Address that children born to the Mainland pregnant women in Hong Kong will add new blood to our population. Therefore, we should adopt a positive attitude towards them and nurture them so that they will become our manpower, bringing benefits to Hong Kong. I wish to emphasize that I do not discriminate against them at all. As they are Hong Kong people, they should receive equal treatment and support.

However, I have to point out that the Government, before adopting such a policy as a means to replenish our population, has not conducted any consultation or discussion in society at all. Neither has it meticulously assessed the impact of babies born in Hong Kong to Mainland pregnant women on our society and informed Hong Kong people of the result. Many Hong Kong people cannot help asking what contribution has been made to Hong Kong by the parents of "doubly non-permanent resident babies" so that Hong Kong people have to give them a permanently valid blank cheque on education, healthcare and social benefits which can be honoured at any time.

President, on the basis that those 32 653 babies born to parents who are both non-permanent residents in 2011 account for 36% of the total number of newborns in Hong Kong, one third of the hard-earned social resources accumulated by Hong Kong taxpayers will be taxed by these babies in the long run. Are Hong Kong people willing to share out this portion of resources? Is

this fair to Hong Kong people, especially the taxpayers or even the middle-class people?

President, the third point I wish to discuss relates to the Mainlanders who have settled in Hong Kong through the daily quota of 150. We know fairly well about their impact on Hong Kong. This increasing growth in population is totally irrelevant to the talents we need in the light of our economic structure. On the other hand, most of these Mainlanders are leading an unhappy life after coming to Hong Kong. Nevertheless, as their registered permanent residence on the Mainland has been revoked after coming to Hong Kong, they have no route for retreat. In such a dire situation, how could the problem be tackled?

In my opinion, President, the formulation of a population policy is most pressing. The Hong Kong Government should not adopt piecemeal policies to deal with problems on an ad hoc basis anymore. Instead, it should formulate a proactive and visionary population policy promptly to determine the way forward for our economy and how this population policy can tie in with our economic development before focusing on attracting the right talents. Besides, it should also put our case to the Mainland authorities, pointing out the impact of the babies born to parents who are both non-permanent residents as well as the daily quota of 150 on Hong Kong society.

Thank you, President.

**MR PAUL TSE** (in Cantonese): President, Hong Kong is a Chinese society and most of our citizens have accepted the standard and service of the Chinese medicine as an integral part of our medical system. However, there are still many people who think that only Western medicine is viable, especially those who have only received Western education and those who are prejudicial.

By the same token, many Hong Kong people are still very skeptical of the legal system of our country (the Mainland). You cannot blame them because, as a matter of fact, the Chinese legal system is comparatively young. When we flip through the newspapers every day, there are always some cases which make us shake our heads and heave a deep sigh. We will be thankful that we are living south of the Shenzhen River, being protected by the laws of Hong Kong. It does

not mean that there is no system under the national law, nor does it mean that Hong Kong's legal system is the only viable legal system.

President, the wordings of my amendment are most categorical. I have made my purpose and main theme very clear from the very beginning. My amendment suggests that we should only seek, in a timely and decisive manner, an interpretation of the relevant provisions of the Basic Law from the Standing Committee of the National People's Congress (NPCSC) on the premise that the relevant result is reviewed and the pros and cons are weighed when no better alternatives available.

President, my amendment will inevitably invite comments from many Honourable colleagues in this Council, especially those from the Civic Party. Meanwhile, two days ago, the Secretary for Justice reiterated at the Ceremonial Opening of the Legal Year that "the law is the law, come what may". I believe those solicitors and barristers, including myself, who respect the rule of law all know what it means. Nevertheless, there are some stages or levels where we cannot only focus on law alone.

President, I dare challenge the Department of Justice, the barristers of the Civic Party present here as well as all barristers and solicitors. Can you categorically state that, according to Article 158(1) of the Basic Law, the NPCSC cannot, at any time, interpret any of the provisions of the Basic Law? If there is such a stipulation, I will immediately sit down and even tender my resignation right away.

President, if the law clearly states that the NPCSC has the power of interpretation, it then is the law and we cannot say any such interpretation is against the law. In this respect, whether or not to use this method is simply a matter of politics and policy. In order to maintain the stability of Hong Kong and to dispel the worries of most people, particularly those from the legal sector, we should not and cannot seek an interpretation from the NPCSC as we wish. However, the road to seeking an interpretation is clearly laid down and is, therefore, lawful as well as constitutional. What we have to do is to spare some time and rack some brains. Of course, some Honourable colleagues, including Mr WONG Yuk-man, frequently said on the radio "Hong Kong People Reporter" that "those who think it necessary to seek an NPCSC interpretation 'do not know anything'". Article 158 of the Basic Law stipulates the conditions under which seeking an NPCSC interpretation is justified. For instance, if the Court of Final

Appeal comes across a case which relates to two types of affairs, namely "affairs which are the responsibility of the Central People's Government, or concerning the relationship between the Central Authorities and the Region", then final judgments can be delivered only after the Courts of Hong Kong have sought an NPCSC interpretation in accordance with Article 158(3) of the Basic Law. In that event, seeking an interpretation will then be the only way out. You are way out of focus!" I am quoting his words.

President, Article 158 of the Basic Law is clearly written and it is not my personal opinion. According to two unanimous decisions of the Court of Final Appeal, the NPCSC can at any time interpret any legal provisions pursuant to Article 158(1) of the Basic Law. "The law is the law, come what may". If we had allowed this provision to be clearly stipulated in the Basic Law in the first place, we would not have discriminated against the legal system of China. Seeking an interpretation from the NPCSC for cases undecided by the courts of Hong Kong then would not have been regarded as infringing upon the rule of law in Hong Kong. Would all barristers and solicitors as well as the Department of Justice come forth and clarify one thing: Do they admit that it is a current ordinance of Hong Kong? Whether we want to seek an interpretation from the NPCSC is a political issue rather than a legal one. Therefore, any interpretation by the NPCSC will not violate the laws of Hong Kong. Since we know that there is a political price to pay, we do not want to seek their interpretation as we like. I agree to the notion that this is not the path we should often choose, but I have to reiterate: please do not say anymore that seeking an interpretation from the NPCSC is infringing upon the rule of law in Hong Kong because it is not the case.

Let us take a look at the CHONG Fung-yuen case and the LIU Kong-yung case. I would like you, including the people of Hong Kong who are now watching me giving this speech, to take a look at the relevant provisions in law. I can provide them to you via fax, email or other means if you need or are not certain about the provisions. Of course, you may have to spend some time reading them.

President, on this major premise, it is no longer necessary to discuss whether it is an issue when we come across one like this. Nearly all colleagues have just thought it is an issue. I have even heard Mrs Regina IP talk about the advertisements in Shandong and Mr WONG Sing-chi's mention of the 10 advantages. All these are messages which have "crazily circulated" all over the Internet in the Mainland.

I happened to revisit an article written by Dr SONG Sio-chong. I certainly do not mean to scare people with figures and I absolutely have no such intention; it is just my highly reasonable assumption. The article said that China has a population of 1.4 billion people with 20 million new born babies each year. Suppose 1% of them are attracted by Hong Kong and come to this treasured land for delivery, we will have 200 000 births annually. What measure does Hong Kong have to cope with this problem?

Some colleagues did not agree with me, saying that the situation in the United States was irrelevant to CHONG Fung-yuen's case, but similar situations were found in many places in the United States. Hong Kong, being a very small place with extremely limited resources, definitely cannot compare with such places as the United States, Europe or Australia. Imagine we are on a ship with limited space sailing in rough sea and we happen to have to save people beyond the vessel's carrying capacity, so we may have to save selectively or the whole ship will capsize. It is the simplest truth. Of course, some may have a moral aura above them and talk nobly of what we ought to do. I heard Dr Margaret NG mention some reports. I also heard her discuss many ways on how we could improve. President, I agree with her, but the current problem is not there. Now is not the time to discuss how we should handle or choose new immigrants. What we are discussing is an imminent problem for Hong Kong. The problem is: besides seeking an NPCSC interpretation which we may have to pay a certain political price although it is, in my opinion, an absolutely legitimate course of action, is there any other better way to deal with it?

President, some say that we can consider such other administrative measures as interception, fees increase, imposition of charges, arrangement of appointments and even establishment of a quota system, and so on. If we place a precious stone on the table with insufficient people to guard against it or with people who fail to watch over it, we are definitely alluring law-breakers to try stealing or snatching it. Similarly, such lands of fine opportunity like Hong Kong ..... whether for the sake of saving those \$10 million, the education system and society or the law and order situation of Hong Kong and everything ..... we can grin like a Cheshire cat because we have all the attractions for tourists. However, it is no frolic if we at the same time attract pregnant women to come to Hong Kong for delivery. President, the liability is lifelong.

Mr James TO said just now that he was astonished and did not understand why the Government or the State had ever taken any action after the CHONG Fung-yuen case. I do not know either. Maybe the officials concerned can explain in due course. In fact, we have let the gate open without tackling it in a timely manner. Although it is very late, we can still mend the fold. We still have a little time left to consider our population policy so that we can screen new immigrants orderly, selectively and systematically instead of passively allowing people to come in from all other places. Or at least we hope that the new arrivals and foreign labour are skilled workers. In other words, we can have the right to screen and choose, rather than leaving this choice to other people due to historical reasons. Be it a problem of "doubly non-permanent resident pregnant women giving birth in Hong Kong" or be it an issue of foreign domestic helpers, we should always adopt an attitude of making firm and unremitting efforts.

President, land and people are the two most important parts of a country. No government in the world will ever take them "lightly". In retrospect, in the 1980s, the people of Hong Kong suddenly lost their right of abode in the United Kingdom despite Hong Kong having been a British colony for over 150 years. Who would discuss human rights with you then? We should take a firm attitude on these problems. If there are people who think that we should have a moral aura above us, they are nothing but hypocrites, pretending to have certain beliefs when they really do not. In the interest of Hong Kong and for the purpose of protecting ourselves and our next generation, we have no other choice. If someone has to sacrifice and act as a "villain" to advocate an interpretation of the Basic Law by the NPCSC, I am prepared to take the blame.

Thank you, President.

**MR TAM YIU-CHUNG** (in Cantonese): President, before the Court of Final Appeal (CFA) made its judgment on the CHONG Fung-yuen case, the late Chairman of the DAB, MA Lik, and a number of DAB members as well as myself had already pointed out that allowing "doubly non-permanent resident pregnant women" to give birth in Hong Kong and granting these children the right of abode (ROA) in Hong Kong was, in our view, not in line with the original legislative intent of Article 24 of the Basic Law in relation to the status of Hong Kong permanent residents; nor was it in line with the interpretation made by the

Standing Committee of the National People's Congress (NPCSC) on Article 24(2) of the Basic Law in 1999.

Besides, we also held that this would deal a heavy blow to Hong Kong in terms of healthcare, education, social welfare and housing. But much to our regret, the CFA did not heed these views when it made the judgment then and the CFA further stressed in the judgment that even if the Court judged that children born in Hong Kong to "doubly non-permanent resident pregnant women" would enjoy the ROA in Hong Kong, it would not pose any significant risk to Hong Kong given that only 1 991 children had been born in Hong Kong to these "doubly non-permanent resident pregnant women" from the day of reunification to 31 January 2001.

On the next day after the judgment was handed down, Members might have read from newspaper reports the comments made by Deputy Secretary-General of the NPCSC QIAO Xiao-yang who said that there were inconsistencies between the CFA judgment on this case and the interpretation made by the NPCSC on 26 June 1999. Deputy Secretary-General QIAO Xiao-yang had made just this point and given no further comment. In fact, he might have hinted to a certain extent that these problems would arise.

If we review the information at that time, we will find that Mr James TO of the Democratic Party and the barrister representing CHONG Fung-yuen, namely, barrister Gladys LI, who is a member of the Executive Committee of the Civic Party, also stressed at the time that the judgment would not lead to an influx of "doubly non-permanent resident pregnant women" to give birth in Hong Kong. However, a wave of "doubly non-permanent resident pregnant women" giving birth in Hong Kong did emerge in 2005 and has since caused great nuisances to the community of Hong Kong. But Ms Audrey EU and Mr Alan LEONG, who are in the Chamber now, pointed out at the time that this would not affect Hong Kong too greatly, adding that this could even alleviate the problem of population ageing in Hong Kong.

Members might not see much problem with the judgment back then but in recent years, we have all seen that the problem has become more and more serious. Has the Government also noticed it? Yes, the Government has noticed it, and it has introduced some measures accordingly, such as introducing a fee charging scheme to increase the fees, an appointment system, a quota system,

and so on. But these proposals have appeared to be increasingly less effective, because when a measure is adopted, they will take steps to counteract the Government's measure. As a result, the policies of the Government have become less and less effective even in alleviating the situation or delaying its deterioration.

In view of the concern expressed by the public recently, the DAB has made an effort to look into what feasible administrative measures can be adopted and put forward some proposals recently. But after we had made the proposals, some members of the legal profession said that these administrative measures would not work because these measures would become futile if judicial reviews were lodged. It is because once the CHONG Fung-yuen case is referred to in such judicial review, the administrative measures would collapse. We have kept thinking about what can be done then.

We have recently read that the Chairman of the Basic Law Institute, Alan HOO, Senior Counsel, holds that the problem of "doubly non-permanent resident pregnant women" giving birth in Hong Kong involves neither an interpretation of the Basic Law nor amendment to the Basic Law so long as the SAR Government will propose to the Central Authorities to de-classify the provisions on the ROA in an agreement reached in the Sino-British Joint Liaison Group in 1993, and reiterate that only those born in Hong Kong with a parent who is a Chinese citizen with the ROA in Hong Kong can enjoy the ROA in Hong Kong and announce that children born in Hong Kong to parents who are both non-permanent residents of Hong Kong will not be issued with an identity card. He believed that this can immediately curb the trend of Mainland pregnant women swarming to Hong Kong to give birth. He also pointed out that the dispute over the enjoyment of the ROA in Hong Kong by foreign domestic helpers can be clarified altogether once the provisions are de-classified. I have just cited from newspaper reports the views of Alan HOO, SC. Certainly, we often attach great importance to the views of barristers. If his proposal is feasible, we would welcome it, as he said that the problem could be resolved as long as the information can be de-classified.

That said, I heard Mrs Regina IP express the view earlier that this would still be useless, because even if such information is produced, the Court still may not look at it and this will make the information useless, just as we did state our views back then but as the Court did not take them into consideration, our views



were eventually rendered useless. In any case, since this is the view of a Senior Counsel, I hope that the Secretaries of Department and Directors of Bureau of the SAR Government who are in this Chamber now will give a response later or continuously look into the feasibility of this proposal as well as what follow-up actions can be taken.

The view of the DAB on the original motion and the amendments is that we broadly agree to the amendments proposed by Mr WONG Kwok-hing and Mr Paul TSE. As regards the amendments of Mr Albert HO and Mr Alan LEONG which propose to strive for or request the return of the power to vet and approve OWP applications, we consider that this will, in fact, involve the immigration policy relating to Mainland residents and what is more, as the power to vet and approve these applications rests with the relevant Mainland authorities, there is no question of striving for or asking for the return of such power. Furthermore, these proposals are clearly inconsistent with Article 22 of the Basic Law and the interpretation made by the NPCSC in 1999. For these reasons, the DAB will not support these two amendments.

**MS AUDREY EU** (in Cantonese): President, regarding the population policy that we are discussing today, I think it is full of paradoxes. The first paradox is that the former Chief Secretary for Administration, Henry TANG, said that there was a report on population policy in Hong Kong, but the former Convenor of the Executive Council, LEUNG Chun-ying, said that he had never seen any.

The second paradox is that many Members who have spoken today said that the Government does not have a long-term population policy. I wish to point out that Chief Executive Donald TSANG has said in the Policy Address recently that Hong Kong has a population policy and also a Steering Committee on Population Policy. In discussing the population policy in Hong Kong he said, "Hong Kong's fertility rate has remained low in the past two decades. It dropped to an historic low of 0.9 in 2003. Despite a moderate rebound to 1.1 in 2010, it is still far below the replacement level of 2.1 children per woman. Our population policy is to attract and nurture talent and improve the quality of our people to promote our development as a knowledge-based economy. It also seeks to achieve a balanced demographic structure to sustain Hong Kong's development. Given our ageing population and persistently low fertility rate, we can foresee that our workforce will shrink in just 10 years' time, which may

threaten our sustainable development." We, therefore, have to encourage parenthood (according to him). I think Members all have a pamphlet of the Mainland-Hong Kong Families Rights Association in which it is written that there is no hospital bed for giving birth to babies. Do Members not consider this ironic? On the one hand, the Chief Executive said that we have to encourage parenthood but on the other, so many people are telling us that there is a shortage of healthcare workers and a shortage of hospital beds and that they are very much worried about not even having a hospital bed for delivery. Whenever the population policy is brought up, people will invariably think of these paradoxes which have indeed left Hong Kong people caught between tears and laughter.

Moreover, another major paradox is that in their speeches today many Members have put the blame on the court's judgment on the CHONG Fung-yuen case and also on the lawyers, thinking that they should take all the blame for making all this happen. But let us look at what the Court should do. Article 24 of the Basic Law has made it very clear that there are six categories of permanent residents of the Hong Kong Special Administrative Region. The first category is: "Chinese residents born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region". Mainland residents are certainly Chinese residents, and for children born to them in Hong Kong, this article has explicitly provided that Chinese residents born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region are permanent residents of Hong Kong. Faced with this provision written in black and white, what can the Court do? Certainly, the Court made a judgment on the CHONG Fung-yuen case, and as Dr Margaret NG of the Civic Party pointed out in her speech earlier on, our colleague, Mrs Regina IP, who was the Secretary for Security then, did not put up any request for an interpretation of the Basic Law back then but 11 years later, she said all of a sudden that an interpretation of the Basic Law is in order.

Certainly, Members can say that they did not notice the problem back then and they can see it only now, and as times have changed, they now wish to amend this policy. We may do so, and there is a right way to do it and that is, making amendments to the Basic Law. An amendment of the Basic Law will not in any way reduce the solemnity of the law; nor will it deal a blow to the rule of law. The Constitution of our Motherland has been amended on several occasions and one of these amendments was made for the purpose of the formulation of the Basic Law and for conferring the authority on the SAR Government to implement

the Basic Law. Therefore, there has never been any problem with amendment of the Basic Law and it is also very much in line with the principle of the rule of law.

I remember that when I first joined the Legislative Council, Mr LEUNG Yiu-chung would propose a motion every year to discuss how the Basic Law should be amended. An amendment of the Basic Law is indeed a possible option but what makes it paradoxical is that "Grandpa" does not allow it. We, therefore, do not take the right path and can only take the wrong track, which is an interpretation of the Basic Law as suggested by Mr Paul TSE in his speech earlier on.

I would like to tell Mr Paul TSE clearly that we do not discriminate against the legal system of China; nor are we suggesting that the NPC does not have the right to interpret the Basic Law. But just as Mr TSE has said, an interpretation of the Basic Law is a political means. How will the Basic Law be interpreted? Non-existent things are interpreted as existent, and things that exist are interpreted as non-existent; or the white is interpreted as black, while the black is interpreted as white. Article 24 of the Basic Law has stipulated this most expressly and I have just read it out. But some people are arguing that the objective is only to explain the legislative intent, not that its amendment is required as the times have changed, or as things have changed. They argued that some concepts already exist in the first place and that although they are not expressly written, there are indeed these concepts. Things that do not exist are turned into existent, or things that do exist are turned into non-existent. This is dealing a blow to the rule of law.

If it is said that as the times have changed and our views have changed, Hong Kong can no longer cope with these developments and it is, therefore, necessary to propose some new procedures or measures. Fine. Everything can be amended. The Basic Law is no exception, for it can also be amended, and after all, an amendment of the Basic Law is part of the provisions of the Basic Law. Article 159 of the Basic Law provides that "the power of amendment of this law shall be vested in the National People's Congress" and it also provides for the procedures for making amendments. We can see that this can be done, but instead of taking the right path, we take the wrong track. An interpretation of the Basic Law is actually dealing a blow to the rule of law.

However, is it true that there is no other way than making amendments to the Basic Law? No, there are many administrative measures that can serve the purpose. Ms Starry LEE made many suggestions in her speech earlier. She said that we can ask the Mainland authorities not to allow these women to come to Hong Kong, and if they really want to come, they still have to return to the Mainland in the future because they, being Mainland residents, have to return to the Mainland and when they have returned, punitive measures will be taken against them, and the punishment can be a fine, or they can be banned from coming to Hong Kong again. So, there are many options that can be discussed. It is not the case that nothing much can be done.

Regarding the intermediaries, I agree that punishment can be imposed on them, and this is another way to stop the influx of these "doubly non-permanent resident pregnant women". As regards the vetting and approval of applications under the quota of 150 for OWPs, I certainly understand the point made by Mr TAM Yiu-chung earlier that the power of vetting and approval is not vested in Hong Kong, but even though such power is vested in the Motherland, the Motherland can authorize Hong Kong to vet and approve these applications. So, there are actually many options that we can choose to adopt, but Members are saying that these methods are not good and they are choosing the bad option of seeking an interpretation of the Basic Law.

Thank you, President.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): President, the first question is: What is a population policy? To me, I think most colleagues think that a population policy serves to obtain the human resources for economic development in the future. But they have failed to explain why children of "doubly non-permanent resident pregnant women" or children with one parent being a Hong Kong resident are born inferior. They have failed to explain this point. I think this Council has been completely stripped of its solemnity. If their argument could hold water, and had they been born about 80 years earlier, Paul Joseph GOEBBELS of the National Socialist German Workers' Party could have saved himself a lot of efforts. Because these colleagues cannot explain

why a person born in another place or whose parents' nationality is different from the place where he will become a citizen does not have the same level of intelligence.

In fact, to put it in a nutshell and as I have said long before, the quota of 150 for Mainland residents to come to Hong Kong should all be granted for family reunion purposes. The reason is simple, because family reunion is a most basic human right. If this quota of 150 is all granted for this purpose, it will first resolve a long unsettled case. This is also not in conflict with the point stated by many colleagues in this Council, that these people are not Hong Kong residents. However, the Government has not used the quota in this way; nor has it done anything, especially Secretary Stephen LAM — No, Chief Secretary Stephen LAM, could you please look at me. What did he say when he was the Secretary for Constitutional and Mainland Affairs? We asked him to visit those Hong Kong people who were arrested in the Mainland. He only responded that this would show disrespect to the Mainland and did not dare to bring it up. He is sitting in this Chamber today, and does he think that there is a problem with what is going on? He simply cannot solve this problem.

Second, the problem of children born in Hong Kong to parents who are both non-permanent residents of Hong Kong. This problem has obviously created a bottleneck. The first way to solve the bottleneck is that in any case, concerning babies to be born in the future, so long as one of the parents is a Hong Kong resident, it is necessary to solve the problem of them coming to Hong Kong to give birth. If the SAR Government cannot solve this problem, it has to be held accountable. What exactly are the difficulties involved? It does not say anything about the pressure created by "doubly non-permanent resident pregnant women" on hospital beds. Why are they not allowed to come? Why should the two be bundled up? He is the Chief Secretary, and he must give a response today. They can clearly be differentiated, so why is it not possible? Why can special measures not be adopted to make arrangements for these people? Instead, they are mixed together, thus creating these jam-packed conditions. This is the first area in which the Government is derelict of its duty.

Second, the population policy. If we say that the fertility rate is low and nobody is giving birth, where will the babies come from? Newborn babies born to these "doubly non-permanent resident pregnant women" or brought in by whatever means can actually be a supplementary source of population. If they

will live in Hong Kong after birth ..... which is basically unlikely, because their parents are both non-permanent residents of Hong Kong, how can they live here? They are more likely to come to Hong Kong for secondary education. The Government has to make plans for that. It has to make plans before they are stopped from coming. I do not understand why our colleagues can be so discerning as to think that these parents who are non-permanent residents of Hong Kong will leave their children behind in Hong Kong as if they are savages? This is impossible. Even for those single-parent families who have come to Hong Kong, the single mothers have cried all the time and used up all their savings, or they have to live on their children's Comprehensive Social Security Assistance payment after coming to Hong Kong. That is also very distressing.

So, what remains to be solved is the problem of these women giving birth in Hong Kong. First of all, efforts should be made to solve this problem, and everything else is just nonsense. What are we worried about the population of Hong Kong? We are worried about an insufficient birth rate. If people should give birth in Hong Kong and bring up their children in the Mainland until they are nine years old and if these children come to Hong Kong only then, at least Hong Kong does not have to provide support to them for nine years. But there is really a problem here. As a Chinese, I feel profoundly strange because with regard to the children of our compatriots, even though they are not Hong Kong residents, if they can obtain the right of abode and make contribution to the human resources of Hong Kong, why should they be ostracized by us? Why do we not welcome them? Why do not we allow them to integrate into our society from the angle of planning? Today, we have even put forward an opposite suggestion of not permitting these people to come to Hong Kong. Of course, we can ban them from coming to Hong Kong, but this is again the problem of the SAR Government. We have raised concern about the fertility rate of Hong Kong which will be on a low side and about having problems in our ability to support the elderly. But it is meaningless not to take actions to address the problems and just put the blame on the existing bottleneck.

Therefore, my conclusion is very simple. The Chief Secretary said that the SAR Government cannot discuss with the Mainland the quota of 150 and that it cannot make plans for "doubly non-permanent resident pregnant women" giving birth in Hong Kong, and it is only natural for confusion to arise as a result. But what does this have to do with the hearing in court? This is entirely a problem with the administration of the SAR Government. I would like to ask

the Chief Secretary whether or not he has a reply for us today. He has taken up the office of the Chief Secretary for several months now. Does he have a reply, and does he have plans today? It is just this simple.

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

**DR PAN PEY-CHYOU** (in Cantonese): President, the original motion moved by Mr Vincent FANG urges the authorities to review the population policy of Hong Kong. I think this is a most timely and important view.

Hong Kong is a small place where resources are lacking but the population is extremely dense. Without a reasonable and practicable population policy, it could really give rise to a huge disaster.

Having said that, after examining the contents of the original motion, I feel puzzled and compelled to get a few words off my chest. Although I have not finished preparing the script of my speech here, I do wish to say something. I very much respect Mr Vincent FANG, and I have no other meaning, just that I think I must clearly state my views on the motion.

First of all, the original motion pointed out that those people who have come to Hong Kong for settlement have not resolved the serious mismatch in the employment market of Hong Kong. The original motion particularly mentioned that the 150 new arrivals who come to Hong Kong on OWPs for family reunion daily rely on Comprehensive Social Security Assistance (CSSA) to support their living and that this has added to the burden of society and led to the ageing of population in Hong Kong.

As we all know, new arrivals from the Mainland must meet the seven-year residence requirement in order to be eligible the CSSA. It is true that among those new arrivals who come to Hong Kong for family reunion, some are older in age, and they may not all be young people. But after reading these views, I think I really must make a few points very clearly, for they have to do with principle. The principle is: Is our society, or this very place and city where we are living, meant for the "people", or are we, residents in this city, meant for this city and living for this city?

On this question, my answer is simple. I think this society or this city where we are living is definitely meant for the "people". By the same token, schools are meant for students, for education, and for nurturing students into talents. Students should not be meant for schools, or put it in other words, it is not because there are schools that students are admitted and made to adapt to the school system.

Let me cite another example. We travel on mass carriers every day, such as the railway system. I believe the mass carriers are clearly meant to cater for our living. We, being passengers, are not meant to cater for these mass carriers.

Let me come back to this quota of 150. The provision of this quota of 150 is to enable the family members of Hong Kong residents in the Mainland to reunite with their families in Hong Kong. Those Mainland residents who come to Hong Kong under this quota system are not unrelated to Hong Kong people. They are related to Hong Kong people by blood as they can be the spouses, parents, and children of Hong Kong people. True enough, their academic qualifications may vary, and their age, gender, and so on, may not really match the employment market in Hong Kong and so, there may be a mismatch. But should they be excluded by us because of such mismatch (as a result of they, for instance, being older in age and less well-educated or having qualifications that are not recognized in Hong Kong)? I think this is like "trimming the toes to fit the shoe" as described by Mr WONG Kwok-hing — He likes to draw an analogy with a foot: As the foot is too big for the shoe, the toes have to be chopped off. I think this is ridiculous.

I think those compatriots in the Mainland who come to Hong Kong for family reunion are family members of Hong Kong people once they arrived in Hong Kong disregarding their age, qualifications or ability. Society and the Government should help them settle in Hong Kong by all means, so as to enable them to adapt to the community of Hong Kong as soon as possible. We should actively understand their needs, their characteristics and the difficulties they have encountered after arrival, and identify ways to help them while providing them with opportunities to receive appropriate education and training for attaining qualifications recognized in Hong Kong, so that they can develop their talents to serve the public.



Therefore, I very much disagree with the view of the original motion that the daily quota of 150 for OWPs should be utilized for admitting talents who can meet the needs of the employment market of Hong Kong. Frankly speaking, this is tantamount to helping the bosses to import workers who are capable of making money for them.

Certainly, the quota of 150 is not fully utilized now. Many families with family members living separately in the Mainland and Hong Kong are caught in most miserable situations. We should consider their cases and strive for the opportunity to use the remaining quota on them on a discretionary basis, so that they can truly reunite with their families, thus reducing unnecessary tragedies.

I so submit.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr Vincent FANG, you may now speak on the five amendments.

**MR VINCENT FANG** (in Cantonese): President, I am very grateful to the five Members who have proposed amendments as well as the 28 Members who have spoken today. That Members have spoken with great enthusiasm is evident that they are very much concerned about the population policy of Hong Kong and agree that there is a pressing need to solve the problem.

However, in the amendments proposed by the four Members — Mr Albert HO, Mr IP Kwok-him, Mr WONG Kwok-hing and Mr Alan LEONG — emphasis is put on combating or preventing the problem and negotiating with the Mainland on the number of "doubly non-permanent resident pregnant women" giving birth in Hong Kong, in order to enable pregnant Hong Kong women, including the spouses of Hong Kong people, to access obstetric and gynaecology services in Hong Kong on a priority basis.

Nevertheless, we must not overlook the fact that we need to provide care services for the babies after birth. Recently, some people have already queried whether Hong Kong should provide free injection of all types of vaccines for these babies born to parents who are both non-permanent residents of Hong Kong. The ensuing services required will also include nurseries, primary schools, secondary schools, and so on. For each and every type of these services, can we take actions to combat or prevent the problem or hold negotiations only when there is an excess of demand over supply, just as what is done now in respect of the obstetric and gynaecology services? Let us not forget that these babies born to parents who are both non-permanent residents of Hong Kong are Hong Kong permanent residents and they are free to enter and leave Hong Kong.

Of the five amendments, only Mr Paul TSE's amendment is entirely consistent with the original intent of this motion proposed by me today. If the provisions that I have cited from the two documents in 1996 and 1999 are still inadequate to address the problem relating to the interpretation of the right of abode in Hong Kong in Article 24(2) of the Basic Law and if there is no other better alternative, the Liberal Party would fully support the SAR Government to seek an interpretation of the Basic Law by the Standing Committee of the National Peoples Congress in accordance with Article 158(1) of the Basic Law again.

If we do not address squarely the identity or status of these babies born to parents who are both non-permanent residents of Hong Kong but consider this to be just a shortage of the supply of healthcare services and hence call on the Government to increase the provision of services in maternity wards or adjust the quota for entry of "doubly non-permanent resident pregnant women" from the Mainland, I think this has perhaps over-simplified the problem.

Yesterday, there was a full-page press report about the influx of children born to Mainland parents to kindergartens in North District where there are not sufficient places for them. Over the past decade, Hong Kong has kept on scrapping schools and reducing the places of the Hong Kong Institute of Education. How should we make plans for providing education to these more than 100 000 children or youngsters born to non-Hong Kong residents who will be coming to Hong Kong at an uncertain time in the future?

Disregarding whether the amendments have the same original intent as that of my motion, we all agree that Hong Kong can no longer shoulder the burden created by "doubly non-permanent resident pregnant women" giving birth in Hong Kong. I, therefore, hope that the Government can make a response promptly. As regards the quota of 150 OWPs, I think some colleagues did not listen to my remarks earlier on. I said that the remaining quota should be used for importing professional talents — I mean the remaining ones, and if there is none remaining, nothing would need to be done. If the power to vet and approve applications for OWPs has to be returned to Hong Kong, it would require an amendment of the Basic Law. We, therefore, do not support this proposal. Having said that, we do not oppose any initiative to strive for it.

Therefore, the Liberal Party supports all the amendments. We hope that this Council can work in concert to promote the formulation of an appropriate population policy by the SAR Government, in order to resolve the dilemma now faced by Hong Kong.

I so submit. Thank you, President.

**SECRETARY FOR SECURITY** (in Cantonese): President, I will make a response in respect of the One Way Permit (OWP) Scheme first.

As I pointed out in my opening speech, the OWP Scheme is implemented, subject to approval by the Mainland authorities, to facilitate the reunion of Mainland residents with their families in Hong Kong in an orderly manner.

Some Members have mentioned that the daily OWP quota of 150 places is not fully utilized at present. I do not subscribe to this viewpoint. As a matter of fact, the SAR Government keeps reflecting the views of various sectors in the community to the relevant Mainland authorities, and the latter have from time to time adjusted and refined the OWP Scheme, including restrictions on accompanying children and arrangements for overage children as mentioned earlier. I am not going to repeat them here.

Some Members proposed that the utilization of OWP quotas should be adjusted having regard to the needs of the local employment market. I wish to reiterate that the policy objective of the OWP Scheme aims at facilitating family

reunion rather than importing labour. In fact, the SAR Government has a number of talent admission schemes currently in place, such as the General Employment Policy, the Admission Scheme for Mainland Talents and Professionals, the Immigration Arrangements for Non-local Graduates and the Quality Migrant Admission Scheme, to attract foreign and mainland talents with expertise, skill, knowledge and experience to Hong Kong for living, settlement and work. In 2011 alone, nearly 45 000 applicants came to Hong Kong under the schemes mentioned. I have to point out that most of these schemes, with the Immigration Department exercising vetting and approval, do not impose any restrictions on trade or quota. As such, there is no need for us to change the OWP Scheme to attract talents or other professionals needed by us.

Some Members have also proposed that the Hong Kong Special Administrative Region (SAR) should take part in the vetting and approval of OWPs. I have to point out that the application, approval and issue of OWPs are within the remit of the Mainland authorities. With the policy objective of facilitating family reunion, the Mainland authorities have formulated open and highly transparent criteria for assessing applications under the OWP Scheme. Therefore, intervention measures, such as administrative screening, should not be included in the vetting and approval process. Certainly, the SAR Government will take complementary measures, such as issuing Certificates of Entitlement to children of Hong Kong permanent residents and offering necessary assistance to verify the validity of information involving Hong Kong residents on a case by case basis. We consider it unnecessary to change the existing OWP Scheme, and the SAR Government does not see any justification or need to intervene in the vetting and approval of OWPs by the Mainland authorities.

Some Members have mentioned the situation of Mainland single mothers. I am aware of the views of Members and social groups regarding cases of Mainland single mothers, such as the aspiration for the issue of OWPs to them. I also fully understand and am concerned about cases with special family difficulties. As a matter of fact, we maintain communication with the Mainland authorities in respect of the overall OWP policy, as well as reflecting to them views of various sectors and groups in Hong Kong. Moreover, we have been reflecting to the Mainland Exit and Entry Administration Offices individual cases with special family difficulties (including those cases of single mothers) and providing information on the special circumstances and background of these cases. The Mainland authorities have exercised discretion and issued OWPs or

"one-year multiple exit endorsements for visiting relatives" to some of these applicants (including single mothers).

According to the Basic Law, the OWP Scheme falls within the remit of the Mainland authorities after all. However, the SAR Government will maintain communication with the relevant Mainland authorities and reflect to them on a case by case basis, so as to assist those with special family difficulties. Broadly speaking, the SAR Government agrees that we should enhance the existing arrangements on discretion as far as possible, so that Mainland single mothers with special family difficulties can come to Hong Kong to take care of their children under the age of 18 on "one-year multiple exit endorsement for visiting relatives".

However, we are aware of some concerns raised in society that once Mainland single mothers with children under the age of 18 in Hong Kong are included in the OWP Scheme at the policy level, these Mainland parents may strive for OWPs on the ground of taking care of their children born in Hong Kong, which will in turn further encourage Mainland pregnant women to give birth here. We should therefore consider these problems prudently. Anyway, at the policy level, the SAR Government will, having regard to views of Members and the overall interest of Hong Kong economy, continue to exchange views with the relevant Mainland authorities in respect of the overall policy on OWP.

I noted a point made by Prof Patrick LAU early, namely whether some torture claimants currently staying in Hong Kong should be allowed to work here, so as to alleviate the shortage of labour in Hong Kong. I think we should consider this proposal with great caution, and I personally have some reservation about it. At present, there are some 6 000 torture claimants in Hong Kong. If we allow them to work in Hong Kong so rashly, it will only encourage the influx of these non-local people to abuse the torture claim system in Hong Kong.

President, I so submit.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, first of all, I would like to thank Members for giving so many valuable suggestions and views on the obstetric services of Hong Kong during the discussion earlier.

The Government is determined to provide local women with quality and priority access to obstetric services. Under no circumstances should the medical services for local pregnant women be affected. At the same time, we must ensure that the professional standards of our obstetric services are maintained for the sustainable development of obstetric and paediatric services in Hong Kong, and strictly abide by the code of ethics of healthcare professionals. The Government, after deliberations with the Hospital Authority (HA), Department of Health, 10 private hospitals that provide obstetric services and professional groups of obstetrics and paediatrics in the middle of last year, decided to implement a series of measures to control the situation of non-local women using the obstetric services in Hong Kong and ease the pressure on the obstetric and paediatric services in Hong Kong as a whole.

Firstly, we have capped the number of non-local pregnant women giving birth in Hong Kong at 35 000 for 2012, of which the quota for booking obstetric services at public hospitals by non-local pregnant women will be slashed from 9 800 in 2010 to about 3 400 in 2012. Once the quota is filled or should there be any need to reserve additional capacity to meet the increasing demand for obstetric services by local women, the HA will further adjust the quota for non-local pregnant women or suspend taking new bookings.

Also, the HA will continue to allocate more resources to enhancing the services of the neonatal intensive care unit (NICU). To cope with the current and future demands, earlier on, the HA has increased the number of NICU beds from 85 to 100, and it intends to further increase the number of such beds to 110 this year. The healthcare manpower for obstetric services will be beefed up progressively. From this year onwards, the number of places of midwifery training will be increased from 80 to 100.

As for private hospitals, the 10 private hospitals offering obstetric services have agreed to suspend expanding their obstetric services in the short run, and they will, in the light of their respective situation and capacity, take less bookings for delivery services by non-local pregnant women in 2012 to ensure that adequate obstetric services will be provided to local pregnant women. In general, for 2012, the total quota for non-local pregnant women to give birth in private hospitals has been fixed at about 31 000, being 7% lower than that of 2011. In addition, some private hospitals will further improve their special care

services for newborns in the hope of reducing the number of cases that need to be referred to public hospitals for follow-up.

Secondly, we will require non-local pregnant women who plan to give birth in Hong Kong to receive check-ups by obstetric doctors in Hong Kong at an appropriate stage of pregnancy. The Hong Kong College of Obstetricians and Gynaecologists revised the guideline on the relevant examination in September 2011 to help obstetric doctors conduct check-ups for non-local pregnant women. Those non-local pregnant women classified as high-risk cases may be declined entry into Hong Kong for the purpose of giving birth so as to avoid additional risks due to the toil of travelling.

Thirdly, the Department of Health has standardized the confirmation certificate on delivery booking for both public and private hospitals since late September 2011 to facilitate the authorities in conducting arrival checking of non-local pregnant women and trace their records of antenatal check-ups, if any, at the border control points. The Immigration Department will continue to support the implementation of government policies by strengthening arrival control. To this end, it will enhance communication and co-operation with Mainland authorities, and adopt feasible and effective measures to keep the gate strictly. The Department will maintain effective immigration control, ensure the safety of pregnant women and cautiously handle their entry applications based on government policies.

In respect of the issue of intermediaries as mentioned by some Members, if obstetric doctors and intermediaries make profits in an improper or unprofessional way with no regard to the safety of the pregnant women and their fetus, such as issuing certificates for in-patient service for non-local pregnant women who have not received antenatal check-ups in Hong Kong, altering the expected date of confinement and conducting early caesarean birth simply to tie in with the availability of beds in hospitals, the doctors concerned may be subject to disciplinary action for breaching the Professional Code and Conduct for the Guidance of Registered Medical Practitioners established by the Medical Council of Hong Kong. The private hospitals concerned should also terminate their co-operation with these doctors and cease to allow them to provide obstetric services to pregnant women through the hospitals. As far as we know, none of the private hospitals in Hong Kong has any form of co-operation with the intermediaries that arrange for Mainland pregnant women to give birth in Hong

Kong, though the Department of Health, as the regulatory authority of private hospitals, will continue to monitor the situation closely. The Government will implement all necessary measures and communicate with the relevant authorities to combat any illegal activities by the intermediaries.

We believe the said measures can effectively control the number of non-local pregnant women giving birth in Hong Kong in 2012. We will keep a close watch on the implementation of the above measures and continue to ensure that the principle of giving local pregnant women priority access to obstetric services will be adhered in determining the quota for 2013.

Apart from proactively controlling the number of non-local pregnant women giving birth in Hong Kong, we should also address the demand for long-term medical, education and social services of the children born of non-local women in Hong Kong. The Steering Committee on Population Policy chaired by the Chief Secretary for Administration will study the trend and intent in connection with these children's resettlement in Hong Kong for the planning of relevant services. On healthcare services, the HA will co-operate with the departments concerned in collecting and analysing relevant statistics, so that these children's demand for services will be taken into account in the planning of services in future.

Thank you, President.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I thank Members for their valuable opinions on the population policy of Hong Kong. Members' speeches have touched upon extensive issues related to the population. We will study and respond to their views respectively.

President, I disagree with many Members' view that Hong Kong has no long-term population policy in place.

A clear objective has all along been set for the HKSAR Government's population policy — to attract and nurture talent, and improve the quality of our people so as to promote Hong Kong's development as a knowledge-based economy. For this reason, our population policy should focus on upgrading the



overall quality of our population in the hope of realizing the aspiration to develop Hong Kong into a knowledge-based economy and world-class city.

We have precise understanding of the structural changes of Hong Kong's population and the challenges brought about by them. The Census and Statistics Department (C&SD) compiles a HK Population Projections roughly biennially, which details the projected population of various age groups in the next three decades. In 2010, the C&SD released the HK Population Projections 2010-2039 which contains the projected population of various age groups and the figures about which Members are greatly concerned — the projected number of babies born of Mainland women in Hong Kong who may possibly return to Hong Kong in future. According to the projections, Hong Kong is going to face an ageing population due to the persistently low fertility rate and the increasing life expectancy of our population. The population of those aged 65 and above is projected to surge from the current level of around 0.9 million to 2.1 million by 2030, and it is projected that elderly people aged 65 and above would account for one fourth of Hong Kong's total population by that time. We anticipate that the challenges arising from our ageing population will be the most pressing demographic issue that we have to address. The projection that our workforce will shrink in 10 years' time is likely to impact the sustainable development of our economy in some measure. At the same time, the sharp rise in elderly population will bring about considerable challenges to our services and support for the elderly, public healthcare, social security, and so on.

Members are also keenly concerned about the issue of Mainland pregnant women giving birth in Hong Kong, as well as the possible burden that these babies will cause to Hong Kong in various aspects such as education, social welfare, healthcare, housing and employment.

The babies born in Hong Kong of Mainland women are Hong Kong permanent residents, and they may return to Hong Kong in future for schooling and settlement purposes. To assess the future implications of these babies, in the 2010-2011 Policy Address, the Chief Executive asked the Steering Committee on Population Policy (Steering Committee) to focus on two topics, one of which being the ramifications of children born in Hong Kong of Mainland women returning to study and live in Hong Kong. The review conducted by the Steering Committee in this respect has made progress. The 2011-2012 Policy

Address has reported on the initial results of the review and proposed various measures in response.

Regarding the issue of Mainland women giving birth in Hong Kong, as I pointed out in my opening speech, our basic principle is that we must give Hong Kong residents priority access to our healthcare services. Nonetheless, given that the children born in Hong Kong of Mainland women would very likely become a source of new blood for our population and may be conducive to our human resources development in the long run, we should look at them as a positive force and keep an eye on when they will return to Hong Kong for settlement and schooling.

The C&SD's projected statistics on the return of Type I and Type II babies to Hong Kong in the future contained in the HK Population Projections 2010-2039 can be a source of reference for various Policy Bureaux and departments for their planning in such areas as education, housing, transport, social services and healthcare services.

However, parents' intentions may somehow change due to personal or family reasons, or in tandem with the economic development of Hong Kong and the Mainland. Therefore, in respect of the number of Type II children coming to Hong Kong for settlement or schooling, we will keep on monitoring the trend. We will consider the latest situation in our future population projections, and adjust the work of our projection mechanism through the Steering Committee as necessary.

The Education Bureau will keep a close watch on the projections related to the return of Type II babies to Hong Kong. Moreover, it will adopt measures such as setting up more classrooms in existing schools or reusing suitable vacant school premises to increase the supply of school places.

Mr CHEUNG Kwok-che particularly mentioned the issue of population ageing. Retirement protection is an issue of great concern indeed.

Hong Kong's retirement protection system is underpinned by three pillars, namely, the non-contributory social security system, the Mandatory Provident Fund System and voluntary personal savings. In recent years, there have been plenty of discussions on retirement protection in society, and the public is

particularly concerned about whether the Mandatory Provident Fund can support the post-retirement lives of the elderly in the future. In our view, the three pillars of Hong Kong's retirement protection system should be reviewed as a whole rather than focusing on any single pillar, since we clearly understand that any one of the three pillars is inadequate to support the entire society.

Apart from the three pillars, a range of social welfare and services provided by the Government, including public healthcare services, housing, community support, long-term care services, financial support, and so on, also play a key part in the post-retirement lives of the elderly.

As a matter of fact, given the persistently increasing life expectancy of Hong Kong people, Hong Kong is one of the few places in the world where their people have long life expectancy. This is an achievement gained after years of collectively efforts. And it has much to do with our comprehensive and effective public healthcare system and social welfare and security, as well as the culture of family care and mutual support in the neighbourhood nurtured in our society.

Mr Albert HO proposed the establishment of an "old age population fund" with funding from the Exchange Fund to finance the public expenditure related to population ageing. Population ageing will indeed increase the expenditures on the provision of elderly and public medical services in the future. In the management of public finance, we should strictly adhere to the principle of financial prudence and keeping expenditure within the limits of revenues to avoid creating a financial burden that may exceed the affordability of the future government. The reforms promoted by us in individual policy areas can help control expenditure in the long run and proactively prepare for population ageing in future. For instance, we will promote reform of healthcare financing, by which the pressure to increase public medical expenditure may be alleviated depending on the reform option eventually approved by our society.

In respect of financial management, we consider maintaining a multi-purpose fiscal reserve the best solution, for it can cope with various social needs (including the fiscal pressure created by population ageing) that may possibly arise in the short, medium and long terms, and can provide greater flexibility and achieve higher efficiency.

As for the Exchange Fund, the Exchange Fund Ordinance stipulates that the Exchange Fund was established to fulfill its statutory purpose of regulating the exchange value of Hong Kong dollar while maintaining the stability and integrity of the monetary and financial systems of Hong Kong and maintaining Hong Kong as an international financial centre. This primary purpose of the Exchange Fund is already stated in Article 113 of the Basic Law.

Under the mechanism established pursuant to the Exchange Fund Ordinance, though the Financial Secretary enjoys a certain degree of flexibility in handling the accrued surplus of the Exchange Fund, the SAR Government still has the obligation to act prudently. Any of our moves to use these funds must not waver public confidence in our ability to maintain the stability and integrity of the monetary and financial systems of Hong Kong, or weaken our strength to survive the fallout of economic downturn or volatility in financial markets.

President, in fact clear objectives have been set for Hong Kong's population policy, according to which various Policy Bureaux are largely capable to develop and implement various policies that are conducive to Hong Kong within their respective portfolios. Hence we will continue to make efforts and work on the population policy which is compatible with the development of Hong Kong in several directions.

First of all, I would like to respond to a number of Members' comments on the relationship between our population policy and the Basic Law, and whether the population policy of Hong Kong is effective. I consider the population policy formulated over the years effective. For example, now we have absorbed many talents and professionals of sound quality indeed. If we take a look at our policies on the Admission Scheme for Mainland Talents and Professionals and the General Labour Importation Scheme, we will find that the number of total applicants admitted under both schemes was over 32 000 in 2007, and the figure rose to 39 000 in 2011. The Quality Migrant Admission Scheme has received more than 2 000 applications so far.

Regarding the babies born of Mainland pregnant women, an issue of great concern to Members, if we take a look at the background of Type II babies, we will find that 60% of their parents have attained tertiary level of education. On the occupation of these parents, over 70% of their fathers and over 30% of their mothers are managers, executives and professionals, and the families of those

babies have a monthly household income of over \$40,000. Either the admission schemes for talents or the family background of the babies born of Mainland pregnant women in Hong Kong shows that this is a pool of quality people, therefore we cannot say that our existing population policy is ineffective. Conversely, given that Mainland pregnant women giving birth in Hong Kong has become an issue of public concern, we should now keep an eye on that and try to stabilize the situation.

Mr Alan LEONG particularly questioned whether this is a policy issue or a legal issue. Certainly some administrative measures can be adopted to address the issue of Mainland pregnant women giving birth in Hong Kong, but this is indeed a legal issue. Mr Alan LEONG compared this issue with that of Chinese mothers giving birth in the United States, but I find this comparison inappropriate, since the problem originated from the CHONG Fung-yuen case which is the primary cause. Without the judgment on the CHONG Fung-yuen case, even if these Mainland pregnant women came to Hong Kong to deliver their babies, their babies would by no means become Hong Kong permanent residents. Without the CHONG Fung-yuen case, the 40 000 babies born of Mainland mothers in Hong Kong should by no means gain the status of permanent resident. However, even if there is no judgment on the CHONG Fung-yuen case, we still have CEPA and 42 million tourists visiting Hong Kong annually, of which two thirds are visitors from the Mainland. Hence insofar as this issue is concerned, we should realize that the issue originated from the judgment made by the Court of Final Appeal back then.

Mrs Regina IP's speech specially questioned whether the SAR Government and the Chief Executive are concerned about this issue. We are very concerned indeed. For this reason, the Chief Executive put forth some measures and proposals to the Central Government during his recent report of work. We will not casually seek an interpretation of the Basic Law for the sake of resolving certain issues. Under the current circumstance, we would still rely on administrative measures to stabilize and contain the situation by all means. For example, we and the relevant Central Authorities will make joint efforts to intercept the one-stop-shop arrangement in question. Generally speaking, if one day these children return to Hong Kong for settlement and schooling, we hope we can bring the best out of this new force in our population. This is my first point.

Secondly, the quality of our population is indeed very important to the economic development of Hong Kong. In particular, given that Hong Kong is in the process of transforming into a knowledge-based economy and developing its service industries, upgrading the quality of our population is of the utmost importance. Hence, we will review from time to time the various measures that we have implemented over the years such as the Admission Scheme for Mainland Talents and Professionals and the Quality Migrant Admission Scheme, and optimize these schemes when necessary in order to attract more quality talents from different parts of the world, including the Mainland, to work in Hong Kong.

Thirdly, we will continue to review the balance between demand and supply of our manpower. Manpower is a very important resource to Hong Kong, and so abundant quality human resources are crucial to Hong Kong in maintaining its economic growth and competitiveness in the long run. We will project the manpower demand and supply of various industries and conduct certain assessments on the trades.

Fourthly, facing a rapidly ageing population, we will assess the implications of this trend on the demand for healthcare and elderly services, and put forth suitable policy proposals when necessary. As Members may be aware, in the last few years, Secretary Dr York CHOW has remained keenly concerned about how our medical services should be reformed to cope with our ageing population and in what ways we should enhance the services in this respect as well as other long-term care services in the future.

In general, President, over the last ten-odd months, the Steering Committee has put forth initial proposals and explained the Government's policy stand with respect to the issues of elderly people retiring in the Mainland and Mainland pregnant women giving birth in Hong Kong. Nonetheless, population policy is an issue of extensive coverage, and I have only mentioned a few significant topics just now. I hope that the Government of this term would propose within its remaining term of office various policy directions on these issues for reference by the next term of Government. Thank you.

**PRESIDENT** (in Cantonese): Mr Albert HO, you may now move your amendment.

**MR ALBERT HO** (in Cantonese): President, I move that the amendment under my name be passed.

**Mr Albert HO moved the following amendment: (Translation)**

"To add "in the face of the increasingly pressing challenge presented by the problem of population ageing, the Government has not formulated any social policies to cope with the resultant significant increase in expenditure on healthcare, elderly care and retirement protection, etc.; besides, in the face of mainland people's property investments, pursuit of studies, as well as seeking of employment and medical treatment in Hong Kong, the Government has not adopted any effective measures to ensure that the resources enjoyed by Hong Kong people in respect of education, healthcare and housing will not be undermined;" after "That,"; to delete "to resolve the serious mismatch in the employment market" after "utilized"; to delete ", but has instead drastically increased Hong Kong's burden in respect of the Comprehensive Social Security Allowance ('CSSA') and coping with population ageing" after "into Hong Kong"; to delete "CSSA" after "education, housing and" and substitute with "the Comprehensive Social Security Allowance"; to add "adopt measures to deal with the problem of excessive demand for obstetric services arising from large numbers of mainland pregnant women giving birth in Hong Kong, reduce the quota for mainland pregnant women to give birth in Hong Kong, and specify that public hospitals must care for local residents and spouses of Hong Kong people on a priority basis;" after "birth in Hong Kong"; to delete "ages, academic qualifications, skills and employment situation after coming to Hong Kong, as well as the ratio of their applications for CSSA, etc." after "applicants" and substitute with "various backgrounds and living conditions, etc., strive for the vetting and approval of such one-way permit applications by the Hong Kong authorities"; to delete "and" after "Kong's employment market"; and to add "; and (d) formulate a medium-term public finances strategy for the next 10 years, project the impact of population ageing on taxation and the expenditure pattern of public finance, and allocate funding from the fiscal surplus to set up an 'old age population fund', followed by an annual capital injection from the accumulated surplus of the Exchange Fund, so as to cope with future drastic increases in public expenditure arising from population ageing" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert HO to Mr Vincent FANG'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 five minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Mr Paul CHAN, have you cast your vote?

(Mr Paul CHAN pressed the button to cast his 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, Mr Vincent FANG, Mr Paul CHAN, Mr CHEUNG Kwok-che and Mr Paul TSE voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN voted for the amendment.

Mr LEUNG Yiu-chung and Mrs Regina IP voted against the amendment.

Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE and Mr WONG Kwok-kin abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, seven were in favour of the amendment and 12 abstained; while among the Members returned by geographical constituencies through direct elections, 22 were present, 14 were in favour of the amendment, two against it and five abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**MS MIRIAM LAU** (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Reviewing the population policy" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Reviewing the population policy" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him, you may move your amendment.

**MR IP KWOK-HIM** (in Cantonese): President, I move that Mr Vincent FANG's motion be amended.

**Mr IP Kwok-him moved the following amendment: (Translation)**

"To add "since the release of the Report of the Task Force on Population Policy in 2003, the Government has never announced any new report on the population policy, and in recent years," after "That,"; to add ", especially those whose spouses are non-permanent residents of Hong Kong (commonly known as 'doubly non-permanent resident pregnant women')," after "of mainland pregnant women giving birth in Hong Kong"; to delete "to resolve the serious mismatch in the employment market" after "utilized"; to delete "and bringing young labour into Hong Kong, but has instead drastically increased Hong Kong's burden in respect of the Comprehensive Social Security Allowance ('CSSA') and coping with population ageing" after "fostering family reunion"; to add "face up to the problem of 'doubly non-permanent resident pregnant women' giving birth in Hong Kong, and formulate effective and immediate corresponding measures, including adjusting the entry control policy, combating illegal acts involving mainland pregnant women giving birth in Hong Kong, controlling the number of 'doubly non-permanent resident pregnant women' giving birth in Hong Kong, and enhancing the management of obstetric and gynaecology services in the public and private sectors; (b)" after "(a)"; to delete the original "(b)" and substitute with "(c)"; to delete "rate" after "current utilization"; to delete "successful applicants' ages, academic qualifications, skills and employment situation after coming to Hong Kong, as well as the ratio of their applications for CSSA, etc., and, where necessary, adjust the utilization of the quota of 150 having regard to the actual circumstances and needs of Hong Kong's employment market; and" after "150 which mainly aims at facilitating mainland residents' settlement in Hong Kong for family reunion," and substitute with "and having regard to the outcome and actual local circumstances, discuss with the Mainland on adjusting the utilization of the quota of 150; (d) review the various existing schemes for attracting talents and

investment migrants as well as importing labour, and on the premise of protecting Hong Kong residents' priority in employment, supplement the local workforce having regard to the actual circumstances and needs of the Hong Kong employment market as well as attract more talents and capitals to Hong Kong, so as to dovetail with local economic development; and"; and to delete the original "(c)" and substitute with "(e)"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr IP Kwok-him to Mr Vincent FANG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Ms Miriam LAU, Mr Abraham SHEK, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted for the amendment.

Dr Margaret NG and Mr CHEUNG Man-kwong voted against the amendment.

Mr CHEUNG Kwok-che abstained.

Geographical Constituencies:

Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr WONG Kwok-kin and Mrs Regina IP voted for the amendment.

Mr Albert HO, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN voted against the amendment.

Mr LEE Cheuk-yan and Ms Cyd HO abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, 16 were in favour of the amendment, two against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 22 were present, six were in favour of the amendment, 13 against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing, you may move your amendment.

**MR WONG KWOK-HING** (in Cantonese): President, I move that Mr Vincent FANG's motion be amended.

**Mr WONG Kwok-hing moved the following amendment: (Translation)**

"To add "given that" after "That,"; to add "whose spouses are non-Hong Kong residents" after "of mainland pregnant women giving birth in Hong Kong"; to delete "to resolve the serious mismatch in the employment market and fails to" after "utilized" and substitute with ", resulting in the failure to fully"; to delete "drastically increased Hong Kong's burden in respect of the Comprehensive Social Security Allowance ('CSSA') and coping with population ageing" after "instead" and substitute with "increased Hong Kong's social burden"; to delete "problems" after "review the current" and substitute with "implications"; to delete "CSSA" after "education, housing and" and substitute with "the Comprehensive Social Security Allowance ('CSSA')"; to add "mainland pregnant women whose spouses are non-Hong Kong residents to give birth in Hong Kong, or allow" after "to allow"; to add "and examine the problem of punitive charges, etc, for mainland pregnant women giving birth in Hong Kong whose spouses are Hong Kong residents; (b) proactively consider making reference to the arrangement and method adopted by the Macao SAR Government for resolving the problem relating to its residents' overage children on the Mainland, and, with family reunion as the primary objective, expeditiously allow overage children to use the one-way permit quota in an orderly manner, so as to completely resolve the historical problem of Hong Kong residents' children on the Mainland coming to Hong Kong for family reunion, and at the same time avoid a sudden and drastic increase in the Hong Kong population; (c) proactively consider discussing with the exit and entry control departments of the Mainland on further enhancing the transparency of the applications for one-way permits, including expeditiously announcing a timetable for the phased acceptance of overage children's applications for settling in Hong Kong and the queuing order of the applications, so as to enable applicants to know as early as possible the information, quantity, progress, and categories, etc., regarding mainland residents applying for one-way

permits to come to Hong Kong, thereby allowing Hong Kong society to make a more comprehensive assessment and projection in its discussions on the population policy and relevant measures;" after "abode in Hong Kong;"; to delete the original "(b)" and substitute with "(d)"; to delete "and, where necessary, adjust the utilization of the quota of 150 having regard to the actual circumstances and needs of Hong Kong's employment market" after "for CSSA, etc.," and substitute with "so as to provide these new arrivals with more appropriate support and services in various aspects such as daily living, adaptation and vocational training, etc., and help them integrate into society expeditiously, and at the same time serve as reference for formulating long-term population and social policies"; and to delete the original "(c)" and substitute with "(e)".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Kwok-hing to Mr Vincent FANG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Ms Miriam LAU, Mr Abraham SHEK, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted for the amendment.

Dr Margaret NG and Mr CHEUNG Man-kwong voted against the amendment.

Mr CHEUNG Kwok-che abstained.

Geographical Constituencies:

Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr WONG Kwok-kin and Mrs Regina IP voted for the amendment.

Mr Albert HO, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN voted against the amendment.

Mr LEE Cheuk-yan and Ms Cyd HO abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.



THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, 16 were in favour of the amendment, two against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 22 were present, six were in favour of the amendment, 13 against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr Paul TSE, you may move your amendment.

**MR PAUL TSE** (in Cantonese): President, I move that Mr Vincent FANG's motion be amended.

**Mr Paul TSE moved the following amendment: (Translation)**

"To add "given that" after "That,"; and to add "; and, based on the outcome of the above review, after weighing the pros and cons and in case of no better alternatives, seek in a decisive and timely manner interpretation of the Basic Law by the Standing Committee of the National People's Congress in accordance with the first paragraph of Article 158 of the Basic Law regarding the right of abode issue of the aforesaid babies born in Hong Kong" after "abode in Hong Kong"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Paul TSE to Mr Vincent FANG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Ms Miriam LAU, Mr Abraham SHEK, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Kwok-him and Mr Paul TSE voted for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted against the amendment.

Mr Paul CHAN, Mr IP Wai-ming and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE and Mrs Regina IP voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN voted against the amendment.

Mr WONG Kwok-hing and Mr WONG Kwok-kin abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, 13 were in favour of the amendment, three against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 22 were present, four were in favour of the amendment, 15 against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

**PRESIDENT** (in Cantonese): Mr Alan LEONG, you may move your amendment.

**MR ALAN LEONG** (in Cantonese): President, I move that Mr Vincent FANG's motion be amended.

**Mr Alan LEONG moved the following amendment: (Translation)**

"To delete "," after "That" and substitute with "all along the SAR Government lacks a strategy specifically for co-ordinating population development, making it at a loss what to do with the sudden population increase;"; to delete "constitutes" after "of mainland pregnant women giving birth in Hong Kong" and substitute with "whose husbands are also non-Hong Kong residents causes"; to delete ", leading to" after "planning" and substitute with "and only"; to delete "to deal with" after "piecemeal policies" and substitute with "are adopted to respond to"; to delete "Hong

Kong's burden in respect of the Comprehensive Social Security Allowance ('CSSA') and" after "increased" and substitute with "the uncertainties of Hong Kong's capacity in formulating various relevant policies and the burden of"; to delete "four major" after "problems in the"; to add "healthcare," after "areas of"; to delete "CSSA" after "education, housing and" and substitute with "the Comprehensive Social Security Allowance ('CSSA')"; to delete "; make reference to the population policies of developed countries for reviewing whether Hong Kong should continue to allow babies born in Hong Kong to parents who are both non-permanent residents of Hong Kong to enjoy the right of abode in Hong Kong" after "from mainland pregnant women giving birth in Hong Kong" and substitute with ", and negotiate with the Central Government and study improving the arrangement for mainland visitors to enter Hong Kong, so as to avoid the possibility of pregnant women overstaying in Hong Kong after entry for giving birth"; to add "discuss with the Central Government and request it to expeditiously return the vetting and approval authority relating to one-way permit applications to the HKSAR Government;" after "employment market; and"; to delete "based on the outcome of the review, formulate a new population policy that suits the long-term development needs of Hong Kong" after "(c)" and substitute with "require a high-level standing organization to regularly study and review the population policy for the future, and based on the outcome of the review and under the principles of protecting the employment of the local workforce and introducing professionals that Hong Kong lacks, formulate long-term, medium-term and short-term population policy targets,"; and to add "; and (d) before satisfying the demand of local pregnant women for obstetric and gynaecology services, require public hospitals to completely stop accepting mainland pregnant women whose husbands are also non-Hong Kong residents, and require private hospitals to accord priority to serving local pregnant women, thereby maintaining the number of babies born in Hong Kong to mainland women within the capacity of public services" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Alan LEONG to Mr Vincent FANG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes .....

(Ms Cyd HO stood up)

**MS CYD HO** (in Cantonese): President, I have pressed the wrong button. I should have voted for Mr Alan LEONG's amendment.

**PRESIDENT** (in Cantonese): Please try and see if you can press it again.

(Ms Cyd HO pressed the button to vote again)

**MS CYD HO** (in Cantonese): No.

(Ms Cyd HO kept on pressing the button to vote again)

**MS CYD HO** (in Cantonese): I can do so now. Thank you, President.

**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, Ms Miriam LAU, Mr Vincent FANG, Mr CHEUNG Kwok-che and Mr Paul TSE voted for the amendment.

Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai and Mr IP Kwok-him voted against the amendment.

Dr Raymond HO, Mr CHEUNG Man-kwong, Mr Abraham SHEK, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Audrey EU, Mr Ronny TONG, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN voted for the amendment.

Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE and Mrs Regina IP voted against the amendment.

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr KAM Nai-wai, Mr WONG Sing-chi and Mr WONG Kwok-kin abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, five were in favour of the amendment, seven against it and seven abstained; while among the Members returned by geographical constituencies through direct elections, 22 were present, eight were in favour of the amendment, four against it and nine abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr Vincent FANG, you may now reply and you have eight seconds.

**MR VINCENT FANG** (in Cantonese): Chief Secretary for Administration, I am not so lucky as you do not have a chance to listen to my reply. However, I hope the Steering Committee on Population Policy chaired by you will continue to study this subject. Thank you, President.

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

**PRESIDENT** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Ms Miriam LAU, Mr Abraham SHEK, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por and Mr Paul TSE voted for the motion.

Dr Margaret NG, Mr CHEUNG Man-kwong, Mr CHEUNG Kwok-che, Mr IP Wai-ming and Dr PAN Pey-chyou voted against the motion.

Mr WONG Yung-kan, Mr WONG Ting-kwong and Mr IP Kwok-him abstained.

Geographical Constituencies:

Mrs Regina IP voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, 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 and Miss Tanya CHAN voted against the motion.

Mr TAM Yiu-chung, Mr CHEUNG Hok-ming and Ms Starry LEE abstained.



THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, 11 were in favour of the motion, five against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 22 were present, one was in favour of the motion, 17 against it and three abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 18 January 2012.

*Adjourned accordingly at twenty-seven minutes past Eleven o'clock.*

## Guardianship of Minors (Amendment) Bill 2011

**Committee Stage**Amendments moved by the Secretary for Labour and Welfare

<u>Clause</u>	<u>Amendment Proposed</u>
New	<p>By adding—</p> <p><b>“3A. Section 3 amended (General principles)</b></p> <p>(1) Section 3(1)(a)(i) —</p> <p style="padding-left: 40px;"><b>Repeal</b></p> <p style="padding-left: 40px;">“welfare”</p> <p style="padding-left: 40px;"><b>Substitute</b></p> <p style="padding-left: 40px;">“best interests”.</p> <p>(2) Section 3(1)(a)(i)(A), English text—</p> <p style="padding-left: 40px;"><b>Repeal</b></p> <p style="padding-left: 40px;">“wishes”</p> <p style="padding-left: 40px;"><b>Substitute</b></p> <p style="padding-left: 40px;">“views”.”.</p>
4	In the proposed section 5, by deleting “On” and substituting “Subject to section 19(4) of the Matrimonial Proceedings and Property Ordinance (Cap. 192) and any court order to the contrary, on”.
4	In the English text, in the proposed section 6(5), by deleting “must” and substituting “is required to”.
4	<p>In the proposed section 6, by adding—</p> <p style="padding-left: 40px;">“(8) The validity of an appointment of a guardian is not</p>

affected by a failure to comply with subsection (5).”.

4 In the proposed section 7(a), by adding “irrespective of whether anyone else has a custody order over the minor at that time” after “dies”.

4 In the proposed section 8B, by adding—

“(4A) The revocation referred to in subsection (4) has no effect unless paragraph (b) of that subsection is complied with.”.

4 By deleting the proposed section 8C(1) and substituting—

“(1) A guardian who wishes to disclaim the appointment is required to disclaim the appointment by notifying the appointing parent or appointing guardian of the disclaimer.

(1A) If the appointing parent or appointing guardian has died, an appointed guardian who has not assumed guardianship under section 8 and wishes to disclaim the appointment is required to disclaim the appointment by a written, dated and signed document.”.

4 In the proposed section 8C(2), by deleting “The guardian must notify the following persons before the disclaimer is to take effect—” and substituting “A disclaimer referred to in subsection (1A) does not take effect until the guardian has notified the following persons of it—”.

4 In the Chinese text, in the proposed section 8D(2)(a), by deleting “擁有” and substituting “持有”.

4 In the proposed section 8E, by deleting “for the welfare” and substituting “in the best interests”.

4 In the proposed section 8G, in the heading, by adding “**and authority**” after “**rights**”.

4 In the proposed section 8G, by adding “and authority” after “rights”.

4 In the proposed section 8H, by deleting everything after “it thinks fit if” and substituting “the guardian is not a parent of the minor.”.

5 In the proposed section 9A(5), by deleting “duties” and substituting “authority”.

New

By adding—

**“5A. Section 10 amended (Orders for custody and maintenance on application of either parent)**

Section 10(1)—

**Repeal**

“welfare”

**Substitute**

“best interests”.”.

6

By adding—

“(3) Section 11(1)(a)—

**Repeal**

“welfare”

**Substitute**

“best interests”.”.

7

By adding—

“(3) Section 12(a)—

**Repeal**

“welfare”

**Substitute**

“best interests”.”.



## Appendix I

## WRITTEN ANSWER

**Written answer by the Secretary for Education to Mrs Regina IP's supplementary question to Question 4**

The primary objective of the public examinations in Hong Kong, *viz* the Hong Kong Advanced Level Examination (which will no longer be held after 2013) and the Hong Kong Diploma of Secondary Education (HKDSE) Examination (the first one to be conducted in 2012), is to assess the academic attainment of students after a full-time two-year sixth form curriculum and a full-time three-year senior secondary curriculum respectively. Both examinations are held once a year to align with the completion schedule of the respective curricula.

The SAT in the United States aims at assessing candidates' suitability for studying university programmes. The SAT consists of a Reasoning Test and Subject Tests, and is offered several times a year. The Reasoning Test comprises three sections including Critical Reading, Mathematics and Writing. All sections of the Reasoning Test are mostly multiple-choice questions, save for the Writing part. For the Subject Tests, they are all multiple-choice questions. As multiple-choice questions can be marked by computers, a lot of manpower and time can be saved in the marking process, thus enabling the tests to be offered several times a year. However, the HKDSE Examination is not and cannot be conducted several times a year due to the following major reasons:

*Differences in format of examination papers*

The HKDSE Examination aims at assessing candidates' knowledge in different subjects as well as their high-order abilities, including communication skills and problem-solving skills. Thus, the examination papers are mainly in the format of constructed-response questions. This requires much more time for marking and other related procedures, including but not limited to the updating of the marking schemes, the training of markers, the check-marking of scripts and the processing of assessment data. Similar arrangements are adopted in the Advanced Placement Examination offered by the College Board of the United States. The Advanced Placement Examination is a subject test, with questions mainly set in the constructed-response format. It is also organized once a year, unlike the SAT which is offered several times a year.

**WRITTEN ANSWER** — *Continued**Differences in assessment mode*

The HKDSE Examination adopts diverse assessment approaches in alignment with the curriculum. Apart from written examination, there are other components including School-based Assessment (SBA). The SBA is an integral and critical part of daily learning and teaching activities. It could not fit into and match with the actual teaching schedule in schools if the examination were to be organized more than once a year. In order to tie in with the arrangements for learning and teaching at schools, the assessment cannot be conducted at a stage when the curriculum is not yet completed.

*Differences in examination arrangement*

The HKDSE Examination relies on schools to provide examination venues, as well as teachers to help in the examination administration work and to provide post-examination marking services. Under the current arrangements for setting up examination centres and the recruitment of examination and marking personnel, holding the HKDSE more than once every year would seriously affect learning and teaching and induce immense pressure which might not be beneficial to students.