

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 2 June 2010

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

THE HONOURABLE 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

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

MEMBER ABSENT:

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

PUBLIC OFFICERS ATTENDING:

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

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

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

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

THE HONOURABLE DENISE YUE CHUNG-YEE, G.B.S., J.P.
SECRETARY FOR THE CIVIL SERVICE

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

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

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

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

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

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

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY
GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

PRESIDENT (in Cantonese): Clerk, a quorum is not present.

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

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Admission and Registration (Amendment) Rules 2010	69/2010
Employment (Amendment) Ordinance 2010 (Commencement) Notice	70/2010

Other Papers

No. 97 — Supplemental Report of the Public Accounts Committee on Report No. 53 of the Director of Audit on the Results of Value for Money Audits
(June 2010 — P.A.C. Report No. 53A)

Report No. 12/09-10 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

ADDRESSES

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

Supplemental Report of the Public Accounts Committee on Report No. 53 of the Director of Audit on the Results of Value for Money Audits (June 2010 — P.A.C. Report No. 53A)

DR PHILIP WONG (in Cantonese): President, on behalf of the Public Accounts Committee (PAC), I table the PAC Report No. 53A (the Report). The Report is supplemental to the PAC Report No. 53 and contains the PAC's findings on the chapter "Control of western medicines" in the Director of Audit's Report No. 53 (the Audit Report).

The PAC holds that the control of western medicines concerns the health of all members of the public in Hong Kong, so publishing a separate report on this subject brooks no delay. The PAC hopes that the Administration can make improvements expeditiously in respect of the various shortcomings and deficiencies identified in the Audit Report.

I now succinctly report the conclusions made by the PAC.

The PAC considers that the Department of Health (DH) must effectively discharge its duty to ensure the safety, efficacy and quality of medicines marketed in Hong Kong, as the Hong Kong public will be exposed to potential health and safety risks if medicines are not properly regulated. Nevertheless, the Audit Report has revealed that the existing regulatory regime allows some unregistered medicines to be distributed for sale or consumption purposes in Hong Kong; the inspections of dealers' activities and law-enforcement actions conducted by the DH are ineffective while there are inadequacies in the DH's procedures for medicine testing, the monitoring of medicine recalls and issuance of public alerts, as well as its prosecutions and disciplinary actions against dealers. Besides, the Food and Health Bureau and the DH have along disregarded the above situations. It was only after the occurrence of a series of incidents involving unsafe and unregistered medicines in early 2009 that the Administration took actions to step up the control of medicines and establish the Review Committee on Regulation of Pharmaceutical Products in Hong Kong (the Review Committee) to undertake a comprehensive review of the existing regime for the regulation and control of medicines. This indicates that the Secretary for Food and Health and the Director of Health have failed to attach sufficient importance to the regulation and control of medicines. In this connection, the PAC expresses grave dismay and finds this unacceptable.

The PAC is particularly concerned about the various irregularities identified in the Audit Report regarding unregistered medicines imported for re-export purposes, including the DH's failure to take adequate regulatory measures to keep track of the movement of medicines imported for re-export purposes. In the absence of adequate regulatory measures, some unregistered medicines can be sold illegally in Hong Kong.

Besides, even though the DH was aware of the risks associated with the importation of unregistered medicines for re-export purposes as early as in 1999, it had not plugged the loopholes in regulation after such a long time and the proposal of introducing legislative amendments to step up monitoring in this regard had not been implemented by the authorities. During the nine years between 2001 and 2009, no progress had been made by the authorities in the submission of proposals on legislative amendments to the Legislative Council. At the same time, although the DH decided in 1999 not to follow up the proposal of devising a computer system to monitor the import and export of medicines, over the past decade, it had failed to further explore the feasibility of computerization in the light of the development of information technology.

If the above irregularities are taken as isolated incidents, their impact may not be regarded as very serious. However, when taken together, the various irregularities indicate that the DH has failed to discharge its duties effectively to ensure the safety of medicines. The PAC considers that the Director of Health is to blame and condemns him in this respect.

Besides, the PAC considers the deficiencies in the DH's inspections and law-enforcement actions inexplicable and unacceptable.

We also opine that the inadequacies and various loopholes in the DH's procedures for medicine testing, the monitoring of medicine recalls and issuance of public alerts reflect that although this area of work is an integral part of the regulatory regime for ensuring the safety of medicines, the DH has not accorded a high priority to it. The PAC expresses grave dissatisfaction with this.

Regarding the problems concerning licensing criteria, prosecutions and disciplinary actions as reflected in the Audit Report, the PAC is astonished and finds them unacceptable. For instance, although some related authorized sellers of poisons (ASPs) with multiple drug-related convictions had closed business

after committing serious offences, they could start business at the same premises in the capacity as ASPs because when the Pharmacy and Poisons Board (the Board) was approving new licensing applications made by the ASPs in question, the DH failed to fully inform the Board of all the information on the convictions registered against the related ASPs.

The PAC notes that the Review Committee published its report in January this year and it contains a range of recommendations on the measures to improve the existing regulatory regime. We strongly urge the Secretary for Food and Health and the Director of Health to accord top priority to ensuring the safety, efficacy and quality of medicines in Hong Kong and implement expeditiously the recommendations of the Review Committee.

President, I wish to point out that before the PAC tables the Report, there have been newspaper reports on the deliberations made in the closed meetings of the PAC, including the conclusions to be made by the PAC, leading to the suspicion that the contents of such reports came from persons involved in the work of the PAC. I find this regrettable.

President, as always, the PAC has made its conclusions and recommendations in the Report, with a view to ensuring the achievement of value for money in the delivery of public services by the Administration.

Lastly, I wish to register my appreciation for the active participation of the members of the PAC and their contributions. Our gratitude also goes to the representatives of the Administration for their attendance at the hearings held by the PAC. Besides, we are grateful to the Director of Audit and his colleagues, as well as the staff of the Legislative Council Secretariat, for providing unfailing support to the PAC.

Thank you.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Non-civil Service Manpower Used by Various Government Departments

1. **MR WONG KWOK-HING** (in Cantonese): *President, according to the Government's replies to the questions I raised in respect of the budget of this year, the number of agency workers used by the Leisure and Cultural Services Department (LCSD) and that of its non-civil service contract (NCSC) staff as at 28 February 2010 are equivalent to 3% and 16% respectively of the LCSD's total manpower, and there are even 10 100 staff employed under outsourced service contracts (staff of outsourced service). The total number of the above three types of non-civil service staff is much greater than the 8 060 posts on the permanent establishment of the LCSD. Some members of the public have relayed to me that the situation of using non-civil service staff to provide services in the LCSD is very serious, arousing grave concern that the Government may implement "engagement of non-civil service staff to provide services" and "de-employment" further. In this connection, will the Government inform this Council:*

- (a) of the number of agency workers and staff of outsourced services used by the LCSD as well as its number of NCSC staff in the past five years; the percentages of the total manpower of the LCSD these figures represented, as well as the number of posts in non-permanent establishment which had been converted to permanent establishment in the LCSD during that period;*
- (b) whether the LCSD will, in outsourcing services and procuring the manpower services of employment agencies, give priority to bidders offering the highest wage levels to employees; and in considering whether the bidders are offering reasonable wages to their employees, whether the LCSD will make reference to the pay levels of the relevant civil service posts and request the bidders to offer pay at the same levels; and of the monitoring mechanism put in place by the LCSD to ensure that the companies which have been awarded the contracts will not reduce their employees' wages and benefits throughout the whole period of the contracts; and*
- (c) whether it will consider setting a cap on the percentage, which the number of non-civil service staff represents in the total number of staff in a government department, as well as requiring the*

department to review its manpower need immediately when the percentage exceeds the cap, and convert posts which require the service of non-civil service staff on a long-term basis into civil service posts on the permanent establishment, so as to curb the trends of "different pay for the same job" among government staff, "de-employment" and "engagement of non-civil service staff to provide services"; if not, of the reasons for that?

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, the question raised by Mr WONG touches on the manpower deployment in government departments. I would like to explain briefly some relevant guiding principles before answering the question.

The Government is committed to providing quality services to the public. At the same time, we maintain a lean and efficient Civil Service in line with the principles of "big market, small government" and prudent management of public resources. Accordingly, Heads of Departments (HoDs) have to determine which type of manpower should be deployed to deliver different public services having regard to the operational needs and the nature of the services.

Generally speaking, for law enforcement-related duties and services which should be delivered by government departments direct, HoDs should deploy civil servants to meet such service needs. For those public services which are time-limited or seasonal in nature, or where the modes of delivery are under review or likely to be changed, HoDs may employ NCSC staff to meet the service needs. For short-term service needs which are urgent or unforeseen or where there is an unexpected surge of the volume of work involved, HoDs may consider using agency workers. As regards those public services which may be provided by the private sector, departments may outsource the services concerned.

Regarding the first part of the question, the number of full-time NCSC staff engaged by the LCSD and the proportion of NCSC staff to the total number of employees of the Department in the past five years are set out at Annex I.

The Civil Service Bureau conducted a review jointly with bureaux/departments on their employment of NCSC staff in 2006. The review identified some 800 NCSC positions in the LCSD which involved work that

should more appropriately be performed by civil servants. Some 700 NCSC positions have now been filled by civil servants and most of the remaining positions will be replaced by civil service posts within this financial year upon expiry of the contracts of the concerned NCSC staff.

The LCSD does not centrally keep complete records of information on the use of agency workers. According to an ad hoc survey conducted by Civil Service Bureau in the third quarter of 2009, as at 30 September 2009, the LCSD used a total of 299 agency workers, who were mainly engaged to assist in meeting short-term service demands, including offering assistance in the organization of short-term leisure and cultural programmes/projects and providing stage management and technical support services in performance venues, and so on. The LCSD has also engaged employment agencies to supply some of the manpower needed in the provision of public library service mainly during the peak demand periods. The LCSD is currently reviewing the mode of delivering public library service, including the use of agency workers. As the number of agency workers varies from time to time and their work hours may not be fixed, it is not appropriate to compare the number of agency workers with the number of employees of the Department.

The services outsourced by the LCSD mainly cover cleansing services, security services, horticultural maintenance services, sports centre and other venue management, and so on. The number of staff employed by contractors for delivering the above outsourced services in the past five years is provided at Annex II. As the outsourced services do not necessarily have to be delivered by full-time personnel, the number of staff employed by contractors includes both full-time and part-time personnel. It is therefore not appropriate to compare the number of staff employed by contractors with the total number of employees of the Department.

Regarding the second part of the question, the LCSD, in procuring the services of employment agencies to supply manpower and in outsourcing services, abides by the Stores and Procurement Regulations and the relevant Financial Circulars. The procurement of such services is subject to the Government's procurement principles of value for money, transparency, open and fair competition and accountability.

The Government is very concerned about the wage level of non-skilled workers. Since May 2004, for all government service contracts, service providers have been required to pay their non-skilled workers monthly wages no less than the average monthly wages for the relevant industry/occupation as published in the latest Census and Statistics Department's Quarterly Report of Wage and Payroll Statistics at the time when tenders are invited. The LCSD has implemented this requirement faithfully. The LCSD has also adopted various measures to strengthen the protection of the rights of non-skilled workers employed by contractors of outsourced services. Details are provided at Annex III.

Additionally, the Government issued guidelines to bureaux/departments in April this year promulgating a set of new measures on the use of agency workers. Amongst others, there is a requirement for employment agencies to pay, for the whole duration of the concerned service contract, their agency workers assigned to work in the procuring departments wages not less than the average monthly salary of miscellaneous non-production workers in all selected industries published in the latest Census and Statistics Department's Quarterly Report of Wage and Payroll Statistics at the time when tenders are invited.

To monitor compliance with the above new requirement, the LCSD specifies in the contracts that the employment agencies shall sign written contracts with their employees, setting out in detail the terms of employment and the wage level, and shall submit copies of the contracts to the Department for checking purpose. The LCSD may, where necessary, inspect the relevant records of employment and wage payments or interview the agency workers to ensure that their rights are protected. If any employment agency is found in breach of the above wage requirement, the Department may, in accordance with the provisions of the contract, terminate the contract signed with the agency immediately.

Regarding the third part of the question, I have already explained, when answering the first part of the question, that departments may make use of different types of manpower to deliver services of various nature and to address different operational needs. Hence, we will not impose a cap on the ratio of the number of non-civil service employees to the total number of employees of a department. Each bureau/department reviews its operational needs and manpower situation from time to time, including whether the demand for

manpower resources may be reduced through productivity enhancement by re-engineering and computerization, and so on; whether the services provided by NCSC staff or agency workers should be carried out by civil servants; and whether some public services may be outsourced to the private sector, and so on.

Annex I

Numbers of NCSC staff and their proportion to the total manpower in LCSD

	<i>Number as at the following dates</i>				
	<i>1 January 2010</i>	<i>1 January 2009</i>	<i>1 January 2008</i>	<i>1 January 2007</i>	<i>1 January 2006</i>
Civil service strength	7 389 (84%)	7 082 (84%)	6 939 (82%)	6 765 (79%)	6 927 (80%)
Full-time ^{Note} NCSC staff	1 359 (16%)	1 303 (16%)	1 525 (18%)	1 816 (21%)	1 784 (20%)
Total	8 748 (100%)	8 385 (100%)	8 464 (100%)	8 581 (100%)	8 711 (100%)

Note:

"Full-time" means the employment is on a "continuous contract" under the definition of the Employment Ordinance. According to the Employment Ordinance, an employee who works continuously for the same employer for four weeks or more, with at least 18 hours in each week, is regarded as working under a continuous contract.

Annex II

Numbers of staff involved employed by contractors
for delivering cleansing services, security services,
horticultural maintenance services, sports centre and
other venue management services outsourced by LCSD

As at the end of 2005	about 7 000
As at the end of 2006	about 7 300
As at the end of 2007	about 8 900
As at the end of 2008	about 10 000
As at the end of 2009	about 10 100

Annex III

Monitoring measures adopted by LCSD on contractors of outsourced services

- (i) Displaying the wage levels committed by contractors at employee roll call points and assembly points to ensure that such information is made known to employees;
- (ii) Requiring contractors to sign standard employment contracts with their staff, setting out in detail the core terms and conditions, including wages and working hours, and to submit copies of the contracts to LCSD for record purpose;
- (iii) Checking records of contractors. If a contractor is found in breach of its undertakings, including its undertaking on wages or working hours, the Department is entitled to terminate the contract immediately and to claim damages against the contractor;
- (iv) If a contractor is convicted of breaching the Employment Ordinance, Employees' Compensation Ordinance, Immigration Ordinance or Mandatory Provident Fund Schemes Ordinance, the conviction may be regarded as a fundamental breach of the contract and LCSD is entitled to terminate the contract immediately and to claim damages against the contractor in accordance with the terms of the contract; and
- (v) Requiring contractors to hire accountants to audit monthly their records of wage payments and contributions to the Mandatory Provident Fund.

MR WONG KWOK-HING (in Cantonese): *President, I asked this question because I have found the situation of "engagement of non-civil service staff to provide services" very serious in the Government. I have raised 198 questions with 30-odd departments. As I can ask only one supplementary question now, I would like to focus on issues relating to the employment of lifeguards in the LCSD which is of great importance to the lives of citizens. I wonder if the Secretary for Home Affairs can answer this question.*

According to the complaints I received from the public, if lifeguards can be employed on permanent terms, that would provide considerable protection for the safety of the people's lives. An example is the employment of lifeguards in Island East Sports Centre and Tai Kok Tsui Sports Centre. Can the Government seriously conduct studies on whether all lifeguards employed on contract terms or under outsourced service contracts should be converted to the permanent establishment? I hope Secretary TSANG Tak-sing can answer this question.

SECRETARY FOR HOME AFFAIRS (in Cantonese): I thank Mr WONG for his supplementary question. Concerning the two swimming pools mentioned by Mr WONG, one is located in the eastern part of Hong Kong Island and the other in Tai Kok Tsui. Both are actually sports centres where swimming pools are provided. When the two sports centres were commissioned, the Government made a decision of freezing the civil service establishment in the light of the social and economic conditions at the time, and this decision had the support of the community then. When these facilities were brought into operation, the LCSD decided to outsource the management of the two sports centres, including the two swimming pools.

In June last year, we received a report about a lifeguard of Island East Sports Centre being absent from work without permission and the management subsequently arranged for a person who is not fully qualified as a lifeguard to take up lifeguard duty. This aroused concern, and there were voices asking whether these lifeguards employed under outsourced service contracts should be converted to hoping that the LCSD can employ lifeguards on civil service terms.

We then launched a study on this issue. Starting from 1 April this year, we have included new terms in new contracts signed with contractors of outsourced services: First, expanding the establishment of lifeguards of Island East Sports Centre to ensure sufficient manpower for replacements in unexpected cases of lifeguards not being able to come to work. So, there should not be any problem with safety. Second, we will especially include in the contract the requirement of a four-month notice for termination of contract. The purpose is that if we have to convert lifeguards employed under outsourced service contracts to the civil service establishment, it would be easier for us to make this decision.

We are currently conducting a comprehensive study. We have studied the feasibility of recovering only the swimming pools and assigning their management to the LCSD direct. From a management viewpoint, we subsequently found that the two sports centres, namely Island East Sports Centre and Tai Kok Tsui Sports Centre, had to be fully If they have to be converted to the civil service establishment, that is, if all the facilities including those outside the swimming pools have to be managed by staff in the civil service establishment, it would involve an establishment of about 60-odd civil service posts. We consider that if the posts of core lifeguards at swimming pools are all taken up by civil servants, there will be merits in personnel management. For example, if a vacancy arises, manpower can be redeployed from elsewhere. This will be a good direction, but we have to study carefully what will happen to the staff currently working in these posts when their contracts expire. If we really have to convert the posts of lifeguards to the civil service establishment, it has to take a process, and we are now actively looking into it. I thank Mr WONG for his question.

MS LI FUNG-YING (in Cantonese): *President, when replying to our questions on various occasions about why the employment of NCSC staff is necessary, Secretary Denise YUE would invariably say that it is necessary because the relevant work is time-limited, intended to meet short-term and urgent needs. But there are now thousands of NCSC staff with a length of service exceeding five years. I do not know how many years Secretary Denise YUE means by "short-term". Could it be that eight or 10 years are still considered as "short-term"?*

President, my supplementary question is this: In the last paragraph Secretary Denise YUE said, "we will not impost a cap on the ratio of the number of non-civil service employees to the total number of employees of a department". Does the Secretary mean that policy-wise, the departments are allowed to recruit all their staff on non-civil service terms in future? Is that what she means? Currently, we have seen that the number of one type of staff has increased against a decrease in the number of the other type of staff in some departments, with non-civil service employees outnumbering civil servants. My question is: Is it that policy-wise, some departments are allowed not to employ civil servants in the future? Is that the case?

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): I thank Ms LI for her supplementary question. As I set out clearly in the third paragraph of my main reply, generally speaking, departments may use four different types of human resources under four different situations. For a very extensive scope of services, such as law enforcement-related services, or public services of a permanent nature and services which should be provided directly by the Government, they will certainly continue to be provided by civil servants, and this is what we are doing now and what we will do in the future. As for the other three situations, as I have already explained them in the third paragraph of my main reply, I am not going to repeat the points.

I only wish to talk about the current situation of NCSC staff as mentioned by Ms LI earlier. At present, about 25% of our NCSC staff have a length of employment exceeding five years. There can actually be a diversity of reasons behind this, but there are two main reasons: First, the system of NCSC staff is meant to allow departments to consider hiring NCSC staff for the provision of certain time-limited services and these time-limited services can last as long as 10 years. A case in point is a 10-year special programme launched by us for the removal of illegal building structures.

Besides, there are cases where some NCSC staff can, through applications and after passing the relevant tests, switch from one NCSC post to another NCSC post without a time gap in between the changing of posts. So, when collecting the statistics, the length of service of these colleagues employed on NCSC terms is counted from the first day they took up a NCSC post in the Government. This is why their total length of service may exceed five years.

I have cited this example only in the hope that Members can understand that there are actually a lot of underlying reasons why these NCSC staff have served in the Government for a rather long time. But from the policy angle, we have been very stringent in implementing the policy that the system of NCSC staff is applicable only to specified types of work and most importantly, the services must be time-limited.

MS LI FUNG-YING (in Cantonese): *President, the Secretary has not answered my supplementary question.*

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

MS LI FUNG-YING (in Cantonese): *I asked the Secretary whether under the policy some departments are allowed not to recruit civil servants and take on only NCSC staff in the future. Does the policy allow them to do so? I asked this question because she said in the last paragraph that — as I also mentioned in my question just now, President — there will not be a cap on the ratio of the number of NCSC staff.*

PRESIDENT (in Cantonese): Ms LI, from what I have just heard, the Secretary has explained clearly for what services the employment of civil servants is certainly required and for what services the employment of civil servants is not required. So, I think the Secretary has actually given an answer.

DR PAN PEY-CHYOU (in Cantonese): *From the figures provided by the Government, we can see that the number of civil servants in the permanent establishment has actually increased while the number of NCSC staff has dropped over the past few years. On the surface, we may find these figures quite encouraging, but if we read more carefully the information on the next page, we will find that the number of workers of outsourced service has actually increased continuously at a rate much faster than other groups of employees. I think this has reflected a very serious problem. I have always opposed this outsourcing system. The first reason is that it is a system which exploits the employees. Since employment agencies are involved, they will certainly aim to make profits but where do profits come from? From exploitation of labourers.*

Second, this has caused the situation of "different pay for the same job" to become very serious. We understand that the wages of these staff of outsourced service have been suppressed to very low levels, while their counterparts who

work with them together, be they civil servants in the permanent establishment or those who are currently

PRESIDENT (in Cantonese): Dr PAN, please do not make it too lengthy.

DR PAN PEY-CHYOU (in Cantonese): yes, I know, and I will

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

DR PAN PEY-CHYOU (in Cantonese): I need to explain this a bit, because this has resulted in an obvious case of "different pay for the same job". Third, it has even caused confusions in the division of duties at work. I would like to cite an example and then I wish to ask the Government

PRESIDENT (in Cantonese): Dr PAN, please do not cite an example. You only have to ask your supplementary question.

DR PAN PEY-CHYOU (in Cantonese): I would like to ask the Government if it is aware of the fact that its civil servants and staff of outsourced service are basically doing the same work, and it is only because civil servants are responsible for law enforcement that they can take up the job as civil servants. However, given a shortage of manpower, the situation has now developed to a state where law enforcement is impossible.

I can cite a real case as an example, but I would like to know if the Government understands that the situation has already developed to a state where the shortage of civil servants has made law enforcement impossible. Workers of outsourced service have to take up the same work but are unable to enforce the law, resulting in civil servants being penalized. I would like to know if the Government has investigated such cases? Does it know how common this situation has become?

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, first of all, in my main reply I have mentioned some guiding principles, which include "big market, small government". In this connection, it has been the Government's policy that if we consider that certain public services can be provided by the private sector, we will work in that direction. When pursuing this, we will certainly have regard to whether the service quality would be compromised, as well as issues relating to the employment of serving civil servants. So, outsourcing is allowed under our policy.

We are very concerned about the need to protect those employees who may have the least bargaining power in the course of outsourcing. Therefore, I have clearly explained in several paragraphs of my main reply the measures currently adopted by the Government to protect their interests, be they staff of outsourced service or agency workers.

Towards the end of his question, Dr PAN asked whether there were cases where other types of human resources had to be used for carrying out law-enforcement work due to a shortage of civil servants. This is a very complicated issue, but I can tell Members that in general, law-enforcement work is taken up by civil servants, but law enforcement can be a process involving stages from the highest point upstream to the lowest point downstream. Before enforcing the law, a department may have to collect ample information and in the course of collecting information, as far as I understand it, some departments may take on NCSC staff for such work because of the time limit involved. However, when it comes to core enforcement work, it would be taken up by civil servants.

PRESIDENT (in Cantonese): Dr PAN, please state briefly and clearly the part that you think the Secretary has not answered.

DR PAN PEY-CHYOU (in Cantonese): *The Secretary has not answered the part on whether she has looked into how common this actual situation is. This is indeed happening, and I have received complaints referred by trade unions.*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, we have in place a mechanism for HoDs to apply, on a yearly basis, to the central authorities of the SAR Government for extra manpower or financial resources if they see a shortage of manpower in their department. With regard to human resources, the applications are mainly seeking an increase in civil service establishment. This exercise is conducted yearly, and after the completion of this exercise, any department requiring an increase in its civil service establishment due to unexpected emergency situations may, depending on the actual situation, apply to the central authorities of the SAR Government for an increase in civil service establishment. With this mechanism in place, there will not be a case in which a HoD cannot have enough civil servants despite very strong justifications for a need to increase the department's civil service establishment for the purpose of law enforcement.

PRESIDENT (in Cantonese): We have spent over 25 minutes on the question, but apart from the Member who asked the main question, only two other Members could ask their supplementary questions. I wish to remind Members that they should refrain by all means from being wordy when asking their questions. If Members have views on the issue concerned, they should express their views through other channels, or else other Members would not be able to ask their supplementaries. Second question.

Private Columbarium Facilities

2. **MR LEUNG YIU-CHUNG** (in Cantonese): *President, will the Government inform this Council:*

- (a) *of the current number and distribution of private columbarium facilities according to the information that various government departments have;*
- (b) *of the number of complaints about private columbarium facilities received by the authorities last year, details of the complaints, and how such complaints were followed up by the authorities; and*

- (c) *given that the Government indicated in its reply to the question of a Member of this Council early this year that it was considering the formulation of appropriate measures to promote information transparency in the trade of private columbarium facilities and to strengthen consumer protection, of the progress of such work, and whether it has any plan to regularize existing private columbarium facilities; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, currently, there are eight public columbaria managed by the Food and Environmental Hygiene Department (FEHD) providing about 167 900 public niches. Apart from some 300 re-used public niches which would be available each year for allotment to applicants on the waiting list, the rest has all been taken up. In July 2009, the Finance Committee of the Legislative Council approved funding for construction of a new public columbarium within the Wo Hop Shek Cemetery, providing some 41 000 new niches for use in 2012. Apart from public columbaria, a total of about 208 700 niches are provided and managed by the non-governmental Board of Management of the Chinese Permanent Cemeteries (BMCP), all of which have been allotted, with only a few available for re-use. The BMCP anticipated that about 50 000 newly-built niches will be provided in the coming two years. Other cemeteries managed by the Catholic, Protestant, Buddhist and other religious bodies provide about 119 300 niches in total, of which some 35 400 are not yet allotted. It is projected that about 8 000 newly-built niches will be available in the coming two years. In addition, there is market demand for private columbaria which is an alternative source of supply, and which provide consumers with choice. Some patrons prefer private columbaria mainly because of their personalized services, for instance, pre-death purchase, daily worship services and feng shui, and so on.

The operation of all trades in Hong Kong must be in compliance with the relevant statutory requirements. Although the provision of private columbaria for storage of cremains does not give rise to public health and environmental hygiene concerns, they still need to comply with the relevant requirements on planning, construction design, building standards and fire safety, as well as conditions of the land leases. The relevant government departments will handle the problems, enquiries and complaints relating to private columbaria in

accordance with legislation and administrative measures under their purview. My reply to the three parts of the question is as follows:

- (a) Regarding private columbaria, the existing information available to government departments is mainly derived from the past applications for planning permission or complaint cases. The current number and distribution of private columbarium facilities according to statistics on planning permission and complaints about private columbaria received in the past three years are at Annex.
- (b) In 2009, 29 and 143 complaints about private columbaria were received by the Planning Department and Lands Department (LandsD) respectively. Besides, the FEHD also received 31 complaints related to suspected private columbaria. Various departments may have received more than one complaint relating to the same columbaria. The complaints were mainly about incompatibility of the columbaria with the community, breach of lease conditions, occupation of private or Government lands, environmental hygiene nuisances and impacts on local traffic. Various departments have handled such problems, enquiries and complaints in accordance with their respective mandate and relevant legislation, or referred the cases to other responsible departments for follow-up.

As advised by the Development Bureau, on the planning aspect, under the existing Town Planning Ordinance, the Planning Authority may take enforcement and regulatory actions against confirmed unauthorized developments in areas covered by the Development Permission Area Plans (that is, rural areas in the New Territories). For cases involving columbaria, if there is sufficient evidence confirming that the columbaria concerned comprised unauthorized developments after investigation, the Planning Authority will take enforcement and regulatory actions in accordance with the Town Planning Ordinance, including the issue of Enforcement Notices.

On land administration, upon receipt of a complaint about a breach of land use requirements stated in land leases, the LandsD will deploy its staff to carry out inspection on the site concerned. Legal

advice will be sought on the lease conditions which may be involved in the actual circumstances, and follow-up actions will be taken as appropriate. Where landowners apply for regularizing a breach of land lease requirements, or intend to apply for modification of lease conditions for the provision of columbarium facilities, the LandsD will consider and process the applications. It will normally advise applicants to apply for and obtain the planning permission first, and will consider the views of the relevant departments in the process. If the application is approved, the LandsD will include the appropriate conditions for lease modification, and this may entail the payment of a land premium.

If the operation of columbaria gives rise to street management problems, various departments will take actions in accordance with respective mandate. For the FEHD, it will tackle those problems which have an impact on environmental hygiene within its purview, such as obstruction to street cleansing operations and fouling of streets. Besides, if the burning of paper offerings gives rise to air pollution, the Environmental Protection Department (EPD) may despatch staff to conduct on-site investigation under the Air Pollution Control Ordinance, and if any emission of air pollutants from such activities is found to cause a nuisance, the EPD may serve an Air Pollution Abatement Notice to those engaged in the activities to require that relevant measures be taken to eliminate the nuisance. As regards the related problems of noise, obstruction of traffic, and so on, the police may take appropriate action within its ambit.

- (c) As indicated by our Bureau at the meeting of the Legislative Council Panel on Food Safety and Environmental Hygiene in February 2010, we have set up a task force in conjunction with the Policy Bureaux and departments concerned to study how to address the issue of columbarium development. It is expected that the results of the study will be announced in due course. Promoting information transparency in the trade to protect consumers' interests is one of our work priorities. Besides, we have to explore other possible options to increase the supply of columbarium facilities and facilitate transformation of social traditions by encouraging members of the public to use more sustainable means for cremains disposal and

paying tribute to the deceased. As regards regularization, as mentioned in part (b) of the reply, regularization is one of the most common means to address the issue of unauthorized columbaria. Under the existing mechanism, there are established channels and procedures for private columbaria to apply to the departments concerned for operating the facilities in an authorized manner (for example, applying for the relevant planning permission and/or lease modification). The Administration will continue to process applications for regularization, as well as consider if a licensing scheme should be introduced in future to regulate private columbaria, and consulting the public on this.

Annex

<i>District</i>	<i>Statistics on private columbaria received planning permissions</i>	<i>Statistics on complaints about private columbaria received in the past three years</i>
1. Central and Western District	0	0
2. Wan Chai District	0	0
3. Eastern District	0	2
4. Southern District	1	0
5. Yau Tsim Mong District	0	0
6. Kowloon District	0	1
7. Kwun Tong District	0	1
8. Wong Tai Sin District	3	0
9. Sham Shui Po District	0	0
10. Kwai Tsing District	0	1
11. Tsuen Wan District	1	3
12. Shatin District	2	14
13. Tai Po District	1	12
14. North District	2	3
15. Tuen Mun District	3	2
16. Yuen Long District	1	7
17. Sai Kung District	0	0
18. Islands District	0	4
Total:	14	50

Note:

Statistics on complaints include the complaints against private columbaria which have received planning permissions.

MR LEUNG YIU-CHUNG (in Cantonese): *President, due to the absence of a licensing regime at present, coupled with a shortage of supply, many private organizations are operating private columbaria in small houses, residential buildings or industrial buildings, thus leading to many instances of incompatibility with local communities, and the Secretary also acknowledged this just now.*

Given the discontent among the public and the disharmony in society caused by the absence of a licensing regime, may I ask the Secretary how he is going to handle this matter? Since it is not possible to deal with this matter by recourse to legislation, will the Government seriously consider the implementation of a licensing regime to solve this problem?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, just now, I stated in the last paragraph of the main reply that we would consider the formulation of a licensing scheme to regulate the relevant developments. However, it is also necessary for us to consider what rationale and principle we can apply to issue the licences and in this process, we have to pay particular attention to balancing the needs of consumers and the views of local communities. For this reason, we have to spend some time on considering this matter.

However, Mr LEUNG mentioned issues relating to people in local communities or consumers at present. I wish to throw down a reminder. The existing legislation does not permit the construction of columbaria at unauthorized locations. Therefore, anyone carry on such a business must obtain approval from the relevant government departments before operation. In addition, if consumers patronize these columbaria, they must also understand clearly whether or not these columbaria are permanent in nature and whether the cremains can be kept there for a long period of time. Therefore, I advise the public not to patronize these columbaria that have yet to be regularized.

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

MR LEUNG YIU-CHUNG (in Cantonese): *President, given the absence of a licensing regime and the failure of the legislation to impose regulation, he did not reply as to*

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

MR LEUNG YIU-CHUNG (in Cantonese): *..... what strategy or solution the Government has adopted to solve these problems, since this has led to discontent among residents and social disharmony. He did not answer the question in this regard.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, just now, I have given an account of how matters relating to existing columbaria, people intending to build columbaria and consumers are dealt with at present. Later on, the Government will consult the public on the future policy and the licensing regime and announce the details later. We plan to announce them before the Legislative Council rises this Session.

MR ALBERT CHAN (in Cantonese): *President, when alive, Hong Kong people have to work like slaves for property developers because the "bloated flats" and "shrunk flats" have given ordinary members of the public a very hard time in acquiring their properties and after they have died, the niches used by them are even more expensive than mega-luxury properties. Even the price of a niche with an area of 1 sq ft costs \$50,000 or \$60,000 and the price of those at better locations can easily exceed \$200,000. As a result, many people cannot afford a niche after death, yet it will take a long time to wait for a niche provided by the Government.*

As regards the private columbaria mentioned just now, I wonder if the Secretary has ever conducted any study, but one of the major problems is that in the contracts for some private columbaria, it is stated that the niches are purchased and basically, the contracts are only management and cleaning contracts. Moreover, almost all the contracts involve a sum of some \$50,000 to

\$60,000. *In addition, the contracts do not guarantee that the niches will be permanent in nature. In fact, these problems are commonplace in the New Territories. Will the Secretary consider sending officers to locations where no formal permission has been given for the construction of columbaria but where columbaria have been built to ask for the relevant contracts — in fact, obtaining a relevant contract is not difficult and one can get it from anyone having bought a niche there — and look at the information therein to study the problems with the contracts concerned and ways of getting in touch with the operators of these columbaria, so as to deal with instances of suspected or possible irregularities and obviate the need to move the purchased or occupied niches, thus making it impossible for the deceased to rest in peace? When Hong Kong people are alive, they are bullied by property developers but after their death, they still cannot solve this problem.*

PRESIDENT (in Cantonese): Mr CHAN, your supplementary is very clear. Secretary, please reply.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, precisely because we think that at present, consumers do not enjoy adequate protection, we want to study whether or not a licensing regime has to be formulated to impose regulation. The question raised by Mr CHAN just now is precisely the problem we are dealing with.

MR ALBERT CHAN (in Cantonese): *President, I asked the Secretary whether or not he would obtain a relevant contract and take a look, rather than simply studying the problem. Will he obtain a relevant contract and report to the Legislative Council after looking at it?*

PRESIDENT (in Cantonese): Secretary, when you conduct a study, will it include obtaining a contract for examination?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, of course, our study will take into consideration the mode of operation of many existing private columbaria instead of simply looking at the leaflets distributed by them.

MISS TANYA CHAN (in Cantonese): *President, I have been given to understand that the Government plans to deal with the operators of columbaria in the private market by way of voluntary registration. Here, I have a question in arithmetic on which I hope the Secretary will enlighten me: Each year, about 48 000 people passed away and 43 000 people were cremated. However, in the Annex, only a total of 14 private columbaria in various districts have been granted planning permissions. Of course, we do not know how many niches are involved but most importantly, after doing some additions and subtractions, we can get an idea of how large the private market of non-qualified columbaria is. Just consider this: In some cases, it is necessary to wait five years before being allocated a niche. I wish to get this kind of basic information because we can see in the Annex that 14 columbaria have been granted permissions but we have no idea how many niches are involved. Please look*

PRESIDENT (in Cantonese): Miss CHAN, what is your supplementary about?

MISS TANYA CHAN (in Cantonese): *..... my supplementary is: After doing the calculation, what in the Secretary's estimation is the demand for niches absorbed by the private market each year?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, at the present stage, we have no intention of setting the proportion of the demand to be met by the private market in relation to the total demand. I have said a number of times that it is necessary to identify locations in various districts for the construction of columbaria and as regards such construction, apart from the Government, which has to assume a certain degree of responsibility, we also hope that more voluntary organizations or non-governmental organizations, including the Chinese Permanent Cemeteries or religious groups, can do more in this

regard. Miss CHAN said just now that each year, about 40 000 people needed niches. Although at present, we have provided other means for them to deal with the cremains, including scattering the cremains in the sea or in memorial gardens located near cemeteries with decent surroundings, we still consider it necessary to increase the number of locations for housing cremains and hope that firstly, additional facilities can be added to existing government cemeteries and second, more locations in various districts can be identified as far as possible. We believe that if we do not actively increase the locations for niches, the problem cannot be solved by merely relying on private columbaria. I remember that in the past four to five years, the Government has all along been actively trying to secure a site in Tuen Mun and if successful, more than 200 000 niches can be provided. However, so far, we have not yet succeeded. For this reason, I hope Members can exercise their influence in their districts and support the Government's measure.

MISS TANYA CHAN (in Cantonese): *President*

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

MISS TANYA CHAN (in Cantonese): *..... I have only asked about a very simple arithmetic, that is, at present, a lot of people have passed away, so what is the number of qualified niches? Add it to the number of niches provided by the Government and the remainder belongs to the private market. What is this number?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as I said, this issue cannot be tackled as a simple arithmetic question. We know how many people have the need each year and various options are available in Hong Kong. There are also people who want to have their cremains taken back to their hometowns. For this reason, the most important thing is to increase supply at the district level and at the same time, it is hoped that in the near future, the formulation of a regulatory regime can be considered, so that clear information is made available to consumers.

MR WONG YUNG-KAN (in Cantonese): *All along, the Government has done little to bring the mode of accommodating a large quantity of cremains under the coverage of the Public Health and Municipal Services Ordinance. A few days ago, the Complaints Division of the Legislative Council received a number of cases which had to be dealt with one way or another, but the Government wanted the Panel on Food Safety and Environmental Hygiene to discuss them first before further deliberation. However, I think that ultimately, it is necessary to find ways to solve this problem. For this reason, may I ask the Government if, at the present stage and in the future — although the Government has already given an answer to Honourable colleagues — a timetable has been or will be set to state when the task will be completed? Is it necessary to complete the consultation first and how long will the consultation take before the relevant task can be completed? It is absolutely necessary for the Government to have planning, otherwise, if everyone operates columbaria with little regulation, the public will surely complain about the illegal nature of the niches purchased by them. In that event, what could be done? Therefore, may I ask the Government if it has set any timetable for a licensing regime and the timeframe?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, just now and in the past, I have undertaken to give an account to the Legislative Council before the end of this Session. We should be able to give the Legislative Council Panel on Food Safety and Environmental Hygiene an account in July or thereabout.

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

MR WONG YUNG-KAN (in Cantonese): *No. The Secretary said that he would give an account, but will he give an account of the entire policy or will he only give a partial account?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, of course, we will give an account of the principle underlying the policy as far as possible and at the same time, we also want to induce a discussion in society and

carry out a public consultation on the details. We will give an account of the details in due course.

MR TAM YIU-CHUNG (in Cantonese): *Today, the Government has acknowledged in the main reply that it is necessary to consider the direction of licensing, and we agree to this. However, before taking this step, has the Government considered such realistic and existing problems as irregularities, non-compliance with the relevant requirements or future non-compliance with the new requirements, and how will it deal with them?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we must consider three different issues: First, what kind of goal we want to attain in the future and how to impose regulation. This is the work we will undertake. Second, we must deal with the existing problems and at present, we are dealing with the existing legislation and I believe the relevant government departments will continue with the efforts in this regard. Third, how should the transitional period before the introduction of a regulatory or licensing regime be dealt with? We must specify this clearly. For this reason, just now, I said clearly that if anyone has not yet obtained government permission, I call on them not to think that they can put up buildings akin to columbaria rashly and think that they can get away with it. Rather, they can make decisions only after we have formulated the relevant policies. Moreover, they must obtain government approval before building this kind of columbaria.

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

Pre-payment for Services

3. **MR JAMES TO** (in Cantonese): *President, I would like to declare interest before raising this question. As a yoga centre closed down recently, a close relative of mine has become a victim and may lose several thousand dollars.*

President, at present, quite a number of providers of personal services (for example, beauty care and slimming centres and yoga centres, and so on) lure customers to make pre-payment for services by offering discounts. Some banks have extended private loans through service providers to their customers to enable them to make pre-payment for services with the loans, and the amounts of money involved range from several thousand dollars to tens of thousands of dollars. In the past one-odd year, a number of large-scale service providers closed down suddenly and their customers who had made pre-payment for services could not recover the pre-paid amounts. Under the existing system, when service providers are put into liquidation, their customers often become unsecured creditors and it is difficult for them to recover their pre-paid money. In this connection, will the Government inform this Council whether:

- (a) the practice of banks offering private loans through service providers to their customers is subject to the regulation of the Hong Kong Monetary Authority (HKMA); when the staff of service providers, when handling the formalities for securing loans for their customers, have not clearly explained to their customers the potential loss to them and related risks in case the service providers close down, whether banks have breached any guideline and are required to shoulder responsibilities as a result;*
- (b) reference will be made to the practice adopted in Taiwan to introduce legislation to require that when service providers receive pre-payment for services, performance bond in full amount in respect of the contracts must be provided by financial institutions; and*
- (c) the Government has any plan in the short-term to enhance its publicity and education efforts to let the public know the legal rights and obligations of consumers in respect of pre-payment for services, so as to prevent the recurrence of the above problems; if so, how the plan will be implemented?*

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

- (a) Where customers have made pre-payment for goods or services, if the merchant goes out of business before delivering the goods or services, they will face the situation of not being able to claim back the prepaid amount. Customers will have to bear credit risk if pre-payment for goods and services is involved. Credit risk arises no matter whether the pre-payment is made in cash, lump sum payment upfront by credit card or payment by instalments.

Recent incidents indicate that consumers who made lump sum pre-payment upfront by credit card may enjoy better protection than those who have pre-paid by cash or those who make re-payment of loans used for the purchases by instalments. In general, where consumers use credit card to make lump sum payment upfront, if the merchant goes out of business, consumers may request the card issuers to claim back part of pre-paid amount relating to goods or services which have not been delivered. However, where consumers have entered into loan agreements involving repayment through instalments, they may not be able to stop re-payment to banks as the latter usually have advanced the whole transaction amount to the merchant upfront. The banks will then charge the consumers by instalments through their credit cards. Therefore, when a merchant goes out of business, consumers may still need to continue their loan repayments to banks.

The HKMA understands consumers' concerns over the recent incidents. The HKMA has urged the banks to deal with customers' complaints and chargeback requests reasonably and pragmatically, and will continue to discuss with the banking industry to find ways to strike a fair balance between better protecting consumers from pre-payment risks and avoiding cashflow problems which may be encountered by small and medium enterprises (SMEs).

- (b) To our knowledge, the relevant authority in Taiwan has imposed a requirement on providers of certain goods and services (such as those in general retail business and the hair styling industry) to

provide a performance bond when they receive pre-payment from consumers. The performance bond can take the form of an undertaking of an adequate amount issued by a financial institution, which should be valid for at least one year starting from the date on which the provider receives the pre-payment.

Mr TO suggests that similar measures as those adopted in Taiwan be introduced into Hong Kong. A host of policy, regulatory and implementation issues are involved, which would have a bearing on the operation of traders and financial institutions. For instance, what are the yardsticks for determining the amount of the required bank guarantee and the amount of capital required by a service provider to discharge its contractual obligations? How to identify industries or traders which are accepting pre-payment? How can the relevant requirements be enforced and who would shoulder the administrative costs?

Besides, we believe that the proposed measures would bring drastic changes to the current mode of operation (including cashflow) of traders accepting pre-payment. For example, banks are likely to charge a price for the guarantees they may provide according to the assessed default risk, and small businesses may need to shoulder a higher premium. New establishments may find it difficult to obtain bank guarantees if they do not have past performance records or collaterals. In the long run, such requirements may alter the industry structure, thereby reducing the choices available to consumers or raising prices. These are issues calling for careful consideration.

Our current priority is to consult the public as soon as possible on legislative proposals to tackle common unfair trade practices and then proceed with the legislative work. One of our legislative proposals is to prohibit the practice of "accepting payments without the intention or ability to supply the contracted goods or services". The legislative proposal should help tackle the problem of unscrupulous traders continuing to accept pre-payment notwithstanding the knowledge that their businesses are not sustainable. In the meantime, as mentioned in the reply to part (a)

of this question, the HKMA will continue to discuss with the banking industry to find ways to strike a fair balance between better protecting consumers from pre-payment risks and avoiding cashflow problems which may be faced by SMEs.

- (c) While it is necessary to impose legislative control to prohibit unfair trade practices, we consider it equally important to raise consumer awareness through publicity and education. Since late 2009, we have broadcast an Announcement of Public Interest (API) on television and the radio relating to the pre-payment mode of consumption. We have also published articles in newspapers to remind consumers of the need to consider the risks arising from this mode of consumption. Another API will be launched soon on television and the radio. We will also continue our efforts in exploiting other publicity channels (such as newspapers and the web) and work together with the Consumer Council (CC), the police and other organizations (including major chambers of commerce, schools and the media) to enhance consumers' awareness and knowledge of the pre-payment mode of consumption and unfair trade practices.

MR JAMES TO (in Cantonese): *President, the Government said that the legislative proposal should help tackle the problem of unscrupulous traders continuing to accept pre-payment notwithstanding the knowledge that their businesses were not sustainable. In fact, if we can really prove or know that the merchant will go out of business very soon, we can institute prosecution for the offence of fraud under criminal law at present. President, the Government's proposal does not help very much.*

President, the Government has not answered part (a) of my question. At present, the front-line staff of those merchants assist consumers to apply for loans from a bank and ask them to make pre-payment for several years in one go. It must be noted that those consumers have not visited the bank at all, but the bank conducts such loan offer activities through those merchants, or "usury" activities. Please excuse me for the vulgarity. President, may I ask the Government if they are subject to any regulation? The front-line staff of banks should of course be trained. But banks through the staff of those merchants Any staff can assist consumers to fill in the forms, whilst the bank has not seen those consumers

at all. Moreover, there is a conflict of interest on the part those merchants, for consumers should continue their loan repayments to banks in case they go out of business. In view of such risks and conflict of interest, how does the HKMA regulate banks to require that those merchants should disclose such risks? It should at least do so, so that consumers can genuinely be convinced. Has it done so? The Secretary has not answered part (a) of my question entirely. Why?

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I thank Mr TO for his question. When approving a loan, a bank is required to state the terms of such loan. According to the Code of Banking Practice, banks should state clearly the conditions and terms of their services to clients. In general, we have checked those leaflets and application forms as well. If banks wish to offer clients loan schemes involving repayment by instalments through credit cards, they should state clearly in their conditions and terms that after the approval of loans, clients are required to shoulder the responsibility of making repayments monthly and such repayments cannot be terminated halfway. All these should be stated very clearly. However, we agree that in view of such problems, in order to protect consumers' interests, it may be necessary to enhance the transparency. In this regard, the HKMA will discuss with banks again to see how the transparency can be enhanced, so that consumers can understand their obligations and responsibilities when applying for such loans.

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

MR JAMES TO (in Cantonese): *The Secretary has not answered the part about banks offer loans through the staff of merchants. There is a conflict of interest on the part of merchants, for consumers will still have to continue their loan repayments to banks in case of closure. Regarding this point, the Government*

..... The last part of my supplementary question is, has it required banks to ask merchants to highlight such risks? There is no reason for merchants to tell consumers that they are still required to continue their loan repayments in case of closure, for this will definitely scare them away. Have they ever highlighted this point? If not, banks are precisely conducting "usury" activities through those people, causing suffering to all parties.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I actually stated just now that such requirements are already in place. According to the Code of Banking Practice, banks are required to state clearly the conditions and terms of their services, as well as the obligations of loan repayment borne by clients. All these have been stated in the conditions.

MR KAM NAI-WAI (in Cantonese): President, I also wish to follow up this question. It seems that the Secretary has not learnt any lesson from the Lehman incident. What we are talking about is the disclosure of risks. In many leaflets, such risks are printed in a very small font size. And the staff of merchants, rather than those of banks, will ask consumers to sign contracts. Does the Secretary consider it necessary for merchants to tell consumers, clients or credit cardholders during this process that they are still required to continue their loan repayments even the merchants concerned have closed down? Has the Government ever considered how such a situation can be pre-empted, so as to enable consumers to get such message?

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): This question is very complicated. In fact, when answering this question today, I wish to illustrate why we have such a problem and consumers' interests are being undermined now. In fact, it is mainly attributed to the mode of pre-payment. After a consumer has made a considerable amount of pre-payment, in case the merchant goes out of business, he will suffer and

becomes a creditor. This is a very crucial part of the problem. No matter the pre-payment is made in cash, by credit card or as a loan, the consumer should know that he is responsible for the risks so incurred.

At present, we have conducted special discussions on the arrangement of bank loans, for this involves whether the Code of Banking Practice is clear, its transparency is high enough, and consumers understand this point when applying for loans. I consider that today's discussion is important. Consumers should learn more about the responsibilities that they should bear in applying for bank loans. In the existing Code of Banking Practice, it is stated that banks are responsible for explaining it to consumers. As for the question of how to enhance its transparency so as to give consumers a better understanding of this, we will conduct a review again and ask banks to include more guidelines in the Code of Banking Practice.

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

MR KAM NAI-WAI (in Cantonese): *President, I asked the Secretary if there was any concrete measure to enable cardholders to know such risks. The Secretary has not answered it just now. How can he enable cardholders to know that they are still required to continue their loan repayments even the merchant has closed down? This is the most crucial risk. Does the Secretary have any measure to prevent such a situation?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I think I have already answered this supplementary question. We have such conditions. As for the enhancement of transparency to enable consumers to gain a better understanding, we will review this question and enhance the transparency through conducting public education and issuing guidelines to banks. However, it must be borne in mind that the current question is, once pre-payment is made, a consumer should bear the risk that the merchant may close down. We will tackle the problem in this direction and also enhance the transparency of bank loans.

MR TOMMY CHEUNG (in Cantonese): *President, I understand that the Secretary's reply is about how to strike a balance to protect consumers and avoid affecting the operation of merchants at the same time. President, may I ask whether the HKMA and banks have held any discussions on the codes of practice in the trade? Seemingly, different banks may have different ways to handle such situation now, and different merchants may adopt different practices as well. In fact, as for users of different credit cards, there are also different ways to handle such situation. I think this is absolutely unfair to both consumers and merchants. Therefore, may I ask the Secretary if he will discuss with the HKMA to see if banks can draw up a uniform way of handling such situation. They should even announce For example, after a consumer has made payment by credit card at a certain merchant, the bank can tell the merchant that in each of these transactions, payment will only be made after T+60 or T+120 days. And the consumer will also know what protection he will and will not be offered after making payment by this credit card. Hopefully, both banks and consumers can have a transparent, standardized and uniform practice to follow, so that disputes over individual cases can be avoided in future.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I thank Mr CHEUNG for his supplementary question. In fact, this is a right direction, and we are heading in it. Moreover, the HKMA is also considering how to enhance its transparency in this direction. Of course, we do hope that there will be a uniform way of handling such situation. But this will involve practices adopted by different merchants. Mr CHEUNG has made a good point just now. After approving a loan, if the bank recovers the amount when the merchant goes out of business, that is, it no longer deducts money from the debtor, this may also affect how the merchant arranges its cashflow. Therefore, this will affect the business gains of SMEs. Regarding this question, the HKMA has started and will continue the discussions with merchants and banks to see how the transparency, including protection for consumers and merchants, can be enhanced. We will continue to work on this.

MR TAM YIU-CHUNG (in Cantonese): *President, in amending the Trade Descriptions Ordinance (TDO) recently, the authorities only proposed imposing mandatory cooling-off arrangements on travel membership and contracts made during unsolicited visits to consumers' homes or places of work. In view of this,*

will the Bureau, after receiving so many complaints against the beauty care, fitness and slimming trades, consider imposing cooling-off arrangements on these contracts and capping the amount of pre-payment for services, so as to reduce customers' losses? If so, can it provide a timetable; if not, what are the reasons?

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Commerce and Economic Development, please.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, the stipulation of a cooling-off period will in fact involve the right of entering into contracts between buyers and sellers. Therefore, we must have sufficient justifications before deciding whether or not a cooling-off period should be stipulated.

We have introduced two circumstances in amending the TDO this time, with a view to imposing cooling-off arrangements. Certainly, we do not consider that such arrangements should be imposed across the board. For example, our debate today is about imposing cooling-off arrangements on pre-paid services. We know the reason, which has also been mentioned in newspapers. In fact, the imposition of such cooling-off arrangements is to tackle unscrupulous practices in transactions of pre-payment for services, such as misleading representations or pre-payment for services made under high-pressure tactics. At the same time, we also hope to ensure that services and products can meet consumers' expectation. We consider that the existing amendments to the TDO mainly focus on these unscrupulous trade practices. As for the imposition of cooling-off arrangements on pre-paid services across the board, it does warrant our consideration as it may not be effective at all. For example, even though the provider has offered reasonable services to consumers during the cooling-off period, we cannot rule out the possibility that it will go out of business upon pre-payment after the cooling-off period.

Therefore, the existing amendments to the TDO only impose cooling-off arrangements on travel membership of time share rights and contracts made during unsolicited visits to consumers' places of work or homes. We will re-examine this measure in the light of the implementation after the enactment,

thereby reviewing the introduction of the cooling-off period this time. President, we will not introduce the cooling-off period for the beauty care and slimming trades for the time being. But we will keep on communicating with them via the CC, so as to encourage them to stipulate a cooling-off period voluntarily. The authorities have no intention to stipulate a cooling-off period for the beauty care trade and other pre-paid services in general.

MR LEE WING-TAT (in Cantonese): *President, the most significant problem in the Lehman incident was that banks selling the products failed to give their clients a full disclosure of the risks involved. I wonder if the Secretary is clear about the Planet Yoga incident that occurred recently. In this incident, all the 13 000 members signed their contracts in the clubhouse. Secretary, please note that the staff of the clubhouse, unlike those of banks, have not received any training in the banking industry at all. I have asked several hundreds to a thousand of these members if they have heard of the disclosure of the risks involved. Therefore, I think James TO is right. Banks had commissioned the merchant, Planet Yoga, to conduct "usury" activities, but they failed to comply with the policies under the Secretary's purview that banks are required to disclose the risks involved. In fact, the Secretary should be held responsible for this. Moreover, there is also dereliction of duty on his part, for he has no idea about what has happened at all. Among those 13 000 members, none of them has ever been informed of the risks involved by the staff of Planet Yoga. Therefore, I wish to ask the Secretary, has he discussed with banks and requested their staff to ensure full disclosure of risks? If not, according to such policies, he has to ask banks if they will compensate their clients or request them to offer appropriate compensation this time.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Mr LEE, the relevant regulations and rules are very clear, stating what should be arranged between banks and merchants in respect of risk disclosure. Of course, in ensuring compliance with our operational requirements, the HKMA will require banks to make such arrangements, and there is a code of practice in place. However, what we are talking about is how to enhance its transparency with reference to the code of practice, so as to let more consumers know what follow-ups can be made in respect of such

arrangements. We have discussed with the HKMA, which is prepared to conduct a review with banks and it has actually started doing so. We are also prepared to enhance the transparency of guidelines in this regard.

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

MR LEE WING-TAT (in Cantonese): *President, the Secretary replied that in the so-called code of practice for banks, there were already requirements for risk disclosure. However, if banks do not require their staff to do so, have they violated the code of practice? If so, I will mobilize those 13 000 members to lodge a complaint to the Secretary again. He should not just give us empty words, saying that he will do so. What has he done so far?*

PRESIDENT (in Cantonese): Mr LEE, you need only repeat the part in your supplementary question

MR LEE WING-TAT (in Cantonese): *let me repeat, mainly*

PRESIDENT (in Cantonese): you consider the Secretary has not answered.

MR LEE WING-TAT (in Cantonese): *If it is stated in the existing Code of Banking Practice that the regulatory body, the HKMA, should require banks to disclose risks to their clients, does he know whether the staff of Planet Yoga have disclosed the risks to their clients? If they have not, does it constitute a violation of the Code of Banking Practice? I hope the Secretary will not just make a causal remark. Moreover, he should give me a response in respect of compensation.*

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I have nothing to add.

MR LEE WING-TAT (in Cantonese): *President, has he answered my question that way? Is he qualified for being a Secretary? President, he should answer my question right away*

PRESIDENT (in Cantonese): Mr LEE, please sit down.

MR LEE WING-TAT (in Cantonese): *If he cannot answer my question now, it simply means that he has no idea about this incident* He should apologize to those 13 000 members of the public

PRESIDENT (in Cantonese): Mr LEE, if you are not satisfied with the Secretary's reply, please follow up via other channels.

MR LEE WING-TAT (in Cantonese): *President, I seldom interrupt the Secretary. But he has not done any preparation at all. He has not answered my question, simply saying that he has nothing to add*

PRESIDENT (in Cantonese): Please sit down.

MR LEE WING-TAT (in Cantonese): *..... Who will protect the interest of those 13 000 members then?*

PRESIDENT (in Cantonese): Mr LEE, we are not supposed to have a debate today. The Secretary has already answered your question. This Council has spent over 23 minutes 30 seconds on this question. We now proceed to the next question.

Fourth question. Mr WONG Sing-chi.

Assistance for Persons with Disabilities

4. **MR WONG SING-CHI** (in Cantonese): *President, some organizations have relayed to me that the services currently provided by the Government to persons with disabilities (PWDs) are inadequate, including the provision of opportunities for continuing education, employment assistance, places available in sheltered workshops, and support to family carers, and so on. In this connection, will the executive authorities inform this Council:*

- (a) *whether they know, in each of the past five years, the number of persons with intellectual disability (ID) who managed to pursue continuing education after completing their education in special schools; of the number of persons with ID who were not able to receive continuing education because of the lack of financial assistance (such as the Tertiary Student Finance Scheme — Publicly-funded Programmes, the Financial Assistance Scheme for Post-secondary Students and other relevant loan schemes), as well as the reasons for their not receiving financial assistance; whether there is any financial assistance scheme exclusively for persons with ID; of the number of cases in which persons with ID succeeded in seeking employment under the assistance of the Selective Placement Division (SPD) of the Labour Department (LD), and the reasons why the others who sought assistance did not succeed in seeking employment;*
- (b) *of the current number of places provided by all the sheltered workshops in Hong Kong and the average waiting time for admission to such workshops; of the number of places provided by the Government in sheltered workshops for severely physically handicapped persons in the past five years, as well as the number of*

persons on the waiting list at present; of the timetable for the commissioning of additional Day Activity Centres (DACs) (including those located in West Kowloon); and

- (c) *of the percentage of carers of persons with ID among the service users of District Support Centres (DSCs) for PWDs, Parents/Relatives Resource Centres (PRCs) for Disabled Persons and Community-based Support Projects for PWDs and their Families in each of the past five years, together with a breakdown by District Council district?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the overall objective of the rehabilitation policy in Hong Kong is to help PWDs develop their physical and mental capabilities as well as their ability to integrate into the community through a comprehensive range of effective measures. This is to ensure that PWDs can participate in full and enjoy equal opportunities both in terms of their social life and personal growth. We will continue to provide PWDs and their carers with suitable service and support according to the strategic development directions set out in the 2007 Hong Kong Rehabilitation Programme Plan. My reply to the different parts of Mr WONG Sing-chi's question regarding provision of continuing education, employment and vocational rehabilitation for PWDs, as well as community support for carers, is as follows:

- (a) The policy objective of special education is to provide an appropriate learning environment for students with special educational needs so as to facilitate their education and help them develop their potential to the full, thereby enhancing their independent living and adaptation skills and enabling them to integrate into the community. Having completed education in schools for children with intellectual disability (ID schools), students will pursue other education/training opportunities or receive rehabilitation service having regard to their abilities, specific needs, temperament and interest. According to the information collected by the Education Bureau from the ID schools, in the past five years, an average of about 45% of the school leavers from the ID schools received vocational training. A majority of them received training from the Skills Centres under the

Vocational Training Council (VTC) and the Integrated Vocational Training Centres subvented by the Social Welfare Department (SWD). A small number of them received training from the "Pro-Act by VTC" or the Hong Kong Institute of Vocational Education under VTC. The number of students with ID receiving such training is set out at Annex. The remaining school leavers mainly received vocational rehabilitation training, day training service and/or residential care service, and so on, in sheltered workshops/Integrated Vocational Rehabilitation Service Centres (IVRSCs), DACs and residential care homes for PWDs subvented by the SWD.

If the courses pursued by the school leavers of the ID schools are covered by the financial assistance schemes administered by the Student Financial Assistance Agency (SFAA), and the students meet the relevant eligibility criteria, they can receive financial assistance. Although SFAA does not administer any scheme to provide assistance exclusively for persons with ID, all students (including persons with ID) can receive financial assistance if they meet the eligibility criteria of the relevant financial assistance schemes of SFAA. The Government does not have any record on the number of persons with ID who are not able to receive continuing education because of the lack of student financial assistance and the reasons involved.

In respect of the assistance to job seekers with disabilities (including job seekers with ID) provided by the LD, the SPD of the LD registered an average of around 730 job seekers with ID each year in the past five years. Of these, around 670 placements were achieved annually. For instance, the SPD registered 696 job seekers with ID and 673 placements were secured in 2009. According to the SPD's experience, whether placement of job seekers with ID can be successful depends on the circumstances of individual case and many other factors, for example, the experience and skills of the job seekers, interview performance and self-confidence and competition from other job seekers, and so on. In this regard, to enhance the competitiveness of job seekers with disabilities (including job seekers with ID), the SPD helps improve their understanding on job

search strategies, interviewing techniques and interpersonal/communication skills through pre-employment training. In addition, to increase the employment opportunities of job seekers with disabilities, the SPD also assists them in acquiring the latest labour market information and steps up effort in promoting employment for PWDs to employers. To this end, since 2005, the SPD has implemented the "Work Orientation and Placement Scheme" to offer financial incentive to employers so as to encourage them to employ PWDs through a trial placement.

- (b) In providing employment support, relevant government departments and organizations strive to provide PWDs (including persons with ID) with a wide range of vocational rehabilitation, training and employment services so as to equip them with skills that meet market requirements and assist them in securing employment commensurate with their abilities. Apart from the employment services provided by the LD, the three Skill Centres of the VTC offer free full-time training courses for PWDs aged 15 or above who are assessed as having the ability to work in the open market. Furthermore, the Employees Retraining Board offers retraining courses for PWDs aged 15 or above with education level at sub-degree or below. These courses are free of charge and training allowance is provided. The SWD also provides PWDs with free day training and vocational rehabilitation services to improve their social adjustment ability and enhance their social and vocational skills. PWDs who reach the age of 15 can apply for suitable services through referrals by school social workers, medical social workers, family caseworkers or staff of rehabilitation service units.

The SWD provides various vocational rehabilitation services including vocational rehabilitation services in sheltered workshops which aims to cater for PWDs who are not yet able to take up open employment. With appropriate vocational training in a specially designed work environment, PWDs can learn to adapt to normal work requirements, develop social skills and relationships, and prepare for potential advancement to supported and open employment.

As at March 2010, the SWD provided a total of 5 133 sheltered workshop places. The SWD will also provide 420 additional places of IVRSCs in 2010-2011 to provide PWDs with one-stop service, including sheltered workshop service and Supported Employment service. In 2009-2010, the average waiting time for sheltered workshops was about 14 months. Since the target group of sheltered workshop covers persons with varying disabilities (including persons with ID and persons with physical disability), the SWD's computerized systems do not capture data in relation to the disability types of service users and applicants on the waiting list.

Apart from the sheltered workshop service, sheltered workshop also provides day care service and training on daily living and simple work skills for persons with ID in DACs so as to help them become more independent in daily living and prepare them for more comprehensive integration into the community. As at March 2010, the SWD provided a total of 4 495 DAC places. In 2010-2011, there will be an additional provision of 137 places, of which 82 are in the Western Kowloon region.

- (c) The SWD set up 16 DSCs for PWDs in 2009 to strengthen the support and training for PWDs and their carers, thereby enhancing the caring capability of carers, relieving their burden and stress and improving their quality of life. Together with PRCs and community-based support projects, these 16 DSCs aim at providing more comprehensive community support services for PWDs and their carers.

As at March 2010, the total registered family members for the six PRCs were around 4 800 persons, including persons with ID and persons with physical disability, as well as their families. The SWD's computerized systems do not capture data in relation to the disability types of service users and applicants on the waiting list. As there is no service quota system for DSCs and community-based support projects for PWDs, carers can directly approach the service units for participating in their activities and receiving services. Hence, we do not have statistics on the number of users of the relevant services.

Annex

<i>School Year</i>	<i>Number of school leavers from ID schools receiving vocational training</i>
2004-2005	174
2005-2006	205
2006-2007	181
2007-2008	133
2008-2009	216

MR WONG SING-CHI (in Cantonese): *The Secretary pointed out in the main reply that data in relation to the waiting time for PWDs and persons with intellectual disability (ID) for places in the sheltered workshops are not captured. Some service agency colleague has told me that now there are 3 524 PWDs on the waiting list. I hope the Secretary can confirm this number. With so many people waiting, the increase in the number of places each year is only some 100. The Secretary has the badge "Act Now" pinned on his chest today. I ask him not to engage only in empty talks like "Act Now" in the constitutional reform because there is also a need to "Act Now" for such services. May I ask the Secretary if he thinks that the 14-month waiting time is reasonable? If the waiting time is really 14 months, can the authorities ensure that these PWDs will get the service they are waiting for? I hope the Secretary can really act now so that the public can see that there is a finishing line to the service they are waiting for, for if not, the boat which has raised its anchor will be drifting to nowhere. And this will be another example of empty talks. Can the Secretary make a specific undertaking, that is, he can provide such specific service to PWDs within the average timeframe of 14 months which he has just talked about, or that services on employment, day care or integrated rehabilitation service are provided to persons with ID?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Thanks to Mr WONG for the concern expressed. Actually, we are also very concerned about the waiting time. And this applies not only to persons with ID. About the overall strategy, we hope to deal with things at source. We think work needs to

be done by all means to improve services provided to service users of various disability types, from severe to medium ID.

With respect to persons with ID, I have pointed out in my main reply that the SWD provides a total of 5 133 sheltered workshop places. As at end March, a total of 2 496 persons are on the waiting list and the average waiting time for sheltered workshops is about 14 months. We will strive to increase the number of places and this is actually our objective. It is also stated in the main reply that 420 places will be added in the coming year, that is, 2010-2011. Of these 5 133 places, the 420 additional places are a significant increase at 8%. We will not stop at that, and we will strive for continued improvement.

Second, with respect to Supported Employment, now there are 1 645 places. The average waiting time would be much shorter. Now only 151 persons are on the waiting list and they can get the relevant service in about two months. This is because the integrated approach (that is, one-stop service including sheltered workshop service and Supported Employment service) is adopted. We now have two Integrated Rehabilitation Centres — and as we have explained before, one is the former Ma Tau Wai Girls' Home and the other is the South Kwai Chung Jockey Club Clinic — and presently work is being done in full swing to convert these two venues. They will be commissioned by the end of this year or at the beginning of next. By that time some 460 places will be available to meet the needs in this respect. We will continue to identify suitable locations and strive for more resources to do our job better.

MR WONG SING-CHI (in Cantonese): *The Secretary has not answered the question of whether or not an undertaking will be given. He boasted that persons on the waiting list could obtain the relevant service in 14 months on average. Can the Secretary undertake that such service can really be obtained after waiting for 14 months? He has not answered that. This is the thrust of my question.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I have said on various occasions that it would be very hard for us to make any pledge with respect to the waiting time. This is because it will depend on factors like whether parents have any preferred locations. But our aim is to shorten the

waiting time as much as possible. We are really sensing the urgent needs of the people and we know that such services are badly needed by parents and service users.

MR CHEUNG KWOK-CHE (in Cantonese): *President, to the PWDs, especially persons with ID, we know that continuous training is very important. The Secretary mentioned in the main reply that the average waiting time for sheltered workshops is about 14 months and as the District Support Centres (DSCs) for PWDs are unable to offer continuous training to PWDs every day and such training lasts only a few hours each week, hence the PWDs will not be making any substantial progress.*

May I ask the Secretary whether planning will be undertaken for the next three years or even the next five years to cope with the enormous demand so that the services we provide can meet the needs?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I wish to thank Mr CHEUNG for his view. As a matter of fact, he is very close to us in terms of the direction and thinking and that is, we should really approach service delivery from a flexible and user-friendly perspective. So we are realigning the services provided by the DSCs for PWDs and this approach has been taken gradually since last year, that is, 2009. Our direction now is hopefully to work better in both software and hardware.

Mr CHEUNG has mentioned issues like service hours, and so on. Now in the realignment exercise we are using the district-centred approach and resources are made full use of to provide more services for those in need. About these centres, two of them are now in operation. One of them was inaugurated two weeks ago in Tin Shui Wai and five others will be commissioned in the fourth quarter. And so a total of 16 centres will be in operation. By then parents and carers in the districts concerned will not have to travel a long distance to other places in search of services and they can obtain all the services they need at one location. This is our goal.

MR IP WAI-MING (in Cantonese): *President, the Secretary mentioned in part (c) of the main reply that there are 16 DSCs for PWDs to strengthen the support and training for PWDs and their carers. Apart from concern for PWDs, the needs of the carers, both psychologically and physically, should also be taken care of.*

Does the Government have any plans to study the provision of allowance to the carers and offer them psychological support service?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I wish to thank Mr IP for his views. He has raised two issues, one is on what we can offer to the carers and the other is whether any allowance will be provided. First of all, I wish to pay tribute to these carers. Every PWD has to be taken care of by his or her family members. Their family members have to make a lot of efforts. They have to earn a living, take care of the family and also the PWD in their family. So our policy does not only address the service users, that is, the PWDs, but also their carers, who are also our service targets.

Our work is, first, provide some home-based services. We admit that these are not sufficient at all. So at the district level, apart from the 16 DSCs for PWDs which I have mentioned, their carers can also obtain psychological counselling and training service in these DSCs. This is because they are also the subjects of our concern.

Second, as Members may recall, we have explained in the budget debate that a new measure is to be introduced this year. President, we will apply for a funding of \$163 million from the Lotteries Fund to launch a new pilot scheme. As the waiting time is long for long-term nursing residential places for the severely disabled such as quadriplegic patients and persons with ID, we will provide home-based service to them before they are hospitalized. We will first provide 540 nursing service places in Tuen Mun and Kwun Tong with the aim of easing the pressure borne by the carers.

Third, with respect to the provision of allowance, we have also considered it. Now the PWDs on Comprehensive Social Security Assistance receive a payment amount which is higher than recipients on the standard rate. They also have grants and supplements, that is, special allowances. Those persons with severe disabilities can be given a special grant to cover nursing care if they can

furnish medical proof. This will enable them to hire a domestic helper or a foreign domestic helper to take care of them. This is subvented by the Government. As for the carers, we think that it would be difficult to provide an allowance to them. On the other hand, they may need some diversified services such as physiotherapy, occupational therapy or nursing instead of cash. So we would think that it is not possible to use cash to take the place of the family and its functions. We believe that it is important to fulfil the obligations of a family and people should help each other. The Government should also provide the assistance required. This is our belief.

MR LEUNG YIU-CHUNG (in Cantonese): *President, I appreciate the Secretary paying tribute to the carers. However, I wish to tell the Secretary that it is useless to only pay tribute because it cannot solve the problems. A carer has to take care of his or her family member with disability for almost 24 hours a day and this is very tiring, physically and mentally. Unfortunately, from the reply given by the Secretary just now, the PWDs cannot expect to get work in the sheltered workshops within 14 months but it is just that they have to wait for 14 months on average.*

The Secretary mentioned in the main reply they will continue to "provide PWDs and their carers with suitable services and support". But what is meant by "suitable services and support"? Can the Secretary solve the problem of the physical and mental fatigue experienced by carers who have to take care of PWDs 24 hours a day? What exactly does the Secretary mean by "suitable"?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I am grateful to Mr LEUNG for expressing his concern for this issue. We share the same view as his. The meaning of "suitable" refers to the provision of services they need. When I talked about waiting time earlier, I mentioned their possible need for hospitalization, and we know that they have such a need during that period in time and so we have set up daytime service centres, day care service centres, home-based services and training for volunteers. All these are set up in the hope of easing the pressure on them. The most important thing is that we have to take the first step. As I said earlier, for persons with severe disabilities, we will roll out bold measures like pilot schemes and this means providing home services to these PWDs direct while they are waiting. If the

pilot scheme is proved successful, we will launch it in full swing so as to reduce the burden on the families of the PWDs. I understand that we cannot hope to ease the burden of all the round-the-clock carers, but at least we can help some of the carers.

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

Third Party Risks Insurance for Taxis

5. **MR CHEUNG HOK-MING** (in Cantonese): *I have received complaints from members of the taxi trade about the pressure on the operating costs of the taxi trade caused by the existing high third party risks insurance premiums for taxis, which in general have been increased from \$8,000 to the level of \$18,000. Moreover, some taxi operators have recently introduced a data recording device specially for taxis, commonly known as "black box". They believed that the installation of "black boxes" in taxis may substantially enhance taxi drivers' awareness of safe driving, which will in turn reduce accidents and safeguard the safety of road users. In this connection, will the Government inform this Council:*

- (a) *of the number of insurance companies operating the business of third party risks insurance for taxis at present; whether it knows the third party risks insurance premiums for taxis charged in general by such insurance companies and how such premiums compare with those for private cars; of the respective rates of increase in the third party risks insurance premiums for taxis and private cars in the past three years;*
- (b) *whether the authorities had, in the past three years, studied if the increase in the third party risks insurance premiums for taxis was related to the frequent occurrence of traffic accidents involving taxis; if it was related, of the situation of traffic accidents involving taxis and the resultant increase in third party risks insurance premiums for taxis during this period; and*

- (c) *whether the authorities will study further the feasibility of installing "black boxes" in all taxis; if they will, of the implementation timetable; if not, of the factors considered by the authorities?*

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

- (a) Currently there are six insurance companies in Hong Kong providing insurance services for taxis. (Appendix 1)

Based on the data on premium incomes^{Note} provided by motor insurance companies to the Office of the Commissioner of Insurance (OCI), which comprises information on both third party risks and comprehensive risks policies, the average premium per vehicle (net of no claim discount and other discounts) from 2007 to 2009 were \$3,566, \$3,661 and \$3,417 respectively for private cars, and \$7,797, \$9,259 and \$12,378 respectively for taxis. Accordingly, over the past three years, the average premium for private cars remained at about \$3,500. The average premium for taxis increased by 19% and 34% in 2008 and 2009 respectively.

- (b) Pricing of the insurance business is based on risk assessment. Insurance companies will consider the risks assumed, mainly the accident rate and quantum of claims, in determining the premium levels.

According to the statistics provided by the Transport Department, there are currently about 18 000 taxis in Hong Kong. From 2007 to 2009, the number of taxis involved in accidents was 4 004, 3 926 and 3 801 respectively. The accident rate of taxis was one of the highest among all classes of motor vehicles. During the same period, the number of taxis involved in fatal and serious traffic accidents was 543, 474 and 469 respectively.

Note:

The OCI does not separately collect information on the premiums of third party risks insurance.

The net claims incurred in taxi insurance business amounted to \$104 million, \$135 million and \$108 million for 2007, 2008 and 2009 respectively, while underwriting loss reached \$31 million, \$51 million and \$26 million. These figures have not included the insurance claims made against Anglo Starlite Insurance Company Limited, which was put into provisional liquidation in 2009 and its outstanding claims which were taken up by the Motor Insurers' Bureau of Hong Kong. The total claims are estimated to exceed \$600 million.

- (c) "Black box", a data recording device installed on a vehicle, records such parameters as vehicle speed, mileage and travel time. These data are mainly used by transport operators for fleet and service management. The parameters recorded can also facilitate traffic accident investigation.

On traffic accident investigation, as "black box" can provide circumstantial information (such as pre-accident speed and vehicle signals) of accidents, it can assist the police to understand the details of the accidents.

Taxi service in Hong Kong is mainly operated by small individual entities, where most taxi drivers are rentee-drivers or owner-drivers. The taxi trade generally does not need to organize or manage a fleet. Besides, taxis mainly provide point-to-point personalized passenger service without fixed schedule, routeing or operation hours. As such, the installation of "black box" may not serve to enhance the organization management and service quality of the taxi trade.

In view of the above, the Government does not have any plan at the moment to require the mandatory installation of "black box" on all taxis. However, the Government welcomes the taxi trade's initiatives to explore and introduce tools or equipment that may improve driving attitude and enhance road safety.

MR CHEUNG HOK-MING (in Cantonese): *President, the Secretary mentioned in the main reply that the third party risks insurance premiums for taxis are much higher than those for private cars, with some \$3,000 for the former and \$12,000 or so for the latter. May I ask the Secretary whether any complaints about soaring third party insurance risks for taxis were received from any trade organizations or individual taxi drivers in the past one year? If yes, what follow-up actions have the authorities taken? What are the specific details of such actions? If no, will the Government make enquiries with insurance companies about the situation, with a view to balancing the interests of all sides?*

PRESIDENT (in Cantonese): Which Secretary is going to give a reply? Secretary for Financial Services and the Treasury, please.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Indeed, owing to the drastic increases in taxi insurance premiums in recent years, we have heard the expression of various opinions in the market. But the message we note and want to impart is that the levels of insurance premiums reflect the risks borne by insurance companies. On some matters related to the work of the OCI, we did receive some opinions, enquiries and submissions. The OCI's function is to regulate the financial situation of insurance companies to ensure their normal operation and stable development of the insurance industry. As for some individual cases, such as the difficulties faced by taxi drivers in taking out insurance policies with insurance companies, we have also provided various forms of assistance to them.

MR LAU WONG-FAT (in Cantonese): *President, is the Administration aware that the third party risks insurance premiums for taxis will be increased or reduced in response to movements in the number of traffic accidents involving taxis? Or, has it in fact been the case that over all these years, there have only been increases?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, every insurance company will naturally adjust premium levels on the basis of individual drivers' driving records (that is, records of

involvement in traffic accidents). For instance, we know that no claim discount levels can reflect the driving experience and records of drivers. The overall premium levels in the industry are also adjusted in response to the accident rates of the taxi trade. The past premium increases observed was due to the losses incurred by the insurance sector. As I mentioned in the main reply, the high accident rates of the taxi trade and the insurance sector's history and experience of incurring losses were the reason. Premium adjustments are based on all these reasons.

MR CHAN KIN-POR (in Cantonese): *President, from part (b) of the main reply, I learn that the underwriting losses between 2007 and 2009 amounted to dozens of millions, but such losses did not include the \$600 million claims made against Anglo Starlite Insurance Company Limited and subsequently taken up by the Motor Insurers' Bureau of Hong Kong. In order to make the relevant figures fully reflect the business conditions of the taxi trade, will the Government consider including the \$600 million or any related compensation in the figures announced by the Government?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, thanks to Mr CHAN for his viewpoint. When we give the compensation figures in the main reply, we also mention the compensation amount associated with Anglo Starlite Insurance because we want to let everybody see the full picture. As for how the compensation associated with Anglo Starlite Insurance should be reflected and handled, since the cumulative compensation cases of different years are involved, it is not easy to reflect this \$600 million in the figure of any one year. Our approach is to give two separate sets of figures when, for example, answering this oral question or giving any explanation to the public, so that everybody can see the overall situation of the sector.

MR TAM YIU-CHUNG (in Cantonese): *The Secretary mentioned in part (c) of the main reply that the installation of "black boxes" on taxis may not be very useful. But have the authorities ever considered whether the installation of "black boxes" on minibuses may be a different story? Will the installation of*

"black boxes" in this case impose strong control on the driving behaviour of drivers and achieve greater deterrent effect? Has this idea ever been considered?

PRESIDENT (in Cantonese): Mr TAM, this oral question is on taxi insurance.

MR TAM YIU-CHUNG (in Cantonese): *No, what I mean is that the installation of "black boxes" is mentioned in part (c) of the main reply, but he now seems to say that this is not very useful. My question is: if this is not very useful in the case of taxis, will there be any different effect in the case of minibuses?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I can answer this question. We plan to require the installation of "black boxes" as a basic facility on public light buses. These two cases involve different considerations. The reason is that public light buses usually operate as entire fleets. As we mentioned in the main reply, the situation in the taxi trade is vastly different. There are many small individual entities called "single-taxi" drivers. Therefore, from the perspective of regulating and monitoring service standards, the installation of "black boxes" can enable checking of operation according to schedules, because minibuses provide fixed-route and fixed destination services. "Black boxes" can provide some information for improving the regulation of public light bus operation. Therefore, in the case of minibuses, we will consider the inclusion of "black boxes" as a basic facility.

MS MIRIAM LAU (in Cantonese): *President, as a matter of fact, the taxi trade really thinks that it has been treated very unfairly, because in the past three years, while the number of traffic accidents involving taxis dropped continuously, taxi insurance premiums, however, rose from some \$7,000 in 2007 to some \$12,000 in 2009, at a rate of over 60%. And, I know for sure that in some cases, the rate of increase is even over 100%. The excess has also been increased drastically. The taxi trade is therefore under pressure from many sides. The taxi trade also understands that insurance companies often claim that the large*

amounts of compensation they have to pay have caused losses, thus necessitating the shifting of costs to taxi premiums. The taxi trade, therefore, is also very keen on identifying various ways to reduce the incidence of traffic accidents and compensation claims. The idea of installing "black boxes" springs exactly from this.

Last Saturday, I attended a press conference on the installation of "black boxes" and obtained many relevant data. "Black boxes" are not unique to Hong Kong. Other places, such as Korea, also seek to promote their installation. Many vehicles (not necessarily vehicle fleets) are fitted with "black boxes". Vehicles in some American States are also equipped with "black boxes". According to the information provided by the insurance sector, in places where vehicles are fitted with "black boxes", the number of compensation claims will drop drastically over time. This proves that unlike what is mentioned in the main reply, the usefulness of "black boxes" is not restricted to organized vehicle fleets or service management. Rather, they are also useful in increasing the safety factors. The reason is that if a vehicle is fitted with a "black box", its driver will be more careful when driving. Am I correct? I believe that "black boxes" are definitely useful. If all such information, all such foreign experience, is a true proof that the safety factors can be increased, thus reducing compensation claims and amounts of compensation and in turn insurance premiums, will the Secretary consider giving more active support and assistance to the sector in removing the legal and technical problems and obstacles standing in the way of installing "black boxes", rather than merely welcoming the sector to explore and introduce on its own initiative all such facilities that can enhance road safety? The reason is that the installation of any equipment on vehicles must obtain the approval of the Transport Department. And, the installation of such facilities will also involve privacy problems. How can these problems be solved? Can the installation of "black boxes" really allay the sector's anxieties and worries, thus enhancing the safety of taxi operation and reducing the incidence of taxi accidents?

PRESIDENT (in Cantonese): Which Secretary is going to reply? Secretary for Transport and Housing, please.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I believe what Ms Miriam LAU means is that the installation of "black boxes" may cause changes in the driving behaviour of drivers. We agree to this point because more than 60% of the traffic accidents involving taxis were mainly caused by driving behaviour, including tailgating (18%), careless lane-switching (10%), and careless turning (6%). There will be some kind of warning effect.

However, we must also note that while the technology is already available, the installation of "black boxes" on all taxis is not yet required as a mandatory regulatory measure in any places. In other words, this has not yet been implemented as a regulatory measure. Naturally, we will monitor the situation closely. As suggested by Members, the Transport Department will co-operate closely with the taxi trade. Or, if the taxi trade comes up with any needs in the installation of "black boxes", such as those relating to testing and approval, we will definitely be more than happy to provide assistance because from our standpoint, we must do our utmost to promote traffic safety.

But as I have explained in my reply just now, the composition of the taxi trade and that of the minibus sector are different. We will of course continue to monitor the situation. But will the incidence of accidents really drop some time after the installation of "black boxes"? Will this have any direct impacts on insurance premiums? Maybe, the Secretary for Financial Services and the Treasury is in a better position to give more comments.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): As we understand from the sector, if "black boxes" are installed on taxis, some insurance companies are prepared to offer a discount on premiums.

MR WONG KWOK-HING (in Cantonese): *President, I was very delighted to hear that when talking about installing "black boxes" on taxis, there is a "plan to include". I heard that very clearly. May I ask the Secretary whether she can give the timeframe and roadmap concerning her comment that there is a "plan to include"? The reason is that the taxi trade really wishes to promote the installation of "black boxes" as a means of reducing taxi insurance premiums.*

SECRETARY FOR HOUSING AND TRANSPORT (in Cantonese): I may repeat what is stated in the main reply. We do not have any plan at the moment to "require the mandatory installation of 'black boxes' on all taxis". I have already explained that there is no such mandatory requirement in the regulatory framework of other places. But we still welcome the sector to enhance its service quality or to promote safe driving behaviour through the installation of "black boxes". We note that many accidents are caused by drivers' driving behaviour, and we will also monitor the development of the situation closely.

PRESIDENT (in Cantonese): Sixth question.

Legislative Council By-elections

6. **DR LAM TAI-FAI** (in Cantonese): *President, the 2010 Legislative Council by-election for the five geographical constituencies was completed on 16 May, and the voter turnout rate was 17.1%, which is a record low in Legislative Council general elections and by-elections since the establishment of the SAR Government. It has been reported that the outcome of a relevant opinion poll published by the Hong Kong Youth Association before the election indicated that 65% of the respondents were against the by-election under the slogan of "five geographical constituencies referendum". The Chief Executive issued a statement in the evening of 14 May, stating that the mainstream community view was that this by-election could have been avoided, was an abuse of system and was even a waste of taxpayers' money. He decided not to vote in the by-election and also indicated that he would consider amending the legislation to prevent Members from resigning and then standing for the by-elections again during the Session. In this connection, will the Government inform this Council:*

- (a) *of the actual expenses and the manpower resources, including police manpower and other supporting staff concerned, deployed by the Government for this by-election, together with a breakdown in table form detailing various types of expenses and manpower resources;*
- (b) *whether it has commenced the law drafting procedure to amend the relevant legislation, so as to eliminate the recurrence of some*

Members resigning and then standing for the by-elections again during the session; if it has, when it will submit the bill to this Council for scrutiny; if not, the reasons for that; and

- (c) *whether it has, before the relevant legislation is amended, formulated any contingency mechanism to handle cases of some Members resigning and then standing for the by-elections again during the session; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, my reply to part (a) of the question is as follows:

- (a) The 2010 Legislative Council By-election was held on 16 May 2010. The scale of the By-election, which covered five geographical constituencies across the territory, is comparable to that of a general election. The estimated expenditure for the 2010 Legislative Council By-election amounts to about HK\$159 million with the relevant breakdown set out at Annex I. The departments and suppliers which provided support to the By-election are still calculating the actual expenses involved. Moreover, as the candidates and their agents in the By-election may, according to the law, apply for financial assistance within 60 days after the gazettal of the result of the election, the Registration and Electoral Office (REO) is not able to compute the relevant expenses for the time being. Due to the above reasons, the REO currently does not have the figure on the actual expenses of the By-election.

The manpower resources arrangement for the By-election is set out at Annex II.

- (b) According to section 36(1)(a) of the Legislative Council Ordinance, the Electoral Affairs Commission (EAC) must arrange for a by-election to be held when the Clerk to the Legislative Council makes a declaration as to the existence of a vacancy in the membership of the Legislative Council. The EAC is obliged to discharge this statutory responsibility.

We note that there are views in the community which consider that restrictions should be imposed on Legislative Council Members who resign from their office and then stand for the by-elections. We would analyse these proposals carefully when considering amendments to the relevant local legislation. The SAR Government considers that it is indeed necessary for us to consider plugging the loophole, so that Members in office would not be able to resign at will and trigger a by-election. However, consideration would have to be given as to whether these proposals comply with the Basic Law; whether the proposed restrictions are reasonable restrictions from the legal point of view; and whether those restrictions are practicable. After we have completed the relevant research and analysis, on the basis of the conclusions drawn, we would decide how the relevant legislation could be amended.

- (c) Our plan is to deal with the amendment motions to Annexes I and II to the Basic Law in relation to the methods for selecting the Chief Executive and for forming the Legislative Council in 2012 before the Legislative Council summer recess in mid-July 2010. Matters relating to the relevant local legislation can be dealt with thereafter.

Annex I

Estimated Expenditure for the 2010 Legislative Council By-election

	<i>Expense Items</i>	<i>\$ Million</i>
(1)	Staff Cost (including time-limited civil service posts and non-civil service contract staff)	31
(2)	Publicity	3
(3)	Election Expenses (including the costs for electoral arrangements such as hire of venue, honorarium for polling and counting staff, Financial Assistance Scheme, transportation, postage, free mailing for candidates, printing, operating cost for temporary office, and so on)	125
	Total	159

Annex II

Manpower Resources Arrangement
for the 2010 Legislative Council By-election

<i>Item</i>	<i>Major Duties</i>
(1) Increased around 20 time-limited civil service posts ⁽¹⁾	To identify suitable venues as polling-cum-counting stations; recruit and train electoral staff; formulate and implement electoral arrangements; handle election-related enquiries, complaints, election expenses returns, claims for financial assistance; and compile the election report.
(2) Recruited over 260 non-civil service contract staff	
(3) Recruited over 14 600 civil servants as electoral staff	To carry out polling and counting duties on the polling day.
(4) Arranged 4 200 duty attendances by police officers	To be stationed at the polling stations to maintain order of the by-election on the polling day and discharge other duties such as handling complaints and escorting the transportation of ballot papers, and so on.

Note:

- (1) The posts include Executive Officer grade and Information Officer grade staff.

DR LAM TAI-FAI (in Cantonese): *President, the Secretary's main reply has obviously not answered parts (b) and (c) of my main question. I know that Secretary Stephen LAM can be considered as a diligent official who frequently visits the districts and comes into contact with many community bodies. Of course, he reads newspapers, watches television and listens to the radio; in theory, he should be very clear about the voices of the community and public opinion. However, the reply given by the Secretary this time is the same as the replies given by government officials insofar as amending Article 39(E) of the Inland Revenue Ordinance is concerned. He does not understand public opinion and has no intention do the job well; and he has not proactively plugged the loophole.*

I asked the Secretary to explicitly give me the relevant dates and timetable. When will the Government finish considering amending the legislation? When will the legislation be amended? How will the Secretary deal with the situation should history repeat itself? At present, the Government is only focused on the publicity work on the "Act Now" campaign for constitutional reform. But if the legislation is not amended, how can we prevent some people from organizing resignations or anchor dropping en masse? What will happen if there is an insufficient number of Members to cast votes on 23 June? May I ask the Secretary to tell me the relevant timetable explicitly? When will the Government consider amending the legislation? When will it put forward a proposal for discussion?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, just like principal government officials, Dr LAM Tai-fai actually attaches great importance to the views of the community. Coming back to the issue of resigning and then standing for the by-elections, the community's views are very specific: people think that the elected Legislative Council Members should serve on the Council for four years. They should not resign halfway on their own, wasting taxpayers' money. To tackle the constitutional reform issue, they should vote in the Legislative Council according to the Basic Law.

As regards Dr LAM Tai-fai's worries about an insufficient number of Members to vote on the amendment to Annexes I and II to the Basic Law, I believe his are groundless fears. So long as we have dozens of Members here, there is a quorum for a meeting. The SAR Government already indicated that even after the resignation of a few Members, at least 40 votes, that is, two thirds of the 60 Members of the Legislative Council, are required to pass the amendment to Annexes I and II to the Basic Law.

Nevertheless, back to the issue of resigning and then standing for the by-elections, we definitely need to plug this loophole. The problem is not about whether we can — but how we can — plug this loophole. Article 26 of the Basic Law ensures that permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election. Now that all of us have the right to vote and the right to stand for election, if it is proposed that Members should be restricted from resigning and

then standing for the by-elections, we must ensure that such a proposal is constitutionally and legally justified. Mr WONG Yuk-man commends the relevant provisions of the Basic Law but he should not feel happy too soon because the SAR Government is really examining the matter. We need to comply with the Basic Law and impose reasonable restrictions, with a view to practicably plugging this loophole. President, I think that the community's views

(Mr LEUNG Kwok-hung stood up)

PRESIDENT (in Cantonese): What is your point?

MR LEUNG KWOK-HUNG (in Cantonese): *The Secretary has talked about a loophole again and again, can he clarify what the loophole is? What is the legal loophole he just mentioned?*

PRESIDENT (in Cantonese): Mr LEUNG, please sit down. It is up to the Secretary to determine whether he will clarify that point upon your request; please sit down. Please continue, Secretary.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): The loophole is distinct in the eyes of the public, and there are now laws

MR WONG YUK-MAN (in Cantonese): *We are now talking about the laws, not about what is in the eyes of the public or the values, therefore, he must clarify that.*

PRESIDENT (in Cantonese): Mr WONG, please sit down.

MR WONG YUK-MAN (in Cantonese): *He just needs to say that there is a loophole; he just needs to tell us so. He just needs to tell us that the Government regards that as a loophole, right?*

PRESIDENT (in Cantonese): Mr WONG, please stop speaking and sit down. I have said many times that this is not a debate session; even if it is a debate, the speakers should speak in a certain order. Thus, I ask Mr WONG to let the Secretary finish giving his reply first.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, in the eyes of the public, this loophole is distinct because the current Legislative Council Ordinance permits resignations by Members, and arrangements should be made for by-elections to be held under the Ordinance after Members have resigned. But this falls short of people's expectation. On the one hand, people hope that the elected Legislative Council Members would serve on the Council for four years, and on the other, they think that taxpayers' money should not be wasted this way. For this reason, the Government must practicably consider how the loophole can be plugged.

DR LAM TAI-FAI (in Cantonese): *President, the Secretary has spoken a lot but he has not talked about a timetable. In that case, he might as well ask "Long Hair" direct whether he will resign again. He has just written me a note: "Tai-fai — Long Hair has always been a street-fighter without any fears". Why does the Secretary not ask him if he will resign again?*

PRESIDENT (in Cantonese): Dr LAM, you have repeated your question Mr LEUNG Kwok-hung.

MR LEUNG KWOK-HUNG (in Cantonese): *President, I now publicly declare that I will resign again if the Government enacts legislation on Article 23 of the Basic Law again.*

PRESIDENT (in Cantonese): Mr LEUNG, you need not make this declaration here. Secretary, do you have anything to add about the timetable?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, we will handle the matter as quickly as possible.

MR WONG YUK-MAN (in Cantonese): *I think this oral question raised by Dr LAM Tai-fai today serves a very positive purpose indeed. Although the Secretary has just derided me, I actually want to commend him for giving his reply to Dr LAM Tai-fai's question from the constitutional and legal perspectives. I commend the Secretary, but he told me not to feel happy too soon because the Government will certainly consider the matter. It does not matter, and the Government can feel free to do so. So long as the laws are observed, it is all right if the Court ruled that the Government was right; the loophole would be plugged. Nevertheless, in raising this oral question, Dr LAM Tai-fai has given us, the so-called representatives of public opinion, or Legislative Council Members who have a popular mandate, an opportunity to think seriously about resigning and standing for by-elections, as well as "de facto referendum". We have never said that this is a lawful referendum because it is not provided for in the laws, right? Yet, as regards resigning and standing for by-elections — a single subject*

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

MR WONG YUK-MAN (in Cantonese): *My supplementary question is: I would like Tai-fai and the Secretary to read this article of over 8 000 words written by Dr WONG Yin about resigning and standing for by-elections. That is consistent with the conventions of a democratic constitutional system and the core values of democratic politics. The book is published on the Mainland. The Japanese political scene has seen dynastic changes lately. The Democratic Party put an end to the one-party dictatorship of the Liberal Democratic Party for several decades. For decades in the past, party politics in Japan*

PRESIDENT (in Cantonese): Mr WONG, please stop expressing your views.

MR WONG YUK-MAN (in Cantonese): *very often operate through resigning and standing for by-elections*

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

MR WONG YUK-MAN (in Cantonese): *the government constantly dissolves the parliament and holds elections again; buddy, this is common sense*

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

MR WONG YUK-MAN (in Cantonese): *When the Government does not have such common sense, it is really a serious matter, right? I think this question raised by LAM Tai-fai allows us to think about these issues. I would like to ask the Secretary if he has thought about what I just mentioned. Or, is he simply considering the matter from the legal and political angles and saying that the loophole should be plugged and the so-called referendum should be thrashed? Frankly, the proposal about a referendum has been vetoed in the Legislative Council on each and every occasion, right? It has never been passed*

PRESIDENT (in Cantonese): Mr WONG, please sit down.

MR WONG YUK-MAN (in Cantonese): *that is why we adopt the de facto referendum method by resigning and standing for by-elections.*

PRESIDENT (in Cantonese): Mr WONG, please stop speaking and sit down. Please reply, Secretary.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, my answer to Mr WONG Yuk-man is very simple. Actually, I have just commended the Basic Law which is respected by all. Mr WONG Yuk-man has just said that some Members who have resigned can stand for by-elections, and this is certainly a crucial issue for our consideration. Article 26 of the Basic Law specifies that permanent residents shall have the right to stand for election. Concerning the so-called referendum as Mr WONG Yuk-man has mentioned once again, this issue of constitutional reform has to be put to the vote in the Legislative Council according to the prescribed procedures under the Basic Law. The Government needs the support of a two-thirds majority of all Members. There is no provision for referendum in the Basic Law, which is a constitutional, legal fact.

MR LEUNG KWOK-HUNG (in Cantonese): *President, it is not true that Legislative Council Members never resigned in the past. Gary CHENG from your party resigned because of a corruption charge and a by-election was held at that time, right? TUNG Chee-hwa also resigned because of his leg pain. All of us in Hong Kong understood that he resigned because JIANG Zemin had stepped down. About public opinion, we all know that TUNG Chee-hwa did not have a leg pain. Dr YEOH Eng-kiong, Mr Antony LEUNG and Mrs Regina IP also resigned, right? Corrupt small-circle elections*

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

MR LEUNG KWOK-HUNG (in Cantonese): *I would like to ask the Secretary and Dr LAM Tai-fai for advice about one thing: the Chief Executive elected by a 400-member committee made an international laughing stock and he resigned in March 2005, pretending that he had a leg pain. Similarly, Mrs Regina IP resigned*

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

MR LEUNG KWOK-HUNG (in Cantonese): *did people think that they had wasted taxpayers' money? Did they feel that those people elected through small-circle elections seemed like riding a merry-go-round? Did the resignation of Gary CHENG because of a corruption charge waste taxpayers' money? There is one good point: Gary CHENG resigned because of a corruption charge; it was a very good thing for your party: another Member was elected after he had resigned I would like to say that, when a Member thinks that nobody may support what he proposes, he can ask people to vote again*

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

MR LEUNG KWOK-HUNG (in Cantonese): *I would like to ask which of these two incidents wasted taxpayers' money.*

PRESIDENT (in Cantonese): Please sit down and let me see how the Secretary responds.

MR LEUNG KWOK-HUNG (in Cantonese): *Which of these two things do people consider as a waste of taxpayers' money?*

PRESIDENT (in Cantonese): Mr LEUNG, please sit down. Please reply, Secretary.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, we certainly understand the ideas behind this question asked by Mr LEUNG Kwok-hung. What he said is: some political figures in the Legislative Council did resign, and the Chief Executive can also resign. In the

light of such resignations, what are Members' views about these resignation arrangements and do they think that taxpayers' money was appropriately spent?

In 2005, the Chief Executive, TUNG Chee-hwa, tendered a resignation and it was for the Central Government to decide whether his resignation would be accepted. Of course, the resignation of the Chief Executive was not a rash decision. Nonetheless, we are now saying that the five geographical constituencies resignations this time were not quite the same as the resignations of Legislative Council Members in the past. The five resignations on this occasion were a political move, and the two political parties decided to use this arrangement of resigning and standing for by-elections to mobilize public opinion desired by them. However, a most explicit fact was that public opinion generally did not support their resignations or spending \$150 million on the by-election. They also indicated that they originally expected the five Legislative Council Members to serve out the four-year term of office, to act for the public and serve the community. Now that a new issue has been brought up, we should fulfil our due responsibilities to handle this issue and plug this loophole.

MR LEUNG KWOK-HUNG (in Cantonese): *President, he has really not answered my supplementary question. He has not answered the part of my question about how a comparison can be drawn between the two things. I am saying this once again, and the Secretary should listen carefully, that public opinion holds that*

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

MR LEUNG KWOK-HUNG (in Cantonese): *Does the Secretary think that TUNG Chee-hwa really resigned because of his leg pain?*

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

MR LEUNG KWOK-HUNG (in Cantonese): *Was that the case? Donald TSANG elected this time has an even lower level of popular support.*

PRESIDENT (in Cantonese): Please sit down. Mr LEUNG, please stop speaking at once.

MR LEUNG KWOK-HUNG (in Cantonese): *I know that you do not like me to talk about TUNG Chee-hwa.*

PRESIDENT (in Cantonese): Please stop speaking at once. I remind Members and officials again not to turn the question session into a debate session.

MR LEUNG KWOK-HUNG (in Cantonese): *Let us not have a debate, so*

PRESIDENT (in Cantonese): Mr LEUNG, please sit down, you have already put your supplementary question, and I think the Secretary has already answered it. Five Members are still waiting for their turns to ask questions.

MR ALBERT CHAN (in Cantonese): *President, if it is said that TUNG Chee-hwa had not resigned for political reasons, this is calling a stag a horse, and the distinctive character of "Eunuch LAM". If it is said that the resignations wasted taxpayers' money, a Political Assistant who was a Southern District Council Member was appointed by Donald TSANG to perform general duties for the Government which made it necessary for a Southern District Council by-election to be held*

PRESIDENT (in Cantonese): Please stop expressing your views.

MR ALBERT CHAN (in Cantonese): *My supplementary question is my supplementary question is: the Government has said that the resignations wasted taxpayers' money, so, can "Eunuch LAM" tell us if the appointment of a Southern District Council Member by Donald TSANG to perform general duties for the Government, which made it necessary for a Southern District Council by-election to be held, was a waste of taxpayers' money?*

PRESIDENT (in Cantonese): Mr CHAN, it is specified in the Rules of Procedure that it shall be out of order to use offensive language about Members of the Council or officials attending meetings. Please be careful when you speak.

MR ALBERT CHAN (in Cantonese): *President, he accepted that he is an "eunuch".*

PRESIDENT (in Cantonese): Please reply, Secretary.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, thank you for the fair deal. The public's eyes are discerning. In the Southern District Council case cited by Mr Albert CHAN, a District Council Member accepted the Government's appointment and became part of the administrative structure. He left the District Council, which made it necessary for a District Council by-election to be held. Those are fundamental constitutional arrangements and principles. It is specified in the Basic Law and our laws that Members shall not accept full-time public offices on full pay. That is entirely different from the five geographical constituencies resignations.

MR ALBERT CHAN (in Cantonese): *President, he has not answered my supplementary question at all. I am talking about a waste of taxpayers' money can all the 7 million people in Hong Kong be appointed? No, President;*

he has not answered the part about a waste of taxpayers' money. That appointment is a 100% waste of taxpayers' money.

PRESIDENT (in Cantonese): Please sit down, for the Secretary has already given an answer.

DR PRISCILLA LEUNG (in Cantonese): *President, I believe the Secretary has just heard Mr LEUNG Kwok-hung say that he will resign again if he considers certain subjects not agreeable. Therefore, I think the question asked by Dr LAM Tai-fai may not be associated with groundless fears.*

I trust the Secretary also knows that I have introduced a private Member's bill on amendment to the Legislative Council and the Department of Justice has explicitly stated that a certificate would be issued within this week. My proposal seeks to specify that Legislative Council Members can only resign once during their term of office. In his reply a while ago, the Secretary referred to Article 26 of the Basic Law. I would like to say that we also need to take Article 79 of the Basic Law into consideration. If a Member has taken the initiative to resign not because of illness or having committed a criminal offence, it should be specified that he can only take the initiative to resign once without giving reasons. Such a proposal should not relate to the political structure and public expenditure. May I ask the Secretary, if the Legislative Council asks the Government to express its views on my bill, whether he will agree to conducting a relevant debate in the Legislative Council?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, my reply to this question of Dr Priscilla LEUNG includes three points. First, Article 79 of the Basic Law sets out the circumstances under which a member of the Legislative Council is no longer qualified for the office. Certainly, this should be carried through according to our constitution. However, apart from what is specified under Article 79 of the Basic Law, does a Member has the right to resign? For many years, we have all along had relevant provisions and arrangements in the Legislative Council Ordinance and the

relevant laws. If, as Dr LEUNG is now saying, this right to resign should be obstructed, the actions to be taken must be practicable.

Thus, the second point is: I note that Article 26 of the Basic Law specifies that permanent residents shall have the right to stand for election. I am not saying that no restriction should be imposed, but the restriction to be specified must comply with the Basic Law. It must be consistent with principles of law, and they must be reasonable and practicable.

Talking about practicable restriction, I would like to make the third point in passing. If, as Dr Priscilla LEUNG has suggested, when a Member resigns, for example, Member A from a certain party or grouping resigns, even if legislation has been enacted as suggested by her, Member A cannot stand for election again. Yet, we cannot prevent member B from the same party or grouping from standing for election. Actually, the gravest concern of the public is whether these non-essential resignations and by-elections can be prevented.

Dr Priscilla LEUNG is really very concerned about this issue; however, I am afraid her proposal may not be able to address this issue thoroughly. Hence, we really need to consider the matter; we will do so proactively and we will put forward proposals as soon as possible.

DR PRISCILLA LEUNG (in Cantonese): *President, I have actually not asked if the proposal is feasible*

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

DR PRISCILLA LEUNG (in Cantonese): *..... the third part of my supplementary question is: the private bill on amendment as mine does not relate to the political structure or public expenditure, so, will the Secretary agree that my private bill on amendment can at least be debated in the Legislative Council?*

PRESIDENT (in Cantonese): I would like to remind Members that whether a bill introduced by a Member is consistent with the Rules of Procedure, including the provision just mentioned by Dr LEUNG, subject to ruling by the Legislative Council President.

We have spent more than 24 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Drug Driving Offences

7. **MRS SOPHIE LEUNG** (in Chinese): *President, it has been reported that between April and May this year, there were two incidents in Hong Kong in which truck drivers were suspected of drug driving. Moreover, in early January this year, a taxi driver who drove after taking ketamine on two separate occasions within 20 days was eventually sentenced to imprisonment for 18 months with his driving licence suspended for two years. In this connection, will the Government inform this Council:*

- (a) *whether the law-enforcement departments have conducted regular stop-and-search actions on drivers against drug driving; if they have, what criteria were used to stop and search drivers, as well as the actual operation of the stop-and-search actions;*
- (b) *after the aforesaid drug driving incidents have come to light, whether the authorities have assessed the existing practice for conducting stop-and-search actions in view of such a situation and have made improvements immediately in view of the review outcome, so as to avoid similar incidents from happening again;*
- (c) *given that it has been reported that the authorities have already set up a working group to study introducing legislation to regulate drug driving behaviour, of the work progress of the working group;*

- (d) *of the number of prosecutions instituted in the past five years against the offence of driving under the influence of medicines and, among them, the respective number of cases involving medicines which were not drugs and those which were drugs; the major types of medicines involved which were not drugs; whether an upward trend in the number of drug driving cases has been recorded;*
- (e) *given that it has been reported that quite a number of drivers, who took a small amount of cannabis or ketamine when working, mistakenly thought that this might freshen them up and ease their stress, of the Government's solution in view of such a trend; and*
- (f) *apart from studying introducing legislation for regulation, whether the authorities have other complementary plans and measures to prevent such an undesirable trend of drug driving from spreading in the community, posing hazard to public safety?*

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

- (a) We are very concerned about the recent traffic accidents caused by driving under the influence of drugs, in particular drugs of abuse. At present, if a police officer conducting regular stop-and-search or taking other enforcement actions suspects that a driver is under the influence of alcohol or drugs, he will require the driver to stop the vehicle and take a screening breath test to ascertain whether the driver is under the influence of alcohol. The police officer will also observe closely and record his behaviour. If the test result indicates that the driver has not consumed alcohol or the alcohol level in his body does not exceed the prescribed limit, and the police officer has reasonable cause to suspect that the driver is under the influence of drugs, the police officer will ask the driver whether he has taken drugs. The police officer will also search the driver and the vehicle concerned to ascertain whether the driver is in possession of dangerous drugs. If the driver admits that he has taken drugs, or the

police officer finds dangerous drugs when searching the vehicle or the driver, the police officer will arrest the driver. If necessary, the police officer will, with the driver's consent, take the driver to a doctor for detailed examination.

- (b) The police are closely monitoring incidents involving drug driving, and have given instructions to front-line police officers reminding them of relevant procedures. If drug driving is involved in an accident or an accident with personal injury or fatality, the relevant driver may be charged with dangerous driving or causing death by dangerous driving offences.
- (c) We understand the public concern about drug driving. Since a wide range of drugs are available in the market and reaction to drugs varies among individuals, it is difficult to ascertain the effect of each type of drug on driving behaviour. Therefore, having a regulation covering all drug types or setting standards or prescribed limits for all drugs involves highly complex issues. We have set up an inter-departmental Working Group to study and formulate preliminary proposals to combat drug driving.

The Working Group plans to deal with dangerous drugs and other drugs separately. It will study the feasibility of adopting a "zero-tolerance" approach to several specified dangerous drugs that are commonly abused. In other words, a driver will commit an offence if he is proved to have taken these specified dangerous drugs, no matter whether his control of the vehicle has obviously been affected. As for other drugs, the Working Group will examine whether the existing legislation can be revamped. Although the current legislation stipulates that a person commits an offence if he drives under the influence of drugs to such an extent as to be incapable of having proper control of the vehicle, the current legislation does not require a driver to provide body fluid specimens for analysis. Hence, the police have to seek the consent of the driver concerned before taking his body fluid specimen. This has caused certain difficulties in collection of evidence. The Working

Group will study how best to update the existing legislation and assess the feasibility of introducing preliminary tests to help front-line police officers determine whether a driver is driving under the influence of drugs (including dangerous drugs), so as to assess whether the driver should be required to provide blood or other body fluid specimen for further analysis.

The Working Group will draw reference from overseas experience and study how the legislation should be amended to better facilitate enforcement actions and evidence collection by the police. We hope to formulate initial proposals for public consultation around mid-2010.

- (d) The yearly figures of prosecutions instituted against drug driving for the years between 2006 and 2009 were one, three, three and five cases respectively. From January to April 2010, there were a total of eight prosecution cases. All these cases involved dangerous drugs, mostly ketamine.

(e) and (f)

We will step up publicity reminding drivers to watch out for drug label warnings, such as "This drug may cause drowsiness" or "Do not drive after taking this drug", before taking any drugs. A person must not drive if he has to take drugs which may affect driving, and should use other transport modes instead. We also plan to disseminate the anti-drug driving message through meetings with the transport trades.

The Administration is also taking forward territory-wide anti-drug campaigns actively to enhance public awareness of drugs of abuse, especially to correct common misconceptions towards psychotropic substances. The message of "Say No to Drugs" is widely disseminated through various channels of publicity and preventive education, to educate people from all walks of life the grievous harm of drug abuse.

Prosecution of Employers and Employees Under Factories and Industrial Undertakings Ordinance and Occupational Safety and Health Ordinance

8. **MS LI FUNG-YING** (in Chinese): *President, will the Government inform this Council of the respective numbers of employers and employees who were prosecuted in each of the past three years under the Factories and Industrial Undertakings Ordinance (FIUO) (Cap. 59) and the Occupational Safety and Health Ordinance (OSHO) (Cap. 509), together with a breakdown, by the industry in which they were engaged, of the respective charges laid and provisions invoked, as well as the number of convicted cases and the penalties imposed?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, for the past three years, the number of prosecutions taken by the Labour Department against employers and employees under the FIUO, the OSHO and their subsidiary regulations, the respective prosecution figures by industry and legislative provisions, as well as the number of convictions and level of fines are detailed in Tables 1 to 3 below.

Table 1: Number of prosecutions against employers and employees for the past three years

Year	Number of Prosecutions				Total
	OSHO and its Subsidiary Regulations		FIUO and its Subsidiary Regulations		
	Employer*	Employee	Employer*	Employee	
2007	263	9	1 786	14	2 072
2008	268	6	1 662	9	1 945
2009	263	3	1 642	2	1 910

Note:

* Employers include proprietors, occupiers, directors, principal contractors, subcontractors and owners.

Table 2: Breakdown of the prosecution figures by industry and legislative provision for the past three years

Related Provisions	Number of Prosecutions								
	Construction Industry			Catering Industry			Other Industries		
	2007	2008	2009	2007	2008	2009	2007	2008	2009
Occupational Safety and Health Ordinance	27	22	18	3	-	7	75	62	51
Occupational Safety and Health Regulation	-	-	6	11	12	14	156	178	167
Factories and Industrial Undertakings Ordinance	90	70	92	4	1	1	61	42	28
Factories and Industrial Undertakings Regulations	2	1	5	19	13	26	-	1	2
Construction Sites (Safety) Regulations	961	890	859	Not Applicable			Not Applicable		
Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations	222	234	185	-	-	-	55	13	32
Factories and Industrial Undertakings (Guarding and Operation of Machinery) Regulations	Not Applicable			21	15	22	90	71	80
Factories and Industrial Undertakings (Protection of Eyes) Regulations	14	32	37	-	-	-	-	1	2
Factories and Industrial Undertakings (Fire Precautions in Notifiable Workplaces) Regulations	Not Applicable			112	132	147	51	39	42
Factories and Industrial Undertakings (Electricity) Regulations	13	16	16	-	2	-	2	2	2
Factories and Industrial Undertakings (Suspended Working Platforms) Regulation	32	34	10	-	-	-	-	-	-
Other regulations	35	32	47	-	-	-	16	30	12
Total	1 396	1 331	1 275	170	175	217	506	439	418

Table 3: Number of convictions and fines for the past three years

<i>Year</i>	<i>Number of Summonses Heard</i>	<i>Number of Summonses Convicted</i>	<i>Total Fine</i>	<i>Highest Fine</i>
2007	2 072	1 770	\$16,170,300	\$150,000
2008	1 945	1 668	\$12,238,150	\$66,000
2009	1 910	1 611	\$11,661,200	\$75,000

Support Services for Mental Patients and People Recovering from Mental Illness

9. **MR ALBERT HO** (in Chinese): *President, a number of serious incidents of mental patients injuring others or themselves occurred in the community in recent years. In addition, there have been comments that while the Government puts emphasis on community care for such people, there is a lack of complementary comprehensive planning and community support. Regarding the support services provided to mental patients and people recovering from mental illness, will the Government inform this Council:*

- (a) *of the respective resources allocated by the Government to the Hospital Authority (HA), the Social Welfare Department (SWD) and non-governmental organizations in the past five years for supporting mental patients and people recovering from mental illness, as well as the respective increase in their expenditure in each year;*
- (b) *given that under the newly launched Case Management Programme, case managers are supervised by health grade personnel, of the mechanism in place to ensure that case managers are capable of assessing the needs of their patients in areas other than health care such as community and social life; the mechanism in place on the operational level to enable case managers who work under the HA to co-ordinate and arrange for the provision of appropriate services to*

the patients they take care of by various government departments such as the SWD, and so on, especially when some rehabilitation services (for example, residential places) are in acute shortage; and

- (c) *whether it knows in each of the past five years, the respective median in-patient bed-days of mental patients, the respective numbers of persons with severe mental illness or those recovering from severe mental illness in the community, as well as the respective numbers of serious incidents in which such persons injured themselves or others; whether the authorities have explored if the occurrence of such wounding incidents is related to the authorities reducing psychiatric beds as well as their putting emphasis on community care without complementary comprehensive planning and community support; which areas need improvement most urgently; whether they will invite a specialist consultant to thoroughly review mental health policy and services, and prepare a white paper on the mental health policy to consult various sectors?*

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

- (a) We are committed to promoting mental health and catering for the needs of mental patients in a comprehensive manner through the provision of a series of mental health services. At present, the HA provides various medical services for mental patients, including in-patient, out-patient, medical rehabilitation and community support services. The SWD provides ex-mentally ill persons and their families with a series of social rehabilitation services, including residential care, day-time training, vocational training and community support services. This is to help ex-mentally ill persons adapt to community life and reintegrate into the society.

The resources we allocated to mental health services have been increasing in recent years. The expenditures of the HA and SWD on mental health services in the past five years (that is, 2005-2006 to 2009-2010) are as follows:

<i>Year</i>	<i>HA's expenditure (\$M)</i> <i>(a)</i>	<i>Increase in HA's expenditure (\$M)</i> <i>(b)</i>	<i>SWD's expenditure (\$M)</i> <i>(c)</i>	<i>Increase in SWD's expenditure (\$M)</i> <i>(d)</i>	<i>Total (\$M)</i> <i>(a)+(c)</i>	<i>Total increase (\$M)</i> <i>(b)+(d)</i>
2005-2006	2,530	-	610	-	3,140	-
2006-2007	2,540	10	650	40	3,190	50
2007-2008	2,670	130	720	70	3,390	200
2008-2009	2,830	160	820	100	3,650	260
2009-2010 (Revised estimate)	2,940	110	830 ^{Note}	10	3,770	120

Note:

The Child and Adolescent Mental Health Community Support Project was transferred to HA for implementation on 1 July 2009, so the expenditure involved was deducted from SWD's expenditure in 2009-2010.

Moreover, to further strengthen mental health services, we have provided additional funding of over \$100 million to the HA in 2010-2011 for launching two new programmes to strengthen the support for two major groups of mental patients. For persons with severe mental illness, the HA has implemented the Case Management Programme on a pilot basis with health care personnel taking up the role as case managers to provide these patients with intensive, continuous and personalized support. The amount of expenditure involved is \$78 million. As for persons with common mental disorders, the HA has set up Common Mental Disorder Clinics to provide them with more timely assessment and consultation services and will introduce an Integrated Mental Health Programme later this year to engage the primary care services in supporting these patients. The amount of expenditure involved is \$31 million. Besides, the HA will also expand the use of new psychiatric drugs with proven effectiveness on patients under suitable clinical conditions. The amount of expenditure involved is \$10 million.

The SWD will expand the service model of the Integrated Community Centres for Mental Wellness across the territory in

2010-2011 and strengthen the manpower of these centres to provide comprehensive and accessible services to those in need. Additional funding allocation of \$70 million has been provided to the SWD for implementation of the initiative.

- (b) Under the Case Management Programme for persons with severe mental illness implemented in 2010-2011, the HA will arrange for case managers to receive structured training on case management, including intensive classroom teaching, workshops and practicum with supervision. The content of the training includes assessment of the medical needs of patients as well as their needs in various other aspects (such as their community life and social interaction). This is to ensure that the case managers are capable of arranging the provision of appropriate support services having regard to the medical and non-medical needs of patients. The case managers will work closely with various service providers, including the Integrated Community Centres for Mental Wellness.

To implement the Case Management Programme and relevant initiatives more effectively, the HA and SWD will establish a new communication platform on top of the existing communication channels to further enhance the collaboration among various sectors and disciplines at different levels.

At the central co-ordination level, the HA Head Office and SWD Headquarters as well as non-governmental organizations will discuss the co-ordination of the overall service strategies and explore effective models of collaboration on a continuous basis. At the district co-ordination level, the Chiefs of Service of the Department of Psychiatry in various clusters of the HA and District Social Welfare Officers of the SWD will set up a district-based communication platform. The purpose is to liaise regularly with service providers in the district and relevant government departments and organizations for co-ordination of community support services in the district. Adjustment will also be made to the service model having regard to the demographic characteristics and service demand in the district. At the service delivery level, case managers of HA will maintain liaison with other service providers, including staff of

the Integrated Community Centres for Mental Wellness for discussion and co-ordination on matters as case referral and arrangements for rehabilitation services as necessary.

- (c) In the past five years (that is, from 2005-2006 to 2009-2010), the average length of stay of mental patients of the HA in hospitals and the number of mental patients receiving the HA's services are as follows:

<i>Year</i>	<i>Average length of stay of patients in hospitals</i>	<i>Number of mental patients receiving HA's services</i>
2005-2006	93	134 159
2006-2007	104	140 487
2007-2008	102	147 557
2008-2009	79	154 625
2009-2010 (rough figures)	74	165 300

At present, around 40 000 people are diagnosed with severe mental illness (such as psychosis) in the HA.

The number of suicide cases involving mental patients has notably reduced in the past few years. The number of suicide cases involving patients who had used the psychiatric in-patient or out-patient services of the HA within one year before they died in suicide from 2004 to 2008 are set out in the table below. At present, the HA does not have statistical data on mental patients inflicting harm on other people but will collect data in this respect.

<i>Year</i>	<i>Number of suicide cases involving patients who had used HA's psychiatric in-patient or out-patient services within one year before they died in suicide</i>
2004	301
2005	300
2006	275
2007	262
2008	210

In the light of the international trend to shift the focus of the treatment of mental illness from in-patient care to community and

ambulatory services, the HA has been reviewing its in-patient psychiatric services in recent years and has launched a number of new programmes to enhance its community psychiatric services (such as the "Extended care patients Intensive Treatment, Early diversion and Rehabilitation Stepping Stone (EXITERS) Project", pilot programme to provide post-discharge community support to frequently readmitted psychiatric patients, and the Recovery Support Programme). These programmes progressively allow more mental patients with stabilized conditions to receive treatment in the community, thereby enhancing their prospect of reintegration into the community after rehabilitation. With the provision of various community support services, the demand for in-patient services has been decreasing. In the past few years, the occupancy rate of the HA's psychiatric beds was less than 80%. Therefore, the HA has gradually closed down unused psychiatric beds in recent years and redeployed the resources for enhancement of other mental health services. The HA has no plan to further reduce its psychiatric beds in 2010-2011 and will keep in view the demand for in-patient psychiatric services.

The Government keeps its mental health services under review and makes adjustment and enhancement to the services having regard to changes in social circumstances and service needs. The Working Group on Mental Health Services (Working Group) is chaired by the Secretary for Food and Health and comprises academics and relevant professionals and service providers as members. There is a subgroup under the Working Group to study in-depth the demand for mental health services and the relevant policy measures. The subgroup is supported by three expert groups comprising professionals with relevant service experience to study the service needs of different age groups (children and adolescents, adults, and elderly). After discussion, the Working Group has formulated a framework on mental health policy and services setting out the general principles, goals and directions. The Working Group will continue to review, on the basis of the above framework, mental health services on an ongoing basis and explore new mental health service initiatives including the co-ordination of various community support services and the follow-up on patient.

To enhance the mental health services in response to the needs of the community in a more systematic manner, we are developing a mental health service plan for adults for the coming years, including setting out the service objectives and priorities for various actions. In formulating the service plan, we will take account of the views of the relevant experts and service providers and consult patients, carers and other stakeholders. Meanwhile, we will continue to make reference to the deliberations in the Working Group and consider developing service plans in future for other age groups.

Electronic Trading System

10. **DR SAMSON TAM** (in Chinese): *President, in early May this year, the stock market of the United States dropped drastically, recording the largest point drop since February 2009. According to the analysis by members of the financial market, the incident may be related to the setting of electronic trading systems. Although it has been reported that the Hong Kong Exchanges and Clearing Limited (HKEx) indicated that there are preventive measures in Hong Kong, some experts have pointed out that it is difficult to guarantee that the situations similar to the above can be avoided completely. Moreover, securities firms and banks in Hong Kong have also offered programme trading to their clients in recent years. In this connection, will the Government inform this Council:*

- (a) of the authorities' measures currently in place to monitor programme trading, and whether they have provided relevant guidelines to banks, securities firms, stock traders and investors;*
- (b) whether it knows if the Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority have regularly reviewed the risk management mechanisms of electronic trading systems, and whether they have assessed the safety of the current electronic trading systems; if so, of the details; and*
- (c) what preventive measures the authorities have to avoid similar incidents from occurring in Hong Kong?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, my replies to the sub-questions are as follows:

- (a) The electronic trading system for securities is operated by the HKEx, which is in turn regulated by the SFC. Both the SFC and HKEx have real-time surveillance systems to monitor securities trading activities in our markets.

The SFC has set out specific requirements and guidance on the operational capabilities of licensed or registered persons. Licensed or registered persons should handle and transmit orders for execution promptly. Their computer systems should have sufficient operational integrity and address issues of security, reliability, capacity and contingency. The SFC also expects intermediaries to have a periodic review programme to comprehensively plan, test and monitor their computer systems' security, reliability and capacity. The SFC also stresses the importance of maintaining a complete audit trail, prompt execution and fair allocation of orders, trade confirmation to clients and safeguard of confidential information transmitted over the Internet.

The SFC closely monitors international regulatory developments and standards pertinent to Direct Electronic Access (DEA) to markets and assesses the implications for the Hong Kong market. The International Organization of Securities Commissions launched an international consultation on possible principles pertinent to DEA in February 2009, and may publish consultation conclusions and principles on the use of DEA in the next few months. The SFC will keep in view the latest developments.

- (b) The SFC has regular meetings and discussions with HKEx to understand the management and operation of its trading systems.

As regards connections between HKEx's systems and market participants' systems, HKEx has processes and procedures for testing new systems and trial run before they are launched. HKEx also has contingency measures in place to manage risks arising from system failures or defects.

As regards market participants' systems, the SFC has ongoing discussions with market participants to understand their use of electronic execution of equity trades in Hong Kong. The SFC regularly reviews the operational integrity of market participants. In March 2010, the SFC issued a circular to licensed corporations reminding them to pay attention to certain potential deficiencies in information technology management and suggesting some control techniques and procedures.

- (c) The United States Securities and Exchange Commission (SEC) and Commodity Futures Trading Commission (CFTC) are still at a preliminary stage of reviewing the market events of 6 May 2010. While there has been no conclusive finding, we understand that the SEC and CFTC are currently focusing their investigations on a number of areas, including in particular the linkages between markets and liquidity mismatch.

Unlike the United States market which is more fragmented, the Stock Exchange of Hong Kong is the major trading venue in Hong Kong and as a result, the issue of complications arising from disparate practices among different trading venues does not exist here. Nevertheless, we are following the United States review closely and will consider areas that we can learn in order to strengthen the Hong Kong market structure.

We would also note that there are pre-trade and post-trade control measures within the third generation of HKEx's Automatic Order Matching and Execution System.

Computer Virus

11. **MR WONG TING-KWONG** (in Chinese): *President, it has been reported that a study has pointed out that the varieties of computer virus programs have been increasing drastically, with about 240 million new ones globally last year, which doubled the 2008 figure and broke all records; and it is estimated that a total of more than 43 000 computers in Hong Kong were infected by computer viruses of botnets last year, putting Hong Kong in the third place*

among all Chinese cities, only after Guangzhou and Shenzhen. In this connection, will the Government inform this Council:

- (a) whether the computers of government departments had been infected by various computer viruses in the past three years; of the Government's latest specific measures to prevent computer viruses from invading computer systems; given the development of technologies, whether the Government will increase its resources for preventing the invasion of computer viruses; if it will, of the details; if not, the reasons for that;*
- (b) of the numbers of cases in the past three years in which the persons involved had been arrested for disseminating computer viruses with malicious intent and the penalties imposed on such persons;*
- (c) whether the authorities will examine if the small and medium enterprises (SMEs) in Hong Kong have adequate capability and awareness regarding the prevention of computer viruses; of the authorities' measures to support SMEs in avoiding invasion of their computer systems by viruses; if no such measures are in place, of the reasons for that; and*
- (d) given that the aforesaid study has pointed out that more than 43 000 computers in Hong Kong were infected by computer viruses of botnets last year, whether the authorities has assessed if the situation merits its concern; whether they will provide the latest relevant information and educate the public so as to enhance their awareness and alertness; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, regarding the questions raised by Mr WONG Ting-kwong, my reply is as follows:

- (a) In the past three years (from May 2007 to April 2010), one government department had reported an incident on computer virus infection in November 2008. The infection was quickly contained and no government service was affected.

The Government has established comprehensive information technology (IT) security policies and procedures to combat security threats including those posed by computer viruses. We implement firewalls, intrusion detection/prevention systems and also require all computers to be installed with anti-virus software with up-to-date signature file. The costs for these security measures have been included in the IT budgets in Bureaux/Departments (B/Ds).

To combat emerging computer viruses, the Office of the Government Chief Information Officer (OGCIO) closely monitors the local and international trends of cyber attacks and the associated mitigation measures. It issues news and alerts to B/Ds to ensure effective and prompt actions would be taken. The OGCIO also regularly reminds B/Ds to ensure security safeguards such as anti-virus protection measures and software patch management are in place. In OGCIO, a team comprising nine IT staff is responsible for IT security matters including surveillance on security threats and giving advice to B/Ds on anti-virus protection measures. For mission-critical systems, B/Ds are also required to establish security incident handling and response teams to cater for possible security attacks on the systems. The resources required are reviewed and adjusted periodically depending on the risks involved.

- (b) According to the information provided by the Hong Kong Police Force (HKPF), the number of technology related crime cases amounted to 634 in 2007, 791 in 2008 and 1 506 in 2009. There is no readily available data on the specific number of cases of arrest due to malicious release of computer virus. According to the Crimes Ordinance (Cap. 200), a person who without lawful excuse destroys or damages any property belonging to another, intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged shall be guilty of an offence "destroying or damaging property". A person guilty of the offence shall be liable on conviction upon indictment to imprisonment for 10 years.
- (c) According to the "Report on 2009 Annual Survey on Information Technology Usage and Penetration in the Business Sector" published

by the Census and Statistics Department, amongst the establishments having used computers in business, 93.2% of small enterprises and 96.4% of medium enterprises adopted anti-virus software to protect their computer systems.

In respect of support to SMEs, the Hong Kong Computer Emergency Response Team Coordination Centre (HKCERT) which is operated by the Hong Kong Productivity Council with subsidized funding by the Government receives security incident reports and provides assistance to the business enterprises and the community regarding the prevention of, and protection against, computer security threats, including those from computer viruses, and in the recovery actions necessary after encountering security incidents. In the last three years, the number of virus infection cases handled by the HKCERT has decreased from 516 in 2007 to 337 in 2009.

The OGCIO, with the joint effort of HKPF and HKCERT, had published an "Information Security Guide for Small Businesses" booklet for SMEs to raise their awareness and knowledge of information security. We also carry out free-of-charge seminars for the public and the SMEs to enhance their awareness on information security under the annual "Clean PC Day" campaign.

- (d) The Government places great emphasis on cyber security and carries out various publicity and educational programmes to enhance public awareness of protecting their computer assets from virus infection. We maintain a one-stop information security portal <www.infosec.gov.hk> which provides the latest news, up-to-date reference information and security alerts accessible by the public. Information on computer viruses and other malicious software, botnets and related news and aversion measures is also available on this portal. We adopt other channels including radio broadcast of tips and techniques on information security, publishing and disseminating information security booklets as well as conducting seminars in collaboration with other parties to help the public understand and handle information security problems.

Government's Compensation Liability in Injury and Death of Civil Servants

12. **MR CHAN KIN-POR** (in Chinese): *President, it is the current practice of the Government not to take out employees' compensation insurance for civil servants. In case of injury or death of a civil servant arisen out of employment, the Government will make compensation under the Employees' Compensation Ordinance (ECO) (Cap. 282) or the relevant Hong Kong pensions legislation. In this connection, will the Government inform this Council of:*

- (a) the total number of civil servants for whom the Government bore its liability under the ECO as at the first quarter of this year;*
- (b) the total amount of compensation paid by the Government for the injuries or deaths of civil servants arisen out of employment in each of the past five years;*
- (c) the administration expenses and the payroll cost of government officers incurred by the Government in handling the aforesaid compensation cases; and*
- (d) the current number of Non-Civil Service Contract staff (NCSC) employed by the Government and the employees' compensation arrangement for such staff?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): President, if a civil servant is injured or killed while on duty, the Government of the Hong Kong Special Administration Region will make compensation under the ECO or the relevant pensions legislation (Cap. 89 or 99). The compensation includes:

- (1) Full-pay sick leave*

If a civil servant is certified by a registered medical practitioner, a registered Chinese medicine practitioner, a registered dentist or the Employees' Compensation Assessment Board (ECAB) to be temporarily incapacitated by duty-related injury and absence from duty is necessary, he or she is entitled to full-pay sick leave for a maximum period of 24 months. He or she may take further full-pay

sick leave of up to 12 months within the next 12-month period, as may be allowed by the Court or approved personally by his/her Head of Department/Grade who is satisfied with the medical evidence and grounds provided. The Secretary for the Civil Service may approve further full-pay sick leave on a case-by-case and exceptional basis, having regard to the medical evidence and the circumstances of the case.

(2) *Compensation for medical expenses*

A civil servant injured on duty is entitled to free medical service provided by the Government and the Hospital Authority (HA). If, in addition to or in lieu of the free medical service provided by the Government and the HA, the civil servant opts for treatment by registered Chinese medicine practitioners or registered private health care professionals, he or she may apply for reimbursement of the medical expenses incurred under the relevant arrangements.

(3) *Compensation for permanent incapacity*

If the total sick leave of an injured civil servant exceeds seven days or if it is expected that he or she will suffer from permanent incapacity as a result of the injury, the civil servant should, upon expiry of the sick leave, attend an examination by the Labour Department or receive an assessment by the statutory ECAB to determine whether there is any loss of earning capacity and, if so, the extent. Where it is confirmed that there is a loss of earning capacity, the Government will pay compensation with reference to the civil servant's age and monthly earnings at the time of injury and the percentage of loss of earning capacity in accordance with the ECO.

If an injured civil servant is appointed on pensionable terms or on agreement terms before 1 June 2000, he or she may opt to receive either the aforementioned compensation payment under the ECO, or an "additional pension" under the pensions legislation applicable to him or her which is payable each month upon retirement. If he or she chooses the latter, the "additional pension" amount will be

calculated with reference to his or her monthly earnings at the time of injury and the percentage of loss of earning capacity.

(4) *Compensation for duty-related death*

If a civil servant dies as a result of injuries received in the actual discharge of duty, under the ECO, the amount of compensation payable, depending on the age of the civil servant, will be equivalent to 36 to 84 months of his or her earnings (monthly earnings are subject to a ceiling of \$21,000). The minimum amount of compensation is \$303,000.

If a civil servant appointed on pensionable terms or on agreement terms before 1 June 2000 dies on duty, his or her eligible dependants may opt to receive a dependant pension under the relevant pensions legislation, which will be released in the form of a one-off payment or a monthly pension. Under the pensions legislation, dependants or the estate of the deceased civil servant will also be granted a death gratuity which is calculated with reference to the salary and length of pensionable service of the deceased civil servant.

If a civil servant appointed on new terms on or after 1 June 2000 dies on duty, on top of the statutory compensation payable under the ECO, a death payment equal to 36 months of his or her final substantive salary will also be payable to his or her dependants or estate.

Among the types of compensation mentioned above, full-pay sick leave for civil servants injured on duty is handled by Bureaux/Departments (B/Ds); and Civil Service Bureau does not collect or keep statistics in this regard. Against this background, my reply to the questions is as follows:

- (a) As at 31 March 2010, the total number of civil servants⁽¹⁾ for whom the Government bore responsibility under the ECO was 156 573.

(1) Civil servants refer to persons who are employed on civil service terms of appointment as at the reference date. Independent Commission Against Corruption officers, judges and judicial officers, locally engaged staff working in the Hong Kong Economic and Trade Offices, and other government employees like Non-Civil Service Contract staff are excluded.

- (b) In the past five years, the total amount of compensation paid by the Government each year in respect of duty-related injury or death of civil servants is set out below:

<i>Year</i>	<i>Total Amount of Compensation (\$ million)</i>
2005-2006	38.28
2006-2007	44.74
2007-2008	32.07
2008-2009	27.70
2009-2010	36.10

- (c) Injury on duty (IOD) cases are handled by B/Ds and the majority of B/Ds do not have dedicated officers whose only duty is to process compensation for IOD cases. As such, we are not able to work out the administrative and staff costs.
- (d) NCSC are employed mainly to meet the operational and service needs of B/Ds which may be time-limited or seasonal, or where the mode of delivery of the service is under review or likely to be changed. As such, the number of NCSC staff employed by B/Ds varies from time to time according to changes in operational and service needs. As at 31 December 2009, there were about 15 000 full-time⁽²⁾ NCSC staff employed by B/Ds.

Government employees, including NCSC staff, are covered by the ECO, including the provisions on paid sick leave for IOD, compensation for medical expenses, and compensation for permanent incapacity or death caused by accident arising out of and in the course of employment.

(2) "Full-time" means the employment is on a "continuous contract" under the definition of the Employment Ordinance (EO) (Cap. 57). According to the EO, an employee who works continuously for the same employer for four weeks or more, with at least 18 hours in each week, is regarded as working under a continuous contract.

Post-service Employment of Civil Servants

13. **MR CHEUNG MAN-KWONG** (in Chinese): *President, it has been recently reported that the Government has given conditional permission to the former Commissioner for Tourism to take up a senior position in the Hong Kong Trade Development Council only four months after leaving the Civil Service, and that a former Deputy Director of the Housing Department has taken up a senior position in the Hong Kong Monetary Authority only three months after leaving the Civil Service. Regarding the post-service employment of civil servants, will the Government inform this Council:*

- (a) *of the details regarding the applications from the two aforesaid former civil servants for post-service employment and the vetting and approving of such applications;*
- (b) *apart from the two aforesaid applications, of the total number of directorate civil servants whose applications for post-service employment in other organizations within one year after leaving the Civil Service on grounds other than retirement were approved by the authorities in the past three years, and the details;*
- (c) *how the authorities at present regulate post-service employment of civil servants who left the Civil Service on grounds other than retirement; and*
- (d) *whether the authorities will expeditiously review the arrangements for vetting and approving post-service employment applications from civil servants who left the Civil Service on grounds other than retirement, so as to make the arrangements consistent with those for vetting and approving applications from retired civil servants; if a review will be conducted, of the details; if not, the reasons for that?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): President, regarding parts (a) and (c) of the question, the policy governing post-service outside work aims to ensure that civil servants on final leave or who have left the Government will not take up any work outside the Government which may constitute real or

potential conflict of interest with their former government duties or cause negative public perception embarrassing the Government and undermining the image of the Civil Service, without at the same time unduly restricting the said individuals' right to pursue employment or other work after ceasing government service.

According to the control regime governing the taking up of post-service outside work of directorate civil servants implemented since 1 January 2006, directorate civil servants leaving the Government on grounds other than retirement are required to apply for prior permission from the decision authority for taking up outside work during their final leave period and/or within a specified control period. The key features of the control regime applicable to these directorate civil servants are in general similar to those applicable to those directorate civil servants leaving the Government upon retirement. The only difference is in respect of the sanitization period. For directorate civil servants leaving the Government on retirement ground, they are subject to prescribed minimum sanitization period during which the decision authority will normally not approve an application to take up post-service outside work with a commercial organization. The decision authority may, where justified and on a case-by-case basis, shorten the minimum sanitization period to allow for paid work in specified non-commercial organizations⁽¹⁾. For all other forms of outside work, the minimum sanitization period may only be shortened where there are special considerations, and subject to there being no conflict of interest and the outside work being unlikely to cause negative public perception. For directorate civil servants leaving the Government on grounds other than retirement, there is no prescribed minimum sanitization period. The decision authority will consider the need for, and length of, a sanitization period for each post-service outside work application on its merits.

The details of the current control regime are as follows:

- (i) The control period, counting from a directorate civil servant's formal departure from the Government (that is, on exhaustion of final leave if any), is three years for those at Directorate Pay Scale (DPS) D8 (or

(1) The specified non-commercial organizations are: charitable, academic or other non-profit making organizations not primarily engaged in commercial operations; non-commercial regional or international organizations; and the Central Authorities of the People's Republic of China.

equivalent) and two years for those at DPS D1 to D7 (or equivalent).⁽²⁾

- (ii) As directorate civil servants on final leave remain civil servants on full pay, they are normally not permitted to take up any full-time remunerated work or any work of a commercial nature during the final leave period, unless there are special considerations and there is no problem of dual identity.
- (iii) The authority has given blanket permission to directorate civil servants to take up unpaid post-service work in specified non-commercial organizations during their final leave period and prescribed control period. Directorate civil servants who do so are required to notify the Civil Service Bureau.
- (iv) In processing an application to take up post-service outside work from a directorate civil servant, Civil Service Bureau will obtain views from the relevant Permanent Secretaries, Heads of Departments and Heads of Grades and the advice of the Advisory Committee on Post-service Employment of Civil Servants (Advisory Committee) before submitting a recommendation on the application to the decision authority for a decision.
- (v) Within the policy objectives stated above (in paragraph 1), the specific considerations to be taken into account in the vetting and consideration of an application for post-service outside work from a directorate civil servant include:
 - (1) whether the applicant was involved in the formulation of any policy or decisions, the effects of which directly or specifically benefited or could directly or specifically benefit his own business/prospective employer;

(2) The length of the control period is halved for directorate civil servants with less than six years of continuous government service and leaving the Government on grounds other than retirement.

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- (2) whether the applicant/prospective employer might gain unfair advantage over competitors because of the applicant's access to sensitive information while in government service;
 - (3) whether the applicant was involved in any contractual or legal dealings to which the prospective employer was a party;
 - (4) whether the proposed work would have any connection with the assignments/projects and/or regulatory/enforcement duties in which the applicant was involved while in government service;
 - (5) whether the applicant's taking up of the proposed work would give rise to public suspicion of conflict of interest or other impropriety; and
 - (6) whether any aspects of the proposed work would cause embarrassment to the Government or bring disgrace to the civil service.
- (vi) The decision authority may approve or reject an application. If an application is approved, the applicant will be subject to the standard work restrictions. The applicant should not:
- (1) be personally involved, directly or indirectly, in the bidding for any Government land, property, projects, contracts or franchises;
 - (2) undertake or represent any person in any work including any litigation or lobbying activities that are connected in any way with:
 - the formulation of any policy or decisions;
 - sensitive information;

- contractual or legal dealings;
- assignments or projects; and/or
- enforcement or regulatory duties

in which he was involved or to which he had access during his last three years of government service; or

- (3) engage in any activities which will cause embarrassment to the Government or bring disgrace to the civil service. Furthermore, the decision authority, may, as necessary, impose further specific work restrictions or conditions for approved post-service outside work applications on a case-by-case basis.
- (vii) Where there is a breach of the control regime, depending on the nature and gravity of the breach, the decision authority may consider invoking appropriate sanction against the directorate civil servant concerned.
- (viii) A case record on each post-service outside work approved and taken up by a directorate civil servant at DPS D4 (or equivalent) or above is placed on a register for public inspection upon request. The case record is kept on the register until the expiry of the applicable control periods, or after the directorate civil servant has ceased the outside work, whichever occurs first. For approved post-service outside work taken up by directorate civil servants below DPS D4 (or equivalent), the relevant information may be disclosed on a case-by-case basis where there is public concern.

The two applications referred to in the question were processed and considered in accordance with the procedures and assessment criteria mentioned above (that is, paragraphs 2 and 3). The decision authority approved the two

applications and imposed conditions on each application, including a sanitization period of three months.

Regarding part (b) of the question, from 2007 to 2009, a total of 16 applications from eight former directorate civil servants to take up post-service outside work within one year after leaving the civil service on grounds other than retirement were approved. The details are at Annex.

Regarding part (d) of the question, the Committee on Review of Post-Service Outside Work for Directorate Civil Servants (the Review Committee) conducted a thorough review of the existing control regime and submitted its report to the Chief Executive in July 2009. The Review Committee had examined the current regime in detail, including the absence of a standard minimum sanitization period for directorate civil servants leaving the Government on grounds other than retirement. The Review Committee had not recommended any change in this particular respect. The Administration is carefully considering the Review Committee's report.

Annex

Number of applicants (by rank) leaving the Government on grounds
other than retirement and number of applications

<i>Directorate rank (or equivalent)</i>	<i>Number of applicants⁽³⁾</i>	<i>Number of applications</i>
D1	1	1
D2	3	3
D3	2	2
D4	1	9
D5	0	0
D6	1	1
D7	0	0
D8	0	0
Total	8	16

- (3) A directorate civil servant may submit more than one application for post-service outside work. Such applicants are counted only once.

Approved post-service outside work applications from directorate civil servants leaving the Government on grounds other than retirement by nature of prospective employers

<i>Nature of Organization</i>	<i>Paid work</i>			<i>Total</i>
	<i>Part-time</i>	<i>One-off Project</i>	<i>Full-time</i>	
Non-commercial (Statutory organizations)	0	0	3	3
Non-commercial (Academic institutions)	0	3	0	3
Non-commercial (Non-profit making organizations not primarily engaged in commercial operation)	0	1	0	1
Commercial (Banking/Finance)	0	1	1	2
Commercial (Education)	0	1	0	1
Commercial (Medical)	0	0	1	1
Commercial (Real Estate/Property Development)	0	0	0	0
Commercial (Others)	1	3	1	5
Total	1	9	6	16

Approved post-service outside work applications from directorate civil servants leaving the Government on grounds other than retirement by functional nature

<i>Functional Nature</i>	<i>Total</i>
Education	5
Finance and Accounting	1
Management	4
Medical	1
Real Estate/Property Development	0
Others	5
Total	16

Unused Government Premises

14. **MR ABRAHAM SHEK** (in Chinese): *President, although the Director of Audit pointed out in his Report No. 50 published in March 2008 that some government premises under the management of the Government Property Agency (GPA) had remained unused for a long period of time, it has recently been reported that the situation has not yet improved since then, arousing public query that the GPA has not strived to achieve its objectives in respect of the utilization and commercialization of government premises, that is, to ensure that all government accommodation is fully utilized with maximum efficiency and value for money, and to introduce appropriate commercial activities in suitable government accommodation so as to maximize the return to the Government for its capital investment. In this connection, will the Government inform this Council:*

- (a) *among the unused government premises identified in Report No. 50 of the Director of Audit (the Audit Report), of the current number of premises which are still left unused at present, as well as their sizes, the duration of being left unused, their monthly market rent at present and accumulative rent receivable; of the premises that have been leased out or converted for other uses; and*
- (b) *of the details and progress of the work undertaken by the GPA to alleviate the problem of premises being left unused since the publication of the Audit Report; whether it has formulated any work schedule in this regard; if so, of the details; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, our reply to the question raised by Mr Abraham SHEK is as follows:

The three vacant government premises in Buildings A, B and C cited in the Audit Report were originally reserved for use by the MTR Corporation Limited (MTRCL) as mass transit railway (MTR) entrance/exit areas (reserved areas). The floor areas of the three reserved areas are about 298 sq m, 185 sq m and

447 sq m respectively, while the buildings where these reserved areas are located were completed in 1979, 1981 and 1994 respectively.

The Public Accounts Committee (PAC) had conducted a public hearing on the findings of the Audit Report about the three vacant government premises. As we explained to the PAC at the public hearing, to change the use of the three reserved areas would involve, among others, various legal and technical issues. In its Report No. 50 (the PAC Report) released in July 2008, the PAC requested the Government to continue to keep it informed of the result of consultation with the Department of Justice and other relevant government departments in respect of putting the relevant vacant government premises to other uses, the progress made by the GPA in rectifying the water seepage problem in the vacant government premises in Buildings A and B, and any other progress made in implementing the various audit recommendations. According to the established procedures, the Government reported the progress in the Government Minute (GM) submitted to Legislative Council in October 2008, the annual progress report to the PAC in November 2009 and the GM to Legislative Council in May 2010. We will report the latest progress in the annual progress report to be submitted to the PAC this year.

In sum, since the release of the PAC Report, GPA, the Buildings Department (BD) and other departments concerned have been actively following up the recommendations of the Audit Report and the PAC, with a view to identifying solutions to the legal and technical issues involved, and exploring the feasibility of changing the use of the premises and specific options involved.

In July 2009, the GPA approached the MTRCL to enquire whether the three government premises were still needed to be reserved for use as MTR reserved areas. The MTRCL advised the Government in September 2009 that it had no plan to use the reserved area in Building A, and that it would review the need to use the reserved areas in Buildings B and C for railway extensions upon completion of the West Island Line. In March 2010, the MTRCL confirmed that upon finalization of its long-term planning in the Western District, the reserved areas in Buildings B and C would not be required for future railway extensions and could be released to the Government for other uses. In March 2010, the GPA obtained the BD's consent on the change of use of the three reserved areas to office/shop/advertising. In the light of the aforementioned decisions made by

the MTRCL and BD, we have since been taking forward the work relating to the change of the use of the reserved areas progressively.

In April 2010, the GPA started discussions with the Incorporated Owners (IO)/building management of Buildings A and B on the feasibility of making their building services facilities available for the reserved areas. Since the consent of the developer and all owners is required for the change of use of the reserved area in Building C, the GPA started to pursue the matter with the IO of the building in April this year.

Our next step is to carry out the alteration works at the reserved areas in Buildings A and B so as to convert the premises to the aforementioned permitted use. If discussions go smoothly between the GPA and the IO/building management of the two buildings on making the building services facilities available for the reserved areas, it is anticipated that the alteration works can commence in the middle of the year for completion by the end of this year.

Sales and Purchases of Luxurious Residential Building Units

15. **MS AUDREY EU** (in Chinese): *President, regarding the active sale and purchase activities in the luxury real estate market, will the Government inform this Council of:*

- (a) *the information on the sales and purchases of residential building units in 2008, 2009 and from January to March in 2010 (set out in the table below); and*

Range of considerations (HK\$)	2008		2009		January to March 2010	
	Number of agreements for sale and purchase of residential building units	Total consideration of agreements for sale and purchase of residential building units	Number of agreements for sale and purchase of residential building units	Total consideration of agreements for sale and purchase of residential building units	Number of agreements for sale and purchase of residential building units	Total consideration of agreements for sale and purchase of residential building units
\$10 million to below \$20 million						
\$20 million or above						

- (b) *the amounts of stamp duty levied by the Government on the agreements for sales and purchases of residential building units which cost \$10 million or above in the past two financial years (set out in the table below)?*

<i>Price of the residential building unit (HK\$)</i>	<i>Amount of stamp duty levied</i>	
	<i>2008-2009</i>	<i>2009-2010</i>
<i>\$10 million to below \$20 million</i>		
<i>\$20 million or above</i>		

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

- (a) In 2008, there were altogether 95 931 Agreements for Sale and Purchase (ASPs) of residential flats registered with the Land Registry (LR). Three thousand and fifty-six of them (about 3.2% of the total) were transactions valued above \$10 million and up to \$20 million. Another 1 602 (about 1.7% of the total) were transactions valued above \$20 million.

In 2009, there were altogether 115 092 ASPs of residential flats registered with LR. Four thousand four hundred and fifty-seven of them (about 3.9% of the total) were transactions valued above \$10 million and up to \$20 million. Another 2 244 (about 2% of the total) were transactions valued above \$20 million.

From January to March 2010, there were altogether 33 249 ASPs of residential flats registered with LR. One thousand two hundred and eighteen of them (about 3.7% of the total) were transactions valued above \$10 million and up to \$20 million. Another 558 (about 1.7% of the total) were transactions valued above \$20 million.

Breakdown on the number of registered transactions of private residential properties valued above \$10 million in terms of the range of considerations, and the aggregate amount involved is as below:

<i>Range of considerations (HK\$)</i>	<i>2008</i>		<i>2009</i>		<i>January to March 2010</i>	
	<i>Number of ASPs of residential building units</i>	<i>Total consideration of ASPs of residential building units (\$ million)</i>	<i>Number of ASPs of residential building units</i>	<i>Total consideration of ASPs of residential building units (\$ million)</i>	<i>Number of ASPs of residential building units</i>	<i>Total consideration of ASPs of residential building units (\$ million)</i>
\$10,000,001 to \$20 million	3 056	\$42,197	4 457	\$62,319	1 218	\$17,056
\$20,000,001 and above	1 602	\$69,684	2 244	\$81,869	558	\$19,934

- (b) In 2008-2009, \$7,510 million stamp duty was levied on private residential property transactions. In 2009-2010, \$12,917 million stamp duty was levied on private residential property transactions.

Breakdown of the stamp duty levied on private residential properties valued above \$10 million in the financial years 2008-2009 and 2009-2010 is as below:

<i>Price of the residential building unit (\$)</i>	<i>Amount of stamp duty levied (\$ million)</i>	
	<i>2008-2009</i>	<i>2009-2010</i>
\$10,000,001 to \$20 million	\$1,473	\$2,743
\$20,000,001 and above	\$2,104	\$3,632

Tseung Kwan O Extension (Phase II)

16. **MR CHAN HAK-KAN** (in Chinese): *President, it has been approximately one year since the commissioning of the Tseung Kwan O Extension (Phase II) (TKOE II) of the MTR Corporation Limited (MTRCL) in July last year. Some Tseung Kwan O residents have relayed to me that although the residents have gradually got used to the "3+1" train service pattern (that is, every one out of four trains will be running from North Point to LOHAS Park), they consider that the service has failed to meet the demand, particularly during peak hours when train compartments and platforms are very crowded. In this connection, will the Government inform this Council:*

- (a) *whether it knows the following information about the relevant sections of the extension since the commissioning of TKOE II;*

	Section of the extension	Hourly average number of passengers		Train loading	
		Estimates before commissioning	Figures after commissioning	Estimates before commissioning	Figures after commissioning
Peak hours	Between Po Lam and Tseung Kwan O				
	Between Po Lam and North Point				
	Between LOHAS Park and Tseung Kwan O				
	Between LOHAS Park and North Point				
Non-peak hours	Between Po Lam and Tseung Kwan O				
	Between Po Lam and North Point				
	Between LOHAS Park and Tiu Keng Leng				

- (b) *given that Po Lam Station is of a single-platform design, whether it knows if it is technically feasible for the MTRCL to further increase the train frequencies of the Tseung Kwan O Extension, so as to alleviate the crowded conditions in train compartments and on platforms; if it is feasible, of the details, including the train frequencies after the increase and extra number of passengers to be carried; if it is not feasible, what other measures the MTRCL has to deal with the situation;*
- (c) *whether it knows if the MTRCL has plans to review the "3+1" train service pattern; if so, of the details; if not, the reasons for that;*
- (d) *given that the population in Tseung Kwan O district is increasing and the demand for transport service in the area will be growing,*

whether the Government will consider introducing additional bus or public light bus routes plying the vicinity of the LOHAS Park Station, so as to solve the problem that residents can only rely on MTR for travelling to and from the area; and

- (e) *whether it knows the service breakdown rates of the entire Tseung Kwan O Extension since the commissioning of TKOE II as compared with those in the previous three years; the nature of the breakdowns; and whether the commissioning of TKOE II has aggravated the ageing of rail tracks and trains?*

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

- (a) Since the TKOE II and LOHAS Park Station opened in July 2009, a new train service arrangement has been implemented on the Tseung Kwan O Line and operation of train service has been generally smooth to date. Under the new train service arrangement, the train service between Tseung Kwan O Station and North Point Station has been enhanced from the former 22 trains per hour to the current 24 trains per hour. This has increased the overall capacity of the Tseung Kwan O Line, benefiting most passengers from the Tseung Kwan O area.

Currently during peak hours, train schedules of the Tseung Kwan O Line are organized in groups of four, adopting a "3+1" service pattern: For every four trains departing North Point Station, the first three will terminate at Po Lam Station while the fourth will terminate at LOHAS Park Station. Similarly, for every four trains from Tseung Kwan O Station to North Point Station, the first three will run from Po Lam Station to North Point Station while the fourth will run from LOHAS Park Station to North Point Station. As such, the headway of trains for Po Lam Station and Hang Hau Station is two minutes 30 seconds/two minutes 30 seconds/five minutes. For LOHAS Park Station, the train frequency is every 10 minutes per train during peak hours.

As the service between Tseung Kwan O Station and North Point Station has been enhanced and the "3+1" train arrangement applies to Po Lam Station, Hang Hau Station and LOHAS Park Station, we provide information relating to the capacity and patronage of the three stations in the following paragraphs.

With regard to the train service between Po Lam Station and North Point Station during the morning peak hours (the busiest period is from 8.15 am to 9.15 am), the train frequency between the Tseung Kwan O Station and North Point Station has been enhanced from every two minutes 40 seconds to two minutes 30 seconds. This is more frequent than the train service prior to the opening of LOHAS Park Station and is sufficient to cater for passenger demand.

The capacity from Po Lam Station to Tseung Kwan O Station during this time period is 45 000 passengers per hour. According to patronage figures of the first quarter of 2010, the average number of passengers entering Po Lam Station during that time period was 9 100; and the average number of North Point-bound passengers entering Hang Hau Station was 9 500. In total, the average number of passengers travelling from these two stations towards North Point Station was 18 600 or about 41% of the total capacity, which is able to meet the demand. The Transport Department (TD) has been closely monitoring the performance of the new train service arrangement since the opening of the TKOE II and LOHAS Park Station. According to the observation of the MTRCL, North Point-bound trains that depart from Po Lam, Hang Hau and Tseung Kwan O Stations are able to accommodate all passengers waiting on the platform during the morning peak and there have been not been cases of passengers not being able to board the first arriving train due to crowding on trains or platforms.

For the service between LOHAS Park Station to North Point Station during the same time period, the average number of passengers entering LOHAS Park Station is 800. As the capacity of the trains from LOHAS Park Station to Tseung Kwan O Station is 15 000

passengers per hour, there is still ample capacity to accommodate passengers boarding at Tseung Kwan O, Tiu Keng Leng and Yau Tong Stations thus helping to alleviate the demand at Yau Tong Station where Kwun Tong Line passengers interchange to Tseung Kwan O Line for the Hong Kong Island.

During non-peak hours, the four-minute train service frequency between Po Lam and North Point Stations before the opening of LOHAS Park Station has remained unchanged. As for LOHAS Park Station, a shuttle train service to and from Tiu Keng Leng Station is operated at 12-minute intervals. The train capacity is adequate for passenger needs during non-peak periods.

- (b) Currently, even during the busiest period in the peak hours, trains that depart from Po Lam Station are able to accommodate all passengers waiting on the platform. There is no evidence of overcrowding as the average loading is only 20% during the busiest hour of the day.

Indeed, given the single-platform design at Po Lam Station, the highest train frequency for the section between Po Lam Station and Tseung Kwan O Station is two minutes 30 seconds. When the Tseung Kwan O Line was planned in the 1990s, overall development of the Tseung Kwan O area, including population growth and distribution forecast had been taken into account. The Tseung Kwan O Line north-south bifurcation alignment, stations and track facilities have been designed to meet the area's long-term transportation needs.

- (c) Since the opening of LOHAS Park Station, the MTRCL has been closely monitoring the service and performance of the Tseung Kwan O Line, including passenger flow and actual patronage. The train service arrangement now in place is operating smoothly and is sufficient to meet passenger demand. The MTRCL has no plans to adjust the current train service arrangement on the Tseung Kwan O Line.

- (d) The TD keeps watch of the population development in the Tseung Kwan O area and will enhance public transport services to meet passenger demand as and when appropriate. For example, in the vicinity of LOHAS Park Station, there are already rail and franchised bus services currently. The TD plans to extend the peak-hour service of bus route 98S (between Hang Hau (North) — Mei Foo) to LOHAS Park in the latter half of this year. The service will depart from LOHAS Park via Hang Hau for journeys to Mei Foo and *vice versa*.
- (e) LOHAS Park Station commenced service on 26 July 2009. Currently, more than 240 000 train trips are operated on the Tseung Kwan O Line every year. For delays on the Tseung Kwan O Line of eight minutes or above, there were two cases in 2007, 11 cases in 2008, 15 cases in 2009 and six cases in the first quarter of 2010. More than half of the delays in each of these periods lasted only around 10 minutes.

The Tseung Kwan O Line is a relatively new railway line. Most sections came into operation in 2002 and the Phase II Extension just opened in July last year. It can be noted that the performance of the Tseung Kwan O Line, both before and after the opening of LOHAS Park Station, has remained steady with train punctuality at 99.9%.

Railway Service Performance

17. **MR LEE WING-TAT** (in Chinese): *President, regarding the railway service and incidents of the MTR Corporation Limited (MTRCL), will the Government inform this Council:*

- (a) *of the respective numbers of incidents of service being delayed for more than eight minutes, 30 minutes and one hour on various railway alignments since 2005, as well as the numbers of passengers affected, with a breakdown by cause of the those incidents of delays in service for over eight minutes to 30 minutes, over 30 minutes to one hour, and over one hour respectively, as set out in the following table:*

<i>Incidents of service being delayed for _____ minutes/hour(s)</i>							
<i>Cause/Year</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>		<i>2008</i>	<i>2009</i>	<i>2010 (up to the present)</i>
	<i>MTR and Kowloon-Canton Railway (KCR) before merger</i>	<i>MTR and KCR before merger</i>	<i>MTR and KCR before merger</i>	<i>MTRCL after merger</i>	<i>MTRCL</i>	<i>MTRCL</i>	<i>MTRCL</i>
<i>Mechanical fault</i>							
<i>Human error</i>							
<i>Passenger action and external factor</i>							
<i>Other reasons (please specify)</i>							
<i>Total</i>							

- (b) *whether the Government has any criteria and guideline for deciding the circumstances under which penalties may be imposed on the MTRCL; if it has, of the details of the penalties imposed on the MTRCL by the Government in the past five years; if not, the reasons for that;*
- (c) *whether the Government has considered setting up a punitive demerit points system in connection with delays in railway service with a view to urging the MTRCL to improve its quality of service; if it has, of the details; if not, the reasons for that; and*
- (d) *whether it knows the annual amounts allocated by the MTRCL on measures to improve train service since the rail merger and the details of such improvement measures, and whether the MTRCL has reviewed the efficacy of the relevant measures; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the MRTCL has been consistently maintaining good service performance. The MTRCL places great emphasis on providing a safe and reliable railway service for its passengers. In benchmarking studies of major railways around the world by the Community of Metros (CoMET) group, the MTRCL's performance is consistently amongst the best in safety, reliability and passenger journeys on time.

Since the rail merger on 2 December 2007, the MTRCL's train service performance has remained high, with 99.9% of passengers reaching their destinations within five minutes of their scheduled arrival times. Nonetheless, the railway network is made up of many different operating systems and hundreds of thousands of components which must work seamlessly together. Therefore, even with a reliability rate of over 99%, service delays can be still expected from time to time.

Replies to the questions raised are as follows:

- (a) From 2005 to the first quarter of 2010, railway delays of respective MTR lines lasting between eight and 30 minutes, more than 30 minutes to one hour and over one hour are set out at the Annex.

The total number of delays of eight minutes or more in 2009 has reduced by about 20% when compared to that of 2005, amongst which, delays attributed to railway equipment and human factors have reduced by about 40%; while delays involving passenger action and external events have increased by about 30%.

In benchmarking studies of major railways around the world by the CoMET, the MTRCL's train service performance is consistently amongst the best in safety, reliability and passenger journeys on time.

The MTRCL's train service performance has remained high, with performance meeting and even exceeding performance pledges. With regard to passenger journeys on time, more than 99.9% of

passengers are able to reach their destinations within five minutes of their scheduled arrival times. After the rail merger:

- (i) in 2008, of the 1 309 million passenger trips, only 0.08% did not reach their destinations within five minutes of their scheduled arrival times;
- (ii) in 2009, of the 1 322 million passenger trips, only 0.06% did not reach their destinations within five minutes of their scheduled arrival times; and
- (iii) in the first quarter of 2010, of the 341 million passenger trips, only 0.08% did not reach their destinations within five minutes of their scheduled arrival times.

Despite the occurrence of train service delays, the MTRCL has handled each incident causing delay seriously and conducted investigations into the incidents with a view to enhancing improvements in passenger service and reliability.

- (b) According to the Mass Transit Railway Ordinance (the Ordinance), in case of a substantial or persistent failure to comply with the Ordinance or the Operating Agreement, the Chief Executive in Council may impose financial penalty on the MTRCL. In extreme cases, the Government may suspend or even revoke the franchise of the MTRCL. The MTRCL has been in compliance with the requirements of the Ordinance and the Operating Agreement.
- (c) In early 2005, the Administration had thoroughly considered the matter in consultation with the local experts. The considered view was that the existing Performance Requirements are commonly used international standards and that Hong Kong should not deviate from them to use other service indicators which are not proven or well tested. It is only through the international standard that we can measure Hong Kong's performance against other systems.

Moreover, we also took into account that a demerit point system may create pressure on the railway front-line staff in incident recovery which would not enhance railway safety but could have an adverse effect.

- (d) Since the rail merger, the MTRCL has invested \$4 billion each year in the maintenance, repair and renewal of its railway assets in order to maintain high quality railway services and enhance service performance.

Apart from general maintenance work that is scheduled on a daily and regular basis, a large number of initiatives have also been implemented to continually upgrade facilities and enhance services. The main initiatives include:

- 10 new MTR trains will be delivered to Hong Kong between 2011 and 2012 to enhance train frequency on the existing lines.
- six new Light Rail Vehicles (LRVs) have been put into service by end April 2010. Sixteen more new LRVs are scheduled to be delivered in 2010 which will enhance the services of Light Rail.
- Retrofitting of automatic platform gates at eight aboveground and elevated stations. The retrofitting works are expected to be completed by 2011.
- Completion of installation of at least one wide gate at each station on the East Rail Line.
- Purchased the state-of-the-art Ultrasonic Rail Test Machine which measures and monitors the condition of Light Rail tracks; and two larger Ultrasonic Testing Vehicles for use on the heavy rail MTR lines.

Annex

From 2005 to the first quarter of 2010, railway delays of respective MTR lines lasting between eight and 30 minutes, more than 30 minutes to one hour and over one hour are set out at Table 1 to Table 3.

Table 1: Delays of eight minutes to 30 minutes							
	2005	2006	2007		2008	2009	2010 First Quarter
			<i>Before 2 December</i>	<i>From 2 to 31 December</i>			
Kwun Tong Line	27	25	31	2	21	20	5
Tsuen Wan Line	26	13	11	2	17	12	7
Island Line	28	13	13	0	11	7	1
Tseung Kwan O Line	5	5	2	0	10	14	6
Airport Express	17	15	7	1	8	11	0
Tung Chung Line	27	16	15	0	22	12	7
Disneyland Resort Line	9	8	4	0	1	4	0
East Rail Line	120	112	69	2	55	66	11
Ma On Shan Line	29	13	2	0	6	3	1
West Rail Line	15	12	8	0	14	12	3
Light Rail	17	21	56	0	57	66	14
Subtotal			218	7			
Total	320	253	225		222	227	55

Table 2: Delays of more than 30 minutes to one hour							
	2005	2006	2007		2008	2009	2010 First Quarter
			<i>Before 2 December</i>	<i>From 2 to 31 December</i>			
Kwun Tong Line	1	1	0	0	0	0	0
Tsuen Wan Line	1	0	0	0	1	2	0
Island Line	0	0	1	0	1	0	0
Tseung Kwan O Line	0	2	0	0	1	1	0
Airport Express	1	0	0	1	0	0	0
Tung Chung Line	1	1	1	0	0	0	0
Disneyland Resort Line	1	1	0	0	1	1	0
East Rail Line	0	3	2	1	6	7	3
Ma On Shan Line	0	0	0	0	1	1	0
West Rail Line	2	1	0	0	1	0	0
Light Rail	0	0	2	0	1	1	2
Subtotal			6	2			
Total	7	9	8		13	13	5

Table 3: Delays of over one hour							
	2005	2006	2007		2008	2009	2010 First Quarter
			<i>Before 2 December</i>	<i>From 2 to 31 December</i>			
Kwun Tong Line	0	0	0	0	1	1	0
Tsuen Wan Line	0	0	0	0	0	0	0
Island Line	1	0	0	0	0	1	0
Tseung Kwan O Line	0	0	0	0	0	0	0
Airport Express	1	0	0	0	0	0	0
Tung Chung Line	0	0	0	0	0	0	0
Disneyland Resort Line	0	0	0	0	0	0	0
East Rail Line	0	0	0	0	1	2	0
Ma On Shan Line	0	0	0	0	0	0	0
West Rail Line	0	0	1	0	0	0	0
Light Rail	0	0	0	0	3	2	0
Subtotal			1	0			
Total	2	0	1		5	6	0

Note:

- * The total number of delays of over one hour in 2008 and 2009 is higher than that between 2005 and 2007 mainly because of the increase in delays involving Passenger Action and External Events.

From 2005 to the first quarter of 2010, the breakdown of MTR's railway delays between eight and 30 minutes, more than 30 minutes to one hour and over one hour, based on the reasons causing the delays, are set out at Table 4 to Table 6 respectively.

Table 4: Delays of eight minutes to 30 minutes							
Cause/Year	2005	2006	2007		2008	2009	2010 First Quarter
			<i>Before 2 December</i>	<i>From 2 to 31 December</i>			
	<i>Pre-merger MTR and KCR</i>	<i>Pre-merger MTR and KCR</i>	<i>Pre-merger MTR and KCR</i>	<i>MTR (After Merger)</i>	<i>MTR</i>	<i>MTR</i>	<i>MTR</i>
Equipment Failure	237	165	148	6	130	126	34
Human Factor	11	6	5	0	18	16	5

Table 4: Delays of eight minutes to 30 minutes

<i>Cause/Year</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>		<i>2008</i>	<i>2009</i>	<i>2010</i>
			<i>Before 2 December</i>	<i>From 2 to 31 December</i>			<i>First Quarter</i>
	<i>Pre-merger MTR and KCR</i>	<i>Pre-merger MTR and KCR</i>	<i>Pre-merger MTR and KCR</i>	<i>MTR (After Merger)</i>	<i>MTR</i>	<i>MTR</i>	<i>MTR</i>
Passenger Action and External Event	72	82	65	1	74	85	16
Other factors	0	0	0	0	0	0	0
Total	320	253	218	7	222	227	55

Table 5: Delays of more than 30 minutes to one hour

<i>Cause/Year</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>		<i>2008</i>	<i>2009</i>	<i>2010</i>
			<i>Before 2 December</i>	<i>From 2 to 31 December</i>			<i>First Quarter</i>
	<i>Pre-merger MTR and KCR</i>	<i>Pre-merger MTR and KCR</i>	<i>Pre-merger MTR and KCR</i>	<i>MTR (After Merger)</i>	<i>MTR</i>	<i>MTR</i>	<i>MTR</i>
Equipment Failure	5	6	3	1	10	6	0
Human Factor	2	0	0	0	0	1	1
Passenger Action and External Event	0	3	3	1	3	6	4
Other factors	0	0	0	0	0	0	0
Total	7	9	6	2	13	13	5

Table 6: Delays of over one hour

<i>Cause/Year</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>		<i>2008</i>	<i>2009</i>	<i>2010</i>
			<i>Before 2 December</i>	<i>From 2 to 31 December</i>			<i>First Quarter</i>
	<i>Pre-merger MTR and KCR</i>	<i>Pre-merger MTR and KCR</i>	<i>Pre-merger MTR and KCR</i>	<i>MTR (After Merger)</i>	<i>MTR</i>	<i>MTR</i>	<i>MTR</i>
Equipment Failure	1	0	1	0	1	1	0
Human Factor	0	0	0	0	1	0	0

Table 6: Delays of over one hour							
Cause/Year	2005	2006	2007		2008	2009	2010 First Quarter
			Before 2 December	From 2 to 31 December			
	Pre-merger MTR and KCR	Pre-merger MTR and KCR	Pre-merger MTR and KCR	MTR (After Merger)	MTR	MTR	MTR
Passenger Action and External Event	1	0	0	0	3	5	0
Other factors	0	0	0	0	0	0	0
Total	2	0	1	0	5	6	0

Home Environment Improvement Scheme for Elderly

18. **MR CHEUNG KWOK-CHE** (in Chinese): *President, it has been two years since the Government allocated \$200 million in 2008-2009 for the implementation of the five-year Home Environment Improvement Scheme for the Elderly (the Home Improvement Scheme) through the District Elderly Community Centres (DECCs) in Hong Kong. In this connection, will the Government inform this Council:*

- (a) *of the expenditure of various DECCs under the Home Improvement Scheme and the number of cases they received in 2008-2009 and 2009-2010;*
- (b) *whether the authorities have set any target for the Home Improvement Scheme, so as to ensure that DECCs complete a specified number of cases within a timeframe (such as specifying the number of cases to be handled by each centre in a year); and*
- (c) *given that some DECCs had relayed to me in each of the past two years that the funds allocated by the authorities for covering the administration expenses incurred in implementing the Home*

Improvement Scheme was not sufficient to meet the expenses incurred in handling the heavy application caseload, and the three-year Programme Worker posts allocated by the Government will be cancelled on 1 April next year, whether the authorities will increase the relevant funding; if they will, of the details?

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, in the 2008-2009 Budget, the Government earmarked one-off funding of \$200 million to launch the five-year Home Environment Improvement Scheme for the Elderly (the Scheme) which helps elders who live in dilapidated homes with poor fittings and lack the financial means to improve their home conditions. The Scheme is implemented with the assistance of all the 41 DECCs in Hong Kong.

The Finance Committee of the Legislative Council approved the funding in May 2008. The Scheme was launched in June of the same year.

My reply to Mr CHEUNG Kwok-che's question is as follows:

- (a) In 2008-2009 and 2009-2010, the Social Welfare Department (SWD) allocated over \$80 million to all the DECCs for implementing the Scheme. The funding allocated to each DECC is determined by the proportion of elderly households in the individual districts as well as the number of DECCs in the districts. By March 2010, the DECCs had received over 21 000 applications in total. The funding allocation and number of cases received by individual DECCs are set out at Annex.
- (b) When the Scheme was launched, we expected that about 40 000 elderly households would benefit from the Scheme in five years. Since applications are made on a voluntary basis, the Government has not set any target for the number of applications to be handled by each DECC per year.

- (c) The Government has earmarked 10% out of the \$200 million funding for the entire Scheme as the administration costs for DECCs to implement the Scheme. This has taken into consideration the additional workload to be taken up by DECCs and also the need to ensure that the bulk of the funding will be spent on helping elders in need.

The SWD has been closely monitoring the progress of the Scheme, and has provided additional operational funding for individual centres after taking into account the views of some DECCs. For instance, considering that some non-governmental organizations operate only one DECC and therefore cannot achieve synergy with other centres, the SWD has provided a total of \$180,000 additional operational funding for these centres to subsidize their administration expenses. In addition, the SWD has also provided annual additional funding of about \$140,000 in total for all DECCs to obtain "Third Party Works Liability Insurance", so as to protect the interests of works contractors engaged by DECCs and elder service users. Furthermore, to help elders in Tai O fix the damage done to their living environment owing to the flood in 2008, the SWD allocated in 2008-2009 an additional \$96,000 for the DECC in the district to speed up the processing of applications from elderly households affected by the flood.

The SWD will continue to maintain close contact with DECCs, and has invited representatives of the Hong Kong Council of Social Service and social welfare organizations to set up a working group to regularly review the progress of the Scheme.

The posts of Programme Worker mentioned in the question are temporary posts. It aims to help young people gain working experience, so as to facilitate their employment in future. This arrangement bears no direct relation to the Scheme.

Annex

The funding allocation and number of cases received by individual DECCs

<i>Name of DECCs</i>	<i>2008-2009</i>		<i>2009-2010</i>	
	<i>Allocation (\$'000)^{Note}</i>	<i>Number of Cases Received</i>	<i>Allocation (\$'000)^{Note}</i>	<i>Number of Cases Received</i>
Hong Kong Sheng Kung Hui Welfare Council Western District Elderly Community Centre	761	165	761	139
St. James' Settlement Central and Western District Elderly Community Centre	761	177	761	221
Aberdeen Kai-fong Welfare Association Social Service Centre Jockey Club Wong Chi Keung District Elderly Community Centre	708	211	708	243
Aberdeen Kai-fong Welfare Association Social Service Centre Southern District Elderly Community Centre	708	209	708	182
Neighbourhood Advice-Action Council Tung Chung Integrated Services Centre	745	271	745	384
Hong Kong Society for the Aged Chai Wan District Elderly Community Centre	874	293	874	173
Hong Kong Society for the Aged Eastern District Elderly Community Centre	874	94	874	101
Hong Kong Young Women's Christian Association Ming Yue District Elderly Community Centre	874	244	874	202
Tung Wah Group of Hospitals Fong Shu Chuen District Elderly Community Centre	874	282	874	257
Methodist Centre Wan Chai Methodist Centre for the Seniors	573	155	573	66
St. James' Settlement Wan Chai District Elderly Community Centre	530	138	530	32
Christian Family Services Centre Shun On District Elderly Community Centre	1,232	302	1,232	342
Christian Family Services Centre True Light Villa District Elderly Community Centre	1,232	284	1,232	247
Hong Kong Christian Service Wan Hon District Elderly Community Centre	1,245	389	1,245	307

<i>Name of DECCs</i>	<i>2008-2009</i>		<i>2009-2010</i>	
	<i>Allocation (\$'000)^{Note}</i>	<i>Number of Cases Received</i>	<i>Allocation (\$'000)^{Note}</i>	<i>Number of Cases Received</i>
Po Leung Kuk Lau Chan Siu Po District Elderly Community Centre	1,245	282	1,245	239
Hong Kong Sheng Kung Hui Welfare Council Chuk Yuen Canon Martin District Elderly Community Centre	868	170	868	130
Hong Kong Sheng Kung Hui Welfare Council Wong Tai Sin District Elderly Community Centre	868	244	868	263
Sik Sik Yuen Ho Chui District Community Centre for Senior Citizens	868	183	868	207
Yang Memorial Methodist Social Service Choi Hung Community Centre for Senior Citizens	878	204	878	239
Haven of Hope Christian Service Haven of Hope District Elderly Community Centre	681	102	681	137
Hong Kong Sheng Kung Hui Welfare Council Jockey Club District Elderly Community Centre cum Day Care Unit	650	88	650	422
Hong Kong Sheng Kung Hui Welfare Council Holy Carpenter Church District Elderly Community Centre	813	240	813	213
Hong Kong Sheng Kung Hui Welfare Council Lok Man Alice Kwok Integrated Service Centre	796	148	796	171
Tung Wah Group of Hospitals Wong Cho Tong District Elderly Community Centre	796	213	796	156
Mong Kok Kai Fong Association Ltd. Chan Hing Social Service Centre	979	96	979	285
Salvation Army Yau Tsim Integrated Services Yau Ma Tei Multi-service Centre for Senior Citizens	968	141	968	207
Caritas — Hong Kong Caritas Cheng Shing Fung District Elderly Centre (Sham Shui Po)	1,158	329	1,158	175
Neighbourhood Advice-Action Council Sham Shui Po District Elderly Community Centre	1,158	497	1,158	465

<i>Name of DECCs</i>	<i>2008-2009</i>		<i>2009-2010</i>	
	<i>Allocation (\$'000)^{Note}</i>	<i>Number of Cases Received</i>	<i>Allocation (\$'000)^{Note}</i>	<i>Number of Cases Received</i>
Sik Sik Yuen Ho Kin District Community Centre for Senior Citizens	1,158	477	1,158	178
Evangelical Lutheran Church Social Service — Hong Kong Ma On Shan District Elderly Community Centre	931	163	931	281
Evangelical Lutheran Church Social Service — Hong Kong Sha Tin Multi-service Centre for the Elderly	931	226	931	251
Tung Wah Group of Hospitals Wilson T S Wang District Elderly Community Centre	931	380	931	147
Salvation Army Tai Po Integrated Services for Senior Citizens Tai Po Multi-service Centre for Senior Citizens	1,269	185	1,269	288
Hong Kong Young Women's Christian Association Ellen Li District Elderly Community Centre	1,396	299	1,396	330
Caritas — Hong Kong Caritas District Elderly Centre — Yuen Long	1,141	418	1,141	594
Pok Oi Hospital Mrs Wong Tung Yuen District Elderly Community Centre	1,155	247	1,155	430
Hong Kong Society for the Aged Tsuen Wan District Elderly Community Centre	1,453	245	1,453	248
Hong Kong Sheng Kung Hui Welfare Council Lady Macle hose Centre Dr Lam Chik-suen District Elderly Community Centre	1,567	259	1,567	585
Hong Kong Society for the Aged Chan Tseng Hsi Kwai Chung District Elderly Community Centre	1,549	511	1,549	488
Neighbourhood Advice-Action Council Tuen Mun District Integrated Services for the Elderly	984	457	984	471
Yan Oi Tong Woo Chung District Elderly Community Centre	995	426	995	269

Note:

Having considered the additional workload to be taken up by DECCs for implementing the Scheme, the Government, when seeking funding approval from the FC, had proposed to set aside 10% of the approved funding as administration expenses for DECCs to implement the Scheme. The funding allocation listed in this column includes the subsidy for eligible applicants and administration costs for implementing the Scheme.

4 June Incident

19. **MR KAM NAI-WAI** (in Chinese): *President, given that the Committee on the Promotion of Civic Education (the Committee) is tasked to promote civic and national education among members of the public, and there have been comments that the 4 June incident in 1989 is one of the most important chapters in the contemporary history of China, with its impact spreading across Europe and has significant inspiration for the fall of the Berlin Wall in Germany and the pro-democracy movements in many Eastern European countries. In this connection, will the Government inform this Council:*

- (a) *whether the authorities have assessed if the 4 June incident is an important part of the contemporary history of China; if the assessment outcome is in the negative, of the reasons for that;*
- (b) *what ways the authorities had used to enable members of the public to know more about the 4 June incident since the reunification of Hong Kong 14 years ago and of the amount of resources allocated for this purpose; of the authorities' plans to deepen the understanding of members of the public of the 4 June incident in the next three years;*
- (c) *given that there have been comments that in the past, the authorities have refused to describe the 4 June incident in school curriculum in a more detailed manner, whether it has assessed if this would make it difficult for students to understand the impact of the 4 June incident in China and many places in the world; and*
- (d) *whether the aforesaid Committee has approved any grant to help members of the public to understand the 4 June incident since the reunification of Hong Kong 14 years ago; if so, of the number of such projects and the amount of grants involved; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, the HKSAR Government attaches great importance to the promotion of national education, and provides members of the public, especially young people, through various channels, information about our country such as her social and economic developments, people, geography, history, culture, and so on, in order to enhance public understanding about our country and national awareness. The National Education Sub-committee of the Committee formulates strategies and measures to promote national education, encourages and assists all sectors of the community to actively promote national awareness, and fosters co-operation amongst the Government, voluntary agencies, youth organizations, district and community organizations in promoting national education. In response to the question, our reply is as follows:

- (a) The Central Government has already drawn its conclusion on the "4 June incident" referred to in the question, which was a political turmoil that took place mainly in Beijing in 1989. In the past 20 years or so, the enormous progress made by China since the reform and opening-up of the country is evident. These are integral parts of the contemporary history of China. The different views held by people in Hong Kong towards historical events have always been respected since the handover. The HKSAR Government protects Hong Kong people's rights and freedom, including the freedom of speech, assembly, demonstration, and so on, in accordance with the law.
- (b) The HKSAR Government has been actively promoting national education, including the understanding of the history of our country, to the community through various channels. Members of the public can understand more about the past and present developments of our country through the feature column of the Committee's website, publications and calendar, as well as national education TV programmes produced by the Committee, and so on. We do not have statistics on the resources devoted to cover individual historical event. For example, the "4 June incident" was mentioned in "A Century of China Exhibition" held by the Hong Kong Museum of History under the Leisure and Cultural Services Department last

year. In the future, the Government will continue to allocate resources to enhance promotional activities on national education.

- (c) In respect of school curriculum, all the Chinese History textbooks submitted for review in the past 10 years have included coverage on the "4 June incident". Teachers should have ample opportunities to discuss the development of Chinese history in accordance with their students' abilities and interests through the subject of Chinese History. For example, the relevant topics include "Internal Affairs and Foreign Relations of the People's Republic of China" at junior secondary level and "Reform and Opening-up" at new senior secondary level. In addition, there are topics that cover the historical and social development of China for the period from 1976 to 2000 in the subjects of new senior secondary Liberal Studies and History. Teachers can introduce the "4 June incident" through these topics.
- (d) As set out in our reply to part (b) above, the Committee does not have statistics on the resources devoted to cover individual historical event.

Commissions Payable to Travel Agents

20. **MR PAUL TSE** (in Chinese): *President, it has been reported that last month, the Federal Court of Australia ruled that fuel surcharges were to be included in the base figures for calculating the commissions payable to travel agencies by an airline. In this connection, will the Government inform this Council whether it will make reference to the case and conduct a study on requiring airlines to adopt the same principle in calculating the commissions payable to travel agents in Hong Kong; if it will, of the timetable of the study; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the Australian court judgment referred to in the question concerns a contractual

dispute between an airline and a travel agent on the calculation of commission, and is not related to tariff applications under an air services agreement.

According to the bilateral air services agreements that Hong Kong has entered into with its aviation partners, the tariffs to be charged by the airlines for scheduled air services (including the fares charged for the carriage of passengers, the rates charged for the carriage of cargo, the charges and conditions for services ancillary to the carriage, and the rate of commission paid to an agent in respect of air tickets sold for carriage on scheduled air services) shall be those approved by the aeronautical authorities of both Contracting Parties and shall be established at reasonable levels, due regard being had to all relevant factors. Such requirements aim to prevent airlines of either Contracting Party from adopting such practices as dumping and discriminatory or predatory pricing, which distort normal market operations and affect air services, to the extent of adversely affecting the interests of passengers.

As the mechanism and remuneration arrangements concerning the sale of tickets are a commercial matter between the airlines and the travel agents, it should be determined by the airlines and the travel agents. Hence, the Civil Aviation Department will not require the airlines to pay commissions to the travel agents on the passenger fuel surcharges.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bill: First Reading.

FOOD SAFETY BILL

CLERK (in Cantonese): Food Safety Bill.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bill: Second Reading.

FOOD SAFETY BILL

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I move that the Food Safety Bill be read the Second time.

The objective of the Bill is to introduce a food tracking system to ensure that in the event of a food incident, the work of tracing the sources of food can be quicker and more effective and that the sources of the problem can be identified immediately, hence the threat to food safety can be removed. When the sources of the problem can be identified early, this would prevent foods of the same type without any problem from unnecessary implication. Hence it would be of great help to the restoration of public confidence in food safety and maintaining the stability of food supply.

The Panel on Food and Environmental Hygiene of the Legislative Council discussed the Bill in February this year and expressed support for it. The Bill was published in the Gazette on 20 May.

Last year, the Government completed the amendment to the Public Health and Municipal Services Ordinance and provisions on the recall, ban on import and ban on supply of problematic food were added. In the Bill on this occasion, the tracking system is added and the law on food safety would hence be complete and food safety would come under the full protection of law.

The food tracking system under the Bill is mainly composed of two parts: first, a registration scheme for food importers and distributors; and second, a requirement on food traders to maintain proper transaction records.

The Bill provides that any person who engages in import and distribution of food is required to register with the Director of Food and Environment

Hygiene. Those food traders and such licence holders of food establishment licences who have registered or have been issued a licence under other ordinances may be exempted from registration and they are not required to register pursuant to the Bill. The reason is the Government has already got their contact details.

The registration is valid for a period of three years, renewable for three years on each occasion. The fee for registration and renewal will be charged on the basis of full-cost recovery. The fee level for a three-year term will be \$150 and \$180 respectively.

The Director of Food and Environmental Hygiene may refuse an application for registration/renewal or revoke registration if he is convinced that the food importer/distributor has repeatedly contravened the Bill in the past 12 months. This will serve as a strong incentive for compliance. Any person aggrieved by the Director's decision may appeal to the Municipal Services Appeals Board.

The registration scheme alone will not guarantee food traceability. To trace where the problem food came from and where it went, we also need to require food traders to maintain records of the movement of food. The Bill will require any person, who in the course of business imports, acquires or supplies by wholesale food in Hong Kong, to keep transaction records of the business. Fishermen who distribute their capture will be required to maintain capture records as well.

The requirement to keep records will not apply to retail supplies (including food establishments) to ultimate consumers for the consideration that the frequent retail transactions would render the mandatory keeping of records on sales an enormous inconvenience. This is in line with the international practice. However, it must be pointed out that this will not affect food traceability as citizens will keep the receipts, or at least they will know the source of food.

As for the length of time for which transaction records should be kept, we suggest that this be determined by the shelf-life of the food in question. The

transaction records must be kept for a period of three months (for live aquatic products and food with a shelf-life of three months or less) or 24 months (for food with a shelf-life over three months, for example, canned food). The record-keeping period for different food types will be provided for general reference in a Code of Practice to be issued by the Director under the Bill.

Both the public and the trade concerned have been consulted in detail regarding the Bill which has gained their general support.

In order to assess the impact of the Bill on the trade, especially the small and medium enterprises (SMEs), we have commissioned consultants to undertake an assessment of the impact on the business environment. The consultants have studied the relevant food safety laws of overseas places such as Australia, the European Union, Singapore, the United Kingdom and the United States and come to the conclusion that the proposals made in the Bill are broadly in line with overseas practices.

We understand that some trade practitioners are worried that the new law may add to their operation costs. However, according to estimates made by the consultants, the costs of compliance with the registration scheme are only 0.008% of the operation expenses of an importer or distributor. As for the costs of compliance with the requirements of maintaining records, it is estimated that these will take up 0.04% to 0.14% of the operation expenses of all SME food retailers. The impact on food prices would be minimal.

The registration scheme will come into immediate effect once the Bill is endorsed by the Council. However, there is a six-month grace period for penalties for non-compliance with the registration requirements and keeping of food transaction records. This is aimed at helping the trade adapt.

Lastly, the Bill empowers the Secretary for Food and Health to formulate regulations on the import of specific food types to perfect the regulation of food with greater risks. Although the existing legislation has imposed import control on the import of game, meats and poultry, poultry eggs and aquatic products are not included. After the passage of the Bill, we will introduce regulations on the

control of poultry eggs and aquatic products to this Council. We are now consulting the trades on the regulations.

I implore Members to support the passage of this Bill to enhance food safety.

Thank you, President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Food Safety Bill be read the Second time.

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

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. 12/09-10 of the House Committee laid on the table of the Council today in relation to the Dutiable Commodities (Exempted Quantities) (Amendment) Notice 2010.

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

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

I now call upon Ms Miriam LAU to speak and move her 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 as printed on the Agenda in accordance with Rule 49E(2), so that Members can debate the Dutiable Commodities (Exempted Quantities) (Amendment) Notice 2010 as set out in Report No. 12/09-10 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments. Thank you, President.

Ms Miriam LAU moved the following motion:

"That this Council takes note of Report No. 12/09-10 of the House Committee laid on the Table of the Council on 2 June 2010 in relation to the subsidiary legislation and instrument(s) as listed below :

<u>Item Number</u>	<u>Title of Subsidiary Legislation or Instrument</u>
(1)	Dutiable Commodities (Exempted Quantities) (Amendment) Notice 2010 (L.N. 35/2010)."

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

MR CHAN KIN-POR (in Cantonese): President, in my capacity as Chairman of the Subcommittee, I now table the report before the Council. The Subcommittee convened totally two meetings with the Administration, one of which was also attended by various deputations.

The Dutiable Commodities (Exempted Quantities) (Amendment) Notice 2010 (the Amendment Notice) provides that incoming passengers will be entitled to only any one kind of duty-free tobacco products, and the new quantities are 19 cigarettes, or 1 cigar (or 25 grams of cigars), or 25 grams of other manufactured tobacco. Some members have requested the Administration to raise the limit of duty-free cigarettes to 20 sticks. The Administration has explained that the

policy intent is to abolish duty-free concessions on tobacco products brought into Hong Kong. As for small amounts of tobacco products for own consumption by incoming passengers only, exemption will be granted to facilitate law enforcement and minimize nuisance to incoming passengers who smoke. The Administration has also explained that capping the maximum number of cigarettes allowed to be brought into Hong Kong free of duty at 19 sticks can help reduce the re-sale value of such cigarettes, thereby minimizing the possibilities of abuse by re-selling the duty-free cigarettes in full packets illegally.

A member has enquired whether, according to the Amendment Notice, two incoming passengers together could bring into Hong Kong free of duty one un-opened 20-stick packet of cigarettes and 18 cigarettes in an opened packet. In its subsequent clarification, the Administration has advised that the Amendment Notice provides for the quantity of duty-free cigarettes that each passenger can bring into Hong Kong, and specifies that such tobacco is imported or bought by the passenger for his/her own use. Any passenger carrying more than 19 sticks of cigarettes, whether the packet is opened, is liable to duty payment. The quantity of cigarettes carried by his or her companions will not affect the passenger's tobacco duty obligation. The Customs and Excise Department of Hong Kong (Customs) will enforce the law in accordance with the Amendment Notice.

Given that the Amendment Notice also recommends lifting the 24-hour rule on time spent outside Hong Kong for entitlement to the duty-free concession on tobacco products, a member has expressed concern that the proposed change may encourage the carrying of duty-free cigarettes in un-opened packets for resale as illicit cigarettes in an "ants-moving" manner (that is, carrying a small quantity each time with frequent trips in and out of Hong Kong every day). In this connection, the Administration is of the view that setting the duty-free ceiling at a small amount of 19 sticks should effectively minimize "ants-moving" actions.

(THE DEPUTY PRESIDENT, Ms Miriam LAU, took the Chair)

A member has also pointed out that as the Government proposes to cap the maximum number of duty-free cigarettes allowable for each passenger at 19 sticks while still allowing the sale of 20-stick cigarette by inbound Duty Free Shops (DFS), those incoming passengers who are unaware of the new limit may inadvertently breach the law by carrying an un-opened packet of cigarette bought from these inbound DFS. The member advises the Administration to consider banning the sale of duty-free cigarettes at the inbound DFS. The Administration emphasizes that the new measure is not intended to encourage passengers to buy and bring into Hong Kong any whole new packet of duty-free cigarettes. Nevertheless, the Administration agrees to actively and carefully consider the request of the member.

Some members are concerned about the enforcement of the new regulation. The Administration has advised that incoming passengers carrying cigarettes or other tobacco products in excess of the statutory duty-free limits would need to declare the dutiable quantity. These passengers can either pay the duty or abandon the excessive amount of cigarette(s) or tobacco products to the Customs according to simple procedures. The Customs would conduct inspections at the boundary control points based on risk assessment and review the enforcement situation in the light of the implementation of the Amendment Notice. To enhance public awareness of the new requirements, the Customs would launch a publicity and education campaign through pamphlets, posters and the media about one month before the Amendment Notice comes into operation on 1 August 2010.

The deliberations of the Subcommittee are set out in detail in the report. Thank you, Deputy President.

MR WONG TING-KWONG (in Cantonese): Deputy President, in recent years, the Government has been actively pursuing its tobacco control policy to protect public health. The Financial Secretary has put forward a further tobacco control measure in the budget this year to abolish the duty-free concession on tobacco products brought into Hong Kong by incoming passengers. However, an opened packet with not more than 19 sticks of cigarettes for own consumption will continue to be granted duty exemption. At the same time, the 24-hour rule on time spent outside Hong Kong for entitlement to the duty-free concession on tobacco products that currently applies to Hong Kong residents will also be

removed. The Democratic Alliance for the Betterment and Progress of Hong Kong supports all these measures. I must declare here that I have been smoking for 40 years, and I am aware of the harmful effects of smoking. That is why I hope that I can quit smoking successfully in the future. For this reason, I support the amendment proposals concerned.

The original intent of the amendment proposals is desirable. But very often, government officials only try to work out strategies in the comfort of their own offices. They are all theorists, so their ideas are simplistic, skin-deep and fragmentary, making light of the problems that may stem from their proposals. I am afraid that they will only do a disservice in the end. On the one hand, this may cause disputes between the public and the Government and also trouble. On the one hand, people's grievances may grow and accumulate, thus affecting the administration by the Government.

At a meeting of the Subcommittee, I once remarked that the amendment proposals are measures that will cause nuisance to the public. Under the present amendment proposals, incoming passengers are allowed to carry a maximum of 19 duty-free cigarettes only, but the sale of 20-stick packets by inbound DFS will still be allowed. This seems to be contradictory and may confuse incoming passengers, giving a wrong impression that it is alright to buy 20-stick duty-free packets. They may thus break the law out of ignorance, or they may not be aware of the new requirements and break the law inadvertently. Besides, since there is only a difference of one stick between a 20-stick packet and 19 sticks, people who have bought a packet of duty-free cigarettes for DFS may well dispose of one stick in order to enjoy the duty-free concession. It is easy to imagine how they curse and grumble while opening a packet to dispose of one cigarette. This will likely become some kind of "ritual" for smokers before entering Hong Kong. I believe that what we have seen since the total smoking ban — scenes of puffers surrounding smoke-enveloped litter bins in alleys like people eating from "hot pots" — together with scenes of smokers throwing away their cigarettes before customs clearance, will surely become two "wonderful" scenes in Hong Kong.

I also think that the new measure will induce enforcement difficulties. In case a customs officer notices an incoming passenger with an opened packet of fewer than 20 cigarettes, should he just let the passenger pass, or should he search the passenger to see if he has brought along more cigarettes? Or, if a customs

officer notices that an incoming passenger has brought along an un-opened packet of cigarettes, should he ask the passenger to pay the duty on one cigarette, or should he allow the passenger to throw away one cigarette instead? Besides, as I questioned at the meeting concerned, in case two passengers travel as a group, and one of them has one un-opened cigarette packet with 20 sticks while the other has an opened packet with 18 cigarettes, what will be the arrangements under the amendment proposal? The Administration's initial reply made me think that there would not be any problem or contravention of the law as long as the number of cigarettes brought along by a company of two does not exceed 38. It was only after receiving a written clarification from the Administration that I came to understand and realize that as long as any one of the two brings along more than 19 cigarettes, he or she shall be liable to duty payment, and the quantity of tobacco brought along by his or her companion will not matter at all. Therefore, ambiguities and inconsistent standards will likely arise in the course of enforcement. Incoming passengers will be confused, thus leading to many unnecessary disputes.

Another point is that the Government's further increase in the vigour of tobacco control work this time around will, I believe, make cigarette smuggling more rampant. This is in spite of the Government's claim that the new measure will significantly reduce the incidence of bringing in duty-free cigarettes legally in an "ants-moving" manner for resale (because the cost of carrying one packet of cigarettes is rather high), and that the effects of the Government's anti-illicit cigarette efforts have started to be felt. When compared with the quantity in the previous year, the quantity of illicit cigarette seized in 2009 indeed showed no increase, but following the increase in tobacco duty in Hong Kong, cigarette smuggling will turn more profitable. Therefore, it is expected that illegal activities of smuggling cigarettes through other channels will only increase.

I hope that the Administration can fully evaluate all possible problems and explore various proper remedies before implementing the new measure, with a view to reducing the confusion following implementation. An apt example is that earlier on, the definition of indoor smoking prohibition was unclear, so the handling of 150 cases of violation had to be shelved until the Court of Final Appeal made a clarification. All the enforcement guidelines and publicity leaflets had to be printed anew. This shows that the formulation of regulations beforehand was not meticulous enough, and this led to grey areas in enforcement. Therefore, the Administration must step up publicity, so as to fully familiarize the

public and incoming passengers with the relevant measure and prevent them from inadvertently breaking the law. The Administration must step up education and publicize the harms of smoking, with a view to encouraging people to quit smoking. Making people realize the harmful effects and voluntarily quit smoking is better than any legislative control. Besides, enforcement guidelines must be very clear, so as to ensure that law-enforcement personnel can grasp the requirements under the law and know how to handle the possible situations that may arise from the implementation of the new measure. In addition, anti-cigarette smuggling efforts must not be relaxed, and inspections and co-operation with the Mainland must be stepped up. Lastly, the Administration has undertaken to consider the proposal of the Subcommittee (and me), that is, it has undertaken to consider the proposal that when the new measure is put in place, the sale of duty-free cigarettes in DFS should be prohibited. I hope that when considering this proposal, the Administration can have adequate communication with DFS, assess the impacts on their business and consider whether this will lead to any breaches of contracts or lawsuits. The Administration must think carefully and avoid any rash actions.

Deputy President, I so submit.

MR JEFFREY LAM (in Cantonese): Deputy President, a couple of days ago, I read a news report about an Indonesian child aged only two had grown addicted to smoking because he was given a puff by his father at the age of just one and half and he had to smoke two packets of cigarettes a day (more than the quantity smoked by Mr WONG Ting-kwong, I suppose), or he would scream and shout. Consequently, the local government had to offer a vehicle to his father as an incentive for helping the child to stop smoking.

This incident seems absurd and unbelievable. But when parents think about it more deeply, they will all be very sorry at the thought that even a two-year-old has grown addicted to smoking. This also shows the harms of smoking. Smoking will not only harm the health of the smoker himself but will also produce far-reaching effects on those close to him and even society as a whole. Therefore, when it comes to efforts of banning smoking and tobacco control, the sooner they come and the more comprehensive they are, the better.

Deputy President, therefore, I support the principle underlying the Government's present amendment, which aims to increase the vigour of tobacco control by abolishing the duty-free concession for passengers entering Hong Kong with cigarettes, with a view to reducing the incentive for purchasing cigarettes and thus encouraging more people to quit smoking. However, as mentioned by some Members just now, some of the specific details concerning the proposal are still open to discussions.

According to the Administration's proposal, with effect from 1 August, any Hong Kong resident or passenger entering Hong Kong can still bring along duty-free cigarettes, but the quantity will be reduced significantly from three packets (totally 60 sticks) at present to only 19 sticks. Any quantity of cigarettes in excess of this limit shall be confiscated or liable to tobacco duty.

According to the Government's explanation, the original intent of the measure is to forbid people to purchase duty-free cigarettes, but in view of the fact that many people returning to Hong Kong from other places may have some cigarettes for their own consumption, the limit of 19 sticks is set, with a view to facilitating enforcement. I think that the limit of 19 sticks is a bit "wishy-washy". As Members all know, 19 sticks are exactly one packet of cigarettes minus one. Will the limit of 19 sticks lead to any enforcement problems?

Members know that at present, in boundary areas, there are many duty-free shops which engage mainly in the sale of wine and tobacco. A person may be tempted by the small advantage to purchase a packet of cigarettes, while he knows that it is legal to bring in 19 sticks and illegal to bring in 20. As a result, a law-abiding person will open the packet and throw away one stick because smoking is prohibited in the boundary areas. But such disposal of cigarettes will create a litter problem. Someone may want to try his luck, so he may open one packet and then put several cigarettes in each pocket. As Members know, many smugglers are not so clear-minded, and they will be easily spotted. When Customs officers suspect a person, they will search the person for cigarettes. Will this lead to the problem of innocent people being searched? To sum up, we do not wish to see any confusion in enforcement work in the boundary areas. We can observe that in the initial stage of implementing the new measure, incoming passengers (especially foreign visitors) will be confused by the limit of 19 sticks. And, as I have mentioned, there may be disputes between

law-enforcement personnel and incoming passengers. I therefore hope that when publicizing the measure and formulating enforcement guidelines, the Administration can consider the matter thoroughly. And, it must also carry out more publicity. Moreover, the Government should not ignore the questions of whether DFS will be affected, and whether they should continue to sell tobacco. Corresponding policies should be drawn up as early as possible.

Another point is that in order to enable tobacco control measures to really serve their function, the relevant law-enforcement units must clamp down on illicit cigarettes more forcefully. Stronger efforts by the Government to ban smoking may end up benefiting cigarette smugglers. This is the last thing we wish to see. Therefore, we hope that the Government can do its utmost in respect of publicity and promotion.

Deputy President, I so submit.

MR TOMMY CHEUNG (in Cantonese): Deputy President, first of all, I would like to declare that I am a smoker. At times, I may bring along cigars when clearing customs. But this has not induced me to dispute the Amendment Notice.

My party colleague, Mr Vincent FANG, is a member of the Subcommittee on this piece of subsidiary legislation. He strongly disagrees to the present amendment to the subsidiary legislation. At first, he wanted to put forward an amendment proposal to the Subcommittee, revising the 19-stick limit to one packet (20 sticks). But since he is out of town on business, he cannot attend the meeting today. Since a member of any such Subcommittee must personally put forward his proposed legislative amendments under the rules of the Legislative Council, he is unable to propose any amendment today. But he has asked me to express his views for him when I speak today.

Deputy President, Vincent FANG is no smoker, and he does not run any cigarette-related business either. He has always maintained that smoking is bad to one's health and a nuisance, or even a health hazard, to the people around. Therefore, like me, he supports the Government's tobacco control policy. However, since the Government implemented a "total smoking ban" through the Smoking (Public Health) (Amendment) Ordinance 2005, we have been opposing

the Amendment Ordinance and all the subsequent tobacco control measures. I am talking about the measures, not the policy itself. The policy itself is correct, but the measures adopted by the Government are downright unreasonable. Such measures do not only outdo those of the United States and Britain but also rank among the top three in the whole world. The first ranking goes to Bhutan, which prohibits the import and sale of cigarettes. Hong Kong is second in ranking, and only 11% of its population are smokers. Its ranking is higher than that of Singapore, where 14% to 15% of the population are smokers.

Since 2005, I have been repeating the viewpoint that if the Special Administrative Region (SAR) Government treats cigarettes as scourge, it should disregard Hong Kong's so-called status as the world's freest city and a metropolis and outlaw cigarettes as a narcotic drug. It should prohibit the sale and consumption of cigarettes, take the strongest measures against them, and treat smoking cessation as drug treatment. If not, if the Government still treats cigarettes as a kind of lawful goods, if it still considers smoking a lawful act, it should maintain a lawful and reasonable business environment for those companies and individuals engaging in the sale of cigarettes in Hong Kong. And, rather than forcing smokers to smoke in the streets and to put up with the discriminatory stares of passers-by, it should make available places where smokers can smoke freely and openly.

The SAR Government, all its Bureau Directors and various departments have one common problem: sole emphasis on achievements and their legitimacy and popularity among the public. They do not bother to check whether the laws they formulate and the policies and measures they implement will have any impacts on Hong Kong's overall economy, its environment and other aspects. The case of vouchers for compact fluorescent lamps is one example. And, on tobacco control, just for this single objective, it has brushed aside Hong Kong's image, its business environment, its competitiveness, its economic pillars and its people's freedoms.

I know the Secretary will surely reply that the Amendment Notice today will only affect one company because the DFS at all boundary control points of Hong Kong are operated by one single company only. If the Secretary really thinks that way, I must say that this reflects the most insular vision of the Food and Health Bureau in studying amendments to the legislation.

Hong Kong is often referred to as part of "Newlonkong". This means that it is regarded as equal to New York and London in terms of status. But I dare not be so boastful. I will only call Hong Kong an Asia World City, a capital of exhibitions and a regional trade centre and tourism city. As announced by the Census and Statistics Department of the Hong Kong Government yesterday, our retail volume in April are 22% higher than that in the corresponding month last year. Surely, such a substantial increase was not caused by local consumption. It was due to our appeal in the various aspects mentioned above. In April, several large exhibitions were held in Hong Kong. This, together with the Guangzhou Trade Fair and the continuous increases in the number of Individual Visit Scheme visitors, has attracted visitors' consumption and led to this rise in our retail volume.

But the Amendment Notice proposed by the Government today seeks to totally abolish the duty-free concession for three packets of cigarettes. It simply fails to consider the issue from the perspectives of visitors. It only focuses on the possibility that many people who have been out of Hong Kong for less than 24 hours still bring back three packets of duty-free cigarettes. In order to reduce the workload of the Customs, it has chosen to save trouble and abolish the concession totally. I have not fabricated this viewpoint; it was actually put forward by the Customs at a meeting of the Subcommittee.

Very often, laws can only deter good people, rather than bad elements. Since people still want to bring in duty-free cigarettes secretly even at the risk of being caught for breaking the law, even if the Government amends the legislation and abolish the duty-free concession for three packets of cigarettes, people will still think of other means all the same. This will in a way encourage people to bring in duty-free cigarettes illegally. The Under Secretary said to the Subcommittee that when smokers are denied low-priced duty-free cigarettes, they will switch to the local retail market, so the retail business will benefit. I believe that a small part of the demand will indeed flow to the duty-paid market. Such is the demand of people who do not want to break the law, outsiders doing business in Hong Kong and visitors. But the bulk of the demand will surely switch to the illicit cigarette market. The Secretary needs only to look at the ever-rising prices of illicit cigarettes to realize this situation. People can even have two to three boxes of illicit cigarettes delivered to their homes simply by making a phone call.

Therefore, since the Government raised tobacco duty drastically last year, I have been pointing out my concern about illicit cigarettes to the Government. The reason is that right next to Hong Kong is the largest base of illicit cigarettes in the world — Mainland China. Government documents also show that Hong Kong is now a re-export centre for illicit cigarettes. Increasing tobacco duty has only made large numbers of smokers turn to illicit cigarettes. The Government may not mind the erosion of tobacco duty by illicit cigarettes, but it must note that smokers' health may be affected by illicit cigarettes, which are completely without any quality assurance. Besides, there has not been any marked decrease in the number of smokers either. But the business of retail operators, especially newsstand operators, has been dealt severe blows. That being the case, what has the policy brought forth — benefits or harms?

In a document submitted to the Subcommittee by the Food and Health Bureau, there is an array of statistics which tell us that since the drastic increase in tobacco duty last year, the sales volume of duty-paid cigarettes has dropped, while the volume of illicit cigarettes seized by the Government has shown no increase. This is obviously meant to prove that the increase in tobacco duty has led to smaller tobacco consumption, that is, smaller cigarette consumption by smokers. But analyses of policy efficacy are not quite the same as university research, in the sense that in the former case, we are not supposed to reach any conclusions simply by analysing a group of figures. The Government's argument is self-deceiving, totally ignoring the actual situation in society. This is quite like the case of narcotic drugs. Suppose there is a decrease in the volume of narcotic drugs seized by the Government this year, can we thus claim that the number of drug addicts has dropped? The whole world is making active attempts to fight and prohibit narcotic drugs. But according to statistics, the numbers of drug addicts and drug abusers have been increasing in all places, including Hong Kong.

The Government has tried hard to prove that its policy is correct, but it has ignored the impacts of its policy on our society, economic conditions, business environment and human rights and also the discriminatory implications. Therefore, we hope that the Government can conduct a serious, comprehensive and territory-wide survey to collect statistics and conduct analyses on the number of smokers, the health care expenses required for treating smokers, the sales volumes of duty-paid cigarettes, their sales points and the number of venues

where smoking is allowed following the rolling out of the series of measures to impose a total smoking ban. Only in this way can we see the full picture.

Deputy President, I also have great reservations about the tactics employed by the Food and Health Bureau to ensure the smooth passage of the Amendment Notice today. The Subcommittee convened two meetings in total. All the political parties and groupings already expressed unanimous support for revising the limit from 19 sticks to one packet at the first meeting. It must be admitted that some parties later on changed their positions and expressed disagreement. This might be the result of the Bureau's successful lobbying efforts. But then, shortly afterwards, rumours were flying all over the place that if members put forward an amendment on revising the limit to 20 sticks, the Bureau might prohibit the sale of duty-free cigarettes in duty-free shops located in arrival halls. This is further proof that the Food and Health Bureau is prepared to make achievements by hook or by crook. If this measure is implemented, will Hong Kong see the complete destruction of its status as the freest city in the world which imposes the fewest restrictions on business operation? Every time when the Legislative Council discusses legislation on tobacco control, the Bureau will bring along medical doctors and academics to support its position. But this is not we want to discuss. As I have pointed out in my speech today, we are not talking about the interests of one single company, but the image of Hong Kong as a whole.

To what extent will three packets or one more stick of duty-free cigarettes affect Hong Kong smokers' health and our health care expenditure? Deputy President, this is not the first time that the Food and Health Bureau employs exaggerating and threatening means to achieve its end. When the Secretary announced the shelving of the plan to set up a central poultry slaughtering plant, he referred to scientific proof, saying the chances of an avian flu outbreak is only 9:10 000. But what did the Administration say when it came to this Council to ask for funding for licence recall? It said that Hong Kong would soon be overwhelmed by avian flu. It was the same case when swine flu broke out last year. The Administration asked for a funding of \$700 million for purchasing vaccines, thus turning Hong Kong into the most dangerous infected area in the world. But in the end, our economy suffered greatly, and pharmacies all said many thanks to the Secretary.

As an externally-oriented international city, Hong Kong should make sure that all legislative proposals must take account of Hong Kong's overall situation.

It should not only ask people with expertise in one single professional field to work behind closed doors. I often wonder whether academics, medical doctors and even government officials are all heavenly beings. Maybe, all is because even when our economy and the Government's revenue both decline, government officials and academics will not have to take any salary reduction. That is why medical doctors and academics just "couldn't care less" whether our economy and employment market is in good shape.

Deputy President, my standard of Chinese is not very high, so I am not sure whether my interpretation of "中庸之道" (middle course) is correct. As far as my understanding goes, this means no radicalism, no bias towards any directions, and no partiality. However, at present, the Government is marked either by total inaction or radicalism. How can the public approve of its actions in that case? How can the public stop developing grievances? I am sure that my speech will have no impacts on the contents and passage of the Amendment Notice today. But I still wish to take this opportunity to point out the absurdity in the Government's legislative mindset. When assessing Hong Kong's overall interests, the Government is just like "a blind man feeling an elephant". These are my feelings about the various policies.

Deputy President, I so submit. Although Mr Vincent FANG cannot take part in the voting today, he would like to express opposition to the Amendment Notice.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): Members have finished speaking. I now call upon the Secretary for Food and Health to speak. This debate will come to a close after the Secretary has spoken.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, first, I must thank the Subcommittee on Dutiable Commodities (Exempted Quantities) (Amendment) Notice 2010 (the Subcommittee) chaired by Mr CHAN

Kin-por for its serious scrutiny and support. I must also thank Members for the advice they tendered just now.

I shall now give a concise reply to the debate moved by Mr WONG Ting-kwong and the remarks delivered by Members.

The levying of tobacco duty is a public health policy and an important segment of the Government's tobacco control policy. For this reason, we must consider the content of the Dutiable Commodities (Exempted Quantities) (Amendment) Notice 2010 (the Amendment Notice), that is, the abolition of the duty-free concession for incoming passengers with tobacco products, from the perspective of the overall tobacco control strategy.

That smoking is hazardous to health is indisputable. According to World Health Organization Report on the Global Tobacco Epidemic 2009, tobacco causes destructive hazards to the human body and the use of tobacco may take away 5.4 million lives a year. If actions are not taken swiftly, 1 billion people all over the world will die of tobacco use within this century. Therefore, the World Health Organization (WHO) has called upon all places in the world to step up tobacco control, so as to reduce the harm inflicted by tobacco. The WHO Framework Convention on Tobacco Control (the Convention) reflects the consensus of the international community on the overall tobacco control strategy — the adoption of various joint measures to control the spread and use of tobacco. Our country is also one of the State Parties to the Convention which is also applicable to Hong Kong. The Government's established tobacco control policy is the adoption of a progressive approach to encourage the public to not to smoke, stamp the widespread use of tobacco, and minimize the impacts of passive smoking on the public. All along, in line with public expectations, the Government has been adopting a multi-pronged approach comprising publicity, education, the enactment of legislation, enforcement, smoking cessation promotion and the imposition of tobacco duty as a means of promoting tobacco control.

Since the Smoking (Public Health) (Amendment) Ordinance was amended in 2006, the Government has been introducing a series of tobacco control measures. In brief, with effect from 1 January 2007, smoking is prohibited in all indoor public areas and workplaces, including the indoor areas of restaurants, karaoke establishments, amusement game centres, shopping malls, markets and

residential care homes; schools, universities, child care centres, hospitals and other outdoor recreational venues, including the public pleasure grounds, bathing beaches, swimming pools and the Hong Kong Stadium managed by the Leisure and Cultural Services Department. Since February 2009, we have raised the duty on tobacco products by 50%. On 1 July 2009, the smoking ban was extended to six types of premises: bars, clubs, nightclubs, bathhouses, massage establishments and mahjong-tin kau premises. On 1 September 2009, the smoking ban was extended to 48 covered public transport interchanges. And, under the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600), a fixed penalty regime for smoking offences was put in place. On 1 November 2009, we started to prohibit the display of tobacco advertisements at hawkers' stalls. As I reported earlier to the Legislative Council Panel on Health Services, before the end of this year, 128 open public transport interchanges will also be designated as no smoking areas, so as to further reduce the harm of passive smoking.

Last year, the Financial Secretary increased tobacco duty by 50%, and this received the support of the public and the Legislative Council and encouraged many smokers to cease or reduce smoking. To further protect public health, the Financial Secretary proposed in his 2010-2011 Budget speech to abolish the duty-free concessions on tobacco products for incoming passengers and to consider a phased increase in Hong Kong's tobacco duty with effect from the next financial year.

Cutting the supply of tobacco will enhance the effects of tobacco control. Therefore, the Convention requests all State Parties to strive to reduce the sources of duty-not-paid cigarettes. The abolition of the duty-free concessions on tobacco products for incoming passengers, if passed by the Legislative Council, will bring Hong Kong's tobacco control measures more in line with the requirements of WHO, thus reducing the harms caused by tobacco to the public and promoting public health. At present, duty-free cigarettes are a source of cigarette supply not affected by tobacco duty. According to the statistics of the Customs and Excise Department (Customs), duty-free cigarettes are a source of illicit cigarettes, so the abolition of the duty-free concessions on tobacco products for incoming passengers will help the Customs prevent "itinerant merchandise couriers" from smuggling duty-free cigarettes through the busy boundary checkpoints for resale as illicit cigarettes by lawbreakers.

We must at the same time consider the fact that Hong Kong's boundary checkpoints are extremely busy, with a daily entry of 300 000 incoming passengers. Many of these passengers actually move between the Mainland and Hong Kong on the same day. Incoming passengers who are smokers may carry with them a small quantity of unused tobacco products for own consumption. If all such passengers are required to undergo customs clearance and pay tobacco duty, they will suffer inconvenience, and this will affect the flows of passengers through boundary checkpoints. In addition, the law-enforcement agency will thus have to spend huge resources on enforcement. Therefore, we are of the view that on the overriding premise of tobacco control, allowing passengers to carry an opened packet of cigarettes for own consumption or a small quantity of tobacco products is a practical way of avoiding causing nuisance to the public.

The Amendment Notice aims to specify that the maximum quantities of duty-free tobacco products that an incoming passengers can bring into Hong Kong are 19 cigarettes, or 1 cigar (or 25 grams of cigars), or 25 grams of other manufactured tobacco. Any quantities of tobacco products in excess of these statutory limits shall be liable to tobacco duty.

I know that the Subcommittee convened two meetings on the Amendment Notice, and various concerned organizations were invited to exchange their views. Most of the deputations present at the meeting supported the content of the Amendment Notice. The Subcommittee also agreed that it is not necessary to revise the Amendment Notice. Some Members are concerned that the 19-stick limit may pose difficulties to the Customs when enforcing the new measure and make the DFS in boundary control points suffer business losses. Regarding the 19-stick limit, we have already explained to the Subcommittee in great detail that from the perspectives of controlling tobacco use and protecting public health, we should start from the principle of totally abolishing the duty-free concessions on tobacco products for incoming passengers. In other words, all tobacco products brought into Hong Kong should be liable to tobacco duty, in line with the requirement applicable to tobacco products sold in Hong Kong. However, in order not to cause nuisance to the public and obstruct passenger flows through boundary checkpoints, the Administration has proposed to exempt opened packets of cigarettes or small quantities of tobacco products carried by incoming passengers for own consumption from duty payment on the

major premise of abolishing all the duty-free concessions on tobacco products for incoming passengers, so as to take account of the actual situation and avoid affecting the operation of boundary checkpoints.

Besides, under section 8 of the Smoking (Public Health) Ordinance, cigarettes sold in Hong Kong must be packed in a packet of at least 20 sticks. According to the statistics of the Customs, the vast majority of pocket-sized cigarettes sold on the international market are also in a standard packing of 20 sticks per pack. The 19-stick limit (which means that a packet must be opened and at least one stick must have been consumed) can take account of the exemption of small quantities of unused cigarettes carried by passengers for own consumption from duty payment as mentioned above. Therefore, the 19-stick limit or a quantity of less than one packet is in line with the original policy intent of removing the sources of duty-free tobacco products.

While seeking to reduce nuisance to the public, we must also consider how to prevent lawbreakers from using duty-free cigarettes as a source of illicit cigarettes. They must be prevented from adopting the "ants-moving" approach, that is, they must be prevented from making frequent trips into and out of Hong Kong through the busy boundary checkpoints every day, bringing into a small quantity of duty-free cigarettes each time for illegal resale in Hong Kong. The 19-stick limit under the proposed measure will reduce the resale value of such cigarettes, thereby minimizing the possibilities of abuse by reselling the duty-free cigarettes brought in legally through boundary checkpoints. In regard to enforcement, Hong Kong residents and visitors are both entitled to duty-free concession on tobacco products. Adjustments to the concession they enjoy were made respectively in 2002 and 2007. From our experience, we are confident that the proposed measure this time around can be implemented smoothly without causing any inconvenience to incoming passengers.

The Customs will also conduct extensive publicity before the implementation of the new measure. It will, for example, broadcast messages in the mass media and boundary control points to notify the tourism sector and other countries, so that the general public and visitors can have sufficient time for preparation and law-enforcement personnel can become familiar with the new

statutory requirement. It is hoped that the new measure can be implemented smoothly and achieve the policy objective of reducing the harms of tobacco.

Some Members maintain that following the abolition of the duty-free concession on incoming tobacco products, DFS at boundary control points should not be allowed to sell tobacco products because this will result in confusion, making incoming passengers break the law inadvertently. However, we note that not all Subcommittee members have requested the Administration to prohibit the sale of tobacco products by DFS at boundary control points. We will closely monitor the implementation of the new measure and actively examine and study the need or otherwise for banning the sale of duty-free cigarettes at boundary control points through amendments to the Dutiable Commodities Ordinance (Cap. 109).

A multi-pronged approach must be adopted for tobacco control. Over the past few years, we have stepped up our efforts in publicity, education, legislation, enforcement and smoking cessation. The scope of no smoking zones has been expanded continuously. Last year, the Financial Secretary raised tobacco duty by 50%, and this has been followed by a large increase in the number of smokers trying to cease smoking. Many people and organizations, on the other hand, have requested the Government to further increase tobacco duty. Therefore, from the overall perspective of tobacco control, it is the right time to abolish the duty-free concessions on tobacco products for incoming passengers.

Deputy President, the new measure proposed in the Amendment Notice can both reduce the sale of tobacco products and avoid causing nuisance to the public and obstructing the operation of boundary control points. It can also cut the supply of certain illicit cigarettes. Therefore, it should merit the support of the Legislative Council. Following the commencement of the Amendment Notice, the Customs will strive to implement the new measure. And, we will likewise redouble our efforts to enhance tobacco control and protect public health in various ways.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): In accordance with Rule 49E(9) of the Rules of Procedure, I will not put any question on the motion.

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

(Mr LEE Wing-tat raised his hand in indication)

DEPUTY PRESIDENT (in Cantonese): Mr LEE Wing-tat, is it a point of order?

MR LEE WING-TAT (in Cantonese): It seems a quorum is lacking now.

DEPUTY PRESIDENT (in Cantonese): Clerk, please do a head count. If a quorum is not present, please ring the bell to summon Members back to the Chamber.

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

DEPUTY PRESIDENT (in Cantonese): A quorum is now present.

DEPUTY PRESIDENT (in Cantonese): First Motion: The 4 June Incident.

I now call upon Mr Albert HO to speak and move his motion.

THE 4 JUNE INCIDENT

MR ALBERT HO (in Cantonese): Deputy President, I move the motion as set out on the Agenda. In line with the tradition, today I move this motion of conscience, that is, that the 4 June incident be not forgotten and the 1989 pro-democracy movement be vindicated.

A motion that forgets history is a nation without any sense of right and wrong. The pro-democracy movement and the 4 June incident in 1989 are black and white events in history, how can the Chinese nation forget them? How will they ever degrade to such a state? Now autocratic rule is practised on the Mainland and there is one-party dictatorship. The Communist Party of China (CPC) is trying to make this nation lose our memory and forget the 4 June incident. For years after the 4 June crackdown, the CPC has been putting people in jail on account of things written by them. Many dissidents who advocate that the 4 June incident be vindicated have been jailed. This autocratic political party wants to whitewash its bloody crackdown on the pro-democracy movement in Beijing in 1989 and its massacre of the people who staged peaceful demonstrations. But how can they ever succeed? Because the history of the 4 June incident has gone deep in the hearts of the people. They will never forget it.

The call for the vindication of the 4 June incident has become an icon of conscience for the Chinese nation. Today and for a long time to come, the torch of the pro-democracy movement lit up in 1989 will burn in the hearts of the people. For 21 years, in Hong Kong where there is freedom only in the relative sense, the people of Hong Kong have used their freedoms of speech and assembly. They cry out from the conscience they share with the rest of the Chinese nation, roaring a resounding no to those in totalitarian power. For 21 years, the people of Hong Kong have been holding their candlelight vigils and marches in memory of the 4 June incident with the same unwavering convictions. This is a movement inspired by the conscience of Hong Kong people, and it has certainly earned a rightful place in the civilization of mankind. People in the Mainland are silenced under the threat of brutal force. But the cries of Hong Kong people have moved and shocked the vast expanse of Chinese soil and echoed by the people on it. The resounding cries will be heard and echoed by all the people of China.

Many people are repeating the thought-provoking remark that China will have no future if the 4 June incident is not vindicated. Why are people saying this? This is because the 4 June incident and the pro-democracy movement in 1989 have caused an extreme phobia in the Chinese communist regime for its people. Many people holding dissident views are imprisoned and convicted for their opinions expressed. What they have called for in a peaceful manner is only that the 4 June incident be vindicated. Many mass incidents triggered by injustices in society in the past were ruthlessly suppressed and ripped in the bud by the government. This kind of response borders on the paranoid and hysteria, similar to the line decreed by DENG Xiaoping after the 4 June crackdown, the reason cited being recurrence of similar events in future.

We can see that an intellectual like LIU Xiaobo who proposed in the 08 Charter that goals like democracy, freedom, the rule of law, constitutional government and justice should be built and practised in China was charged with incitement to subvert state power and sentenced for 11 years of imprisonment. Members, that this 08 Charter could be said to incite the subversion of state power when it is only one page long, is there something wrong with this page of writing, or is there something wrong with the regime itself? Mr TAN Zuoren only said that an investigation should be conducted into the massive tofu-dreg works discovered in the wake of the Sichuan earthquake, and he is sentenced to jail. ZHAO Lianhai is also jailed because he wants to fight for justice with the parents of children who drank the contaminated Sanlu formula milk. HU Jia is an activist who shows great concern for the rights of AIDS patients. He takes part in actions to uphold the rights of these patients. He voices out his discontent and fights for justice. But all of these people who stand up and fight for the rights of the disadvantaged are jailed. No wonder some people say that in an unjust society, the prison is the only answer for these righteous people. The jail has become a symbol of justice, because those in the totalitarian regime are so very much overwhelmed by fear that they can only answer by putting people into jail.

From this it can be seen that if a regime is so frightened of the people and distrusts them, how can it have the abilities to lead a country, and build a society that is truly harmonious, united, civilized and progressive? How can it push the

growth of a country? How can the Chinese people lead a free and happy life under circumstances which are truly democratic and open?

Let me mention in passing that this paranoid mentality of totalitarian rulers has infected the Hong Kong Government. Members can see during the past few days that the authorities seized the goddess of democracy statue in the Times Square and suppressed the demonstration activities we have held for some 20 years in a very peacefully manner. In the early hours of today, the artist who created this goddess of democracy statue was repatriated once again, refused entry to Hong Kong for a visit. We can see that the Hong Kong Government is living under this spectre. Of course, we have reasons to believe that the paranoid mentality of the communists in power on the Mainland will certainly affect the administration by the Hong Kong Government. Democrats in Hong Kong should raise their sense of a crisis and be on the alert that they may face the same kind of suppression. We should fight on, and we should never give up. Or else, freedom in Hong Kong will certainly be at stake.

The next thing is that some people say that had there been no crackdown back then, there could never be the stability in the past 20 years and there could never be the economic growth during these 20 years after the crackdown. Such development has led to China's emergence as a world power. And I am sure some Honourable colleagues may be saying these things later to whitewash the 4 June incident. But let us take a close look at our country today. Just what kind of a country is China now? The fact is that the State is rich but the people are poor, the officials are powerful but the people are powerless. The consequences of a free economy plus a totalitarian government are clear to everyone: the collusion between officials and businessmen, the disparity between the rich and the poor, confrontation between the officials and the people, and social injustice. China today has undergone decades of so-called revolutionary construction and it is even more corrupted than the Kuomintang administration during the 1930s, when graft was rampant and power concentrated in the hands of a few. Are these things that we as citizens of China should be proud of?

Many people have said this and I also agree with them and that is, what is practised on the Mainland now is capitalism of the officials and those in power. It is robbing the country and the people of their properties. The children of many top party cadres have become billionaires, leading an extravagant life.

They boast a scandalous amount of wealth. In the ruling class on the Mainland, many top party cadres lead a corrupt and decadent life. It is useless to talk about clean government and reforms, because the leaders are never punished and the law is applied only to the people. The anti-graft policies have never touched the core of power.

What is the price paid by economic development in China? It is a low human rights record, low wages, and inhuman working conditions. We can see that many grass-roots workers are exploited. The inhuman life in Foxconn has led to waves of suicides, the deplorable wages received by workers in a Japanese motor car assembly plant, the large number of people and children kidnapped to a brick kiln in Shanxi and worked as slaves two or three years ago. These are the price paid. We can see many farmers and villagers whose land has been forcefully resumed and they have lost their homes. The incidents that took place in Wan Zhou and Han Yuan in Sichuan have led to hundreds of thousands of farmers taking to the streets to defend their rights. Also, the incident that took place in San Wei has led to the police opening fire on the peasants and killed them. All these ignominious events are far too many. The goal which these activists in China are striving for is in fact very humble and that is to defend their most basic right to live. Now they are cornered in a dead end. According to official figures, such events involving the masses have been increasing. There were 10 000 in 1994, 32 000 in 1999, 58 000 in 2003, 74 000 in 2004, and 87 000 in 2005. These are official figures, but there has been no official announcement ever since. As far as we know, the latest figure is 120 000. We can see that Chinese society is very unstable. Is this something we can be proud of seeing China having developed to such a state? Should we not try to find a new way out by fighting and striving for what we think is right?

We have come to this conclusion: No democracy in China means no hope for the people. The Chinese Government must find a new way out by practising democracy. Therefore, I reiterate (*The buzzer sounded*)

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

MR ALBERT HO (in Cantonese): Thank you.

Mr Albert HO moved the following motion: (Translation)

"That this Council urges that: the 4 June incident be not forgotten and the 1989 pro-democracy movement be vindicated."

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

MR LEUNG YIU-CHUNG (in Cantonese): Deputy President, the 4 June incident can be said to be a momentous historical event ever since the founding of new China, and it has an inalienable relationship with Hong Kong.

For 21 years the people of Hong Kong have never forgotten the 4 June incident and every year tens of thousands to some hundreds of thousands people will brave the elements and go to Victoria Park to attend the candlelight vigil. More importantly, most people of Hong Kong are very clear about the rights and wrongs of the 4 June incident. It can be said that the Incident is not only part of the collective memory of the people of Hong Kong, but that every year when people commemorate the Incident, they also manifest the sentiments of the Hong Kong people for democracy in China.

So when the SAR Government acted blatantly to interfere with and suppress the activities held by the Hong Kong Alliance in Support of Patriotic Democratic Movements of China (the Alliance) to commemorate the 4 June incident and when the Government invoked some specious provisions in law to confiscate the two goddess of democracy statues and the bas-relief on the Tiananmen massacre, it was met with strong public outcry and condemnation. This is because these commemorative activities represent not only the collective sentiments of Hong Kong people but also the core values of Hong Kong people in regard to democracy in China and Hong Kong. I believe it was only due to the powerful pressure of public opinion that the SAR Government and the police yielded. At last the two statues and the bas-relief were returned to the Alliance yesterday. Permission was also given to let these artworks to be placed in

Victoria Park for public display one day before the candlelight vigil. I think this is a victory of the people's power, and it is another slam at the SAR Government which has acted in a most barbaric manner.

Many people have questioned this move by the Government. They asked why the SAR Government and the police have acted so blatantly to suppress the activities of the Alliance. Some people may think that the Government may be acting in an oblique manner, disguising its secret motive of supporting the Alliance and spurring a greater turnout for the candlelight vigil. It is true that this wrong and stupid move may have prompted more people to come out and attend the candlelight vigil. But after pondering seriously over the event, still I do not understand why the Government is so stupid as to do that. I fail to see why the Government could be acting in this manner like a double agent. This is because it has never cared for Hong Kong, sorry, it should be China. And it has never made any contribution to the development of democracy in China, still less it will contribute to democracy in Hong Kong in any sincere manner. What gain will it get by playing the double agent? I really cannot figure that out. The only possible explanation could be the Government is tightening its tolerance for publicity on the 4 June incident. This sounds more reasonable.

Actually, there has been a trend in China of late to uphold stability. What in fact is this trend? It is to suppress the dissidents and maintain stability and prosperity of society on the surface. This has led to ruthless suppression of the human rights activists and acts in pursuit of justice. We can see that some activists have been handed stiff prison terms and this is a good example of that. What LIU Xiaobo has done was writing a few articles and publishing his 08 Charter, and he was sentenced to a term of 11 years in prison. What do these things tell us? The authorities want to crack down on opposition and that is all.

This trend of rigorous political suppression has spread to Hong Kong. The Alliance is the first one to bear the brunt. This March the police pressed charges against five standing committee members and one volunteer of the Alliance, saying that they caused an unlawful assembly outside the Liaison Office of the Central People's Government in Hong Kong (LOCPG) when they staged a demonstration there. This is shameless. This is because we have been doing that for so many years. We go to the LOCPG to demand that the SAR Government and the Chinese Government to face up to the demands of the people. To our surprise, however, we met with a large number of policemen and

our volunteers were arrested. This happened in the Times Square again, where repeated attempts were made to seize the goddess of democracy statues and the bas-relief. From this we can see that it is tightening its grip and reducing its tolerance.

But Deputy President, I can tell you, the people of Hong Kong will rebound more forcefully at the stronger suppression. In what way will they be forceful? They will demonstrate their force in resisting suppression. Suppression will only make us stronger. We will not only tell the SAR Government but also the Chinese Government that we are not afraid and we will persevere. This is because we are convinced that a government must respect the voice of the people. When the voice of the people and their opinion are suppressed, we will stand up and put up resistance.

Today, this is the situation in Hong Kong. Whenever suppression is strong, the resistance put up by us will be yet stronger. I call upon Members to come to the vigil on 4 June. This meeting is not only aimed at putting forward our demand for democracy in China, but also democracy in Hong Kong. And it is also the time when our conscience (*The buzzer sounded*)

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

MR LEUNG YIU-CHUNG (in Cantonese): is manifested. Thank you, Deputy President.

MR CHEUNG KWOK-CHE (in Cantonese): Deputy President, last year marked the 20th anniversary of the 4 June incident and now one year has passed. During this one year past, I failed to see any reflection and awakening on the part of the Chinese Government in relation to this matter. I failed to see any ray of hope on this road to democracy. What is more heartrending is that in the year past, there was retrogression in the pace of democratization in China and rule by man overrode the rule of law.

Last year, on 25 December, it was a black Christmas in China, the dissident LIU Xiaobo who participated the 08 Charter was ruled by a Court in Beijing of inciting subversion of state power. He was given a stiff sentence of

imprisonment for 11 years. What LIU did was to resort to peaceful means by expressing in writing his concern for the country and care for the people. What was so wrong about it?

One month later, the writer TAN Zuoren who investigated the tofu-dreg projects of Sichuan was also ruled as having committed the offence of inciting subversion of state power and sentenced by the Intermediate People's Court of Sichuan for five years' imprisonment. As we all know, TAN was found guilty not because of what the Court had said, that he had published articles on the 4 June incident. The major reason was that he drafted the advocate paper on "5.12 student files", calling for a civilian investigation into the quality of school construction projects that had led to the deaths of the students. He was doing this to seek justice for the students killed and he wanted to hunt down the murderers. What kind of wrong did he do?

On 30 March this year, the person who organized an organization of the victims of the Sanlu milk powder called the "home of the kidney stone babies", ZHAO Lianhai, was accused of malicious speculations of the melamine-contaminated milk powder incident on the Internet and inciting gatherings of people. He was held for criminal detention and tried in the Court of the Daxing district in Beijing behind closed doors. Just think what wrong is it for a father who seeks justice for his son who is a victim of the contaminated milk powder and who pursues compensation for the families of the victims?

The absurdity of this kind of false accusations is similar to that of someone having been robbed, but the police do not catch the robbers but arrest the victim and find him guilty. The victim is accused of spreading malicious rumours and disrupting public order.

Back then the people and students who sat in the Tiananmen Square in peaceful demand for democracy were suppressed by the ammunitions of the soldiers and crushed by the rolling tanks. The blood they spilled and the tears they shed for the cause of democracy have remained pointless for 21 long years. During these 21 years, not only has the cause of democracy in China not made any progress, it is retrogressing instead. Political tolerance is reducing and the grip on the freedom of expression has become tighter than ever. The independence of the judiciary is nothing but empty talk.

In terms of diplomacy, the impact of the financial tsunami that has hit the world is relatively mild on China. The strong economic growth of China has made Western countries demand favours from China. This emboldens China, which has turned a blind eye on pressure exerted by the international community. It derives a sadistic delight in cracking down on the dissidents and so democracy in China is in for a frosty winter.

Is economic strength more important than human rights, democracy and the rule of law? Human civilization should always be marching forward, but is the economic power of a nation the only yardstick for measuring civilization? When the economy is faring well, should the people be silenced and should they care nothing about social justice?

It is incredible that the SAR Government is copying this practice. It confiscated the goddess of democracy statues from the Alliance and the bas-relief of the Tiananmen massacre. It is using political means to suppress the activities held by Hong Kong people to commemorate the 4 June incident. It is seriously depriving the people of Hong Kong of the freedom of speech which they are so proud of. Over the past 20 years, never have the activities in commemoration of the 4 June incident been disrupted in any way. Does this incident of forceful seizure of the goddess of democracy statues imply that the public space for holding these activities is being tightened? I am sure that regardless of the attempts made by the Government to suppress such activities, this demand for vindication of the 4 June incident will continue in Hong Kong, and the torch will certainly pass on and never die out.

It is a responsibility incumbent on the CPC rulers to seek the truth about the 4 June incident, vindicate the pro-democracy movement of 1989 and dress the wounds of history. By so doing, it will be consolation to the families of people who died bravely in the 4 June incident and it is doing them justice. It also gives the whole Chinese nation an opportunity to reflect and search its soul.

I do not know whether I will be able to see the 4 June incident vindicated in the rest of my life. But as a Chinese, I will insist on it as long as I live. I am compelled by my conscience to do this. I believe it is only when the Central Government admits on the massacre on 4 June, that it is willing to face up to this

bloody chapter in history and offer an apology to the people of China, that China will have any chance to march towards democracy, that China will have a bright new future.

Deputy President, I so submit.

MR FREDERICK FUNG (in Cantonese): Deputy President, this year marks the 21st anniversary of the 4 June incident and there have been vast changes during these 21 years. Babies born in that year are now fully grown adults. Those people who were once young and virile now carry frosty hair and wrinkled faces. Surely as the gliding clouds that sail on top of a placid lake and as stars change positions with the passage of the seasons, time passes and so is life. We have no control over changes in the comings and goings of people. The political scenes of the world are constantly changing. Values are always deconstructed and subverted. There is no clear-cut black and white to everything. Morality crumbles and falls apart. The lines for justice and righteousness are blurred and made increasingly unclear.

Despite these changes in these 21 years, and despite attempts made by the SAR Government, the Chief Executive and some political mavericks to stamp reason and fetter thinking, as rights and wrongs are recklessly painted grey, and amid scorn, suspicion, sarcasm and senseless ranting, the people of Hong Kong are still solid as a rock. We trust with an unwavering conviction that history will vindicate itself and justice will someday be done.

During the stormy times of these 21 years, we have not buried our conscience, and we have never forgotten it. We do not dare to forget. And so year after year and come wind come rain, we would take to the streets and walk into the Victoria Park. We would hold a lit candle in our hands and remember the dead of the Tiananmen massacre with our tears. Our memories and the passion to seek the truth have never faded with the passage of the years. On the other hand, they have become stronger and firmer. We demand that the 4 June incident be vindicated. We have never compromised this conviction because of the political reality. For we know deep in our hearts that the day for its vindication will come, and it is getting closer and closer.

Some people may advise us to be more realistic, be pragmatic. They think that China today is very strong and we should shed our burden of the past or choose to delete our memory. They think that the people will be scared and silenced when those in power have done something, including tightening the grip on the dissidents or when the SAR Government suppresses peaceful activities commemorating the 4 June incident. This is so naïve of them. As we can see in what has been happening in these past few days, when Mr LEE Cheuk-yan of the Alliance snarled, "If you do not hand over the goddess of democracy statues, we will seize the North Point Police Station", the Government was so scared. And it returned the goddess of democracy statues and sent them to Victoria Park.

It is true that China's economy is at its heyday, and it is especially true that in the wake of the financial tsunami, China has become an important stabilizing force in world economic development. Our leaders exhibited great confidence in the international arena. But all these have nothing to do with the vindication of the 4 June incident. This spectre which has haunted us for 21 years has not gone away because of the economic advancement and the euphoria in society. Whenever it comes to this time of the year, those in power would take things very seriously and rack their brains to whitewash and paint an illusion of peace and prosperity. Their apologists will also water down the 4 June incident by all sorts of ways and means. Would that help? Will this not show that those in power are lacking the justifications, lame in their arguments? It shows that the 4 June incident is so true, so true that our breath is taken away by it. It is a clear reflection of the purity of motives in the students at that time. But all these were met with ruthless and bloody suppression.

Deputy President, China is committed to developing its economy so that people's lot can be improved. This is certainly true and there is nothing wrong about it. But behind this façade of breakneck economic progress, there come confused values. Economic development now reigns supreme, graft and abuse of power by the officials are rampant and unchecked, the wealth gap is glaringly wide, the judicial system is a servant of politics, rights and wrongs are inextricably mixed and there is no way peace can be achieved and justice done. The short-sighted economic gains reaped lead to woes and disasters in the environment and people's dignity in living is stamped and crushed. Recently, the spate of suicide cases in the Foxconn plant that shocked the world serves to

demonstrate that this pursuit of profits at all costs, the cold-blooded military-style management, plus long periods of overtime work are a blatant disregard of the rights of the workers and a serious distortion of humanity. Though there may be changes in materialistic life, there are mental stress and psychological problems. These suicide cases may just be the tip of the iceberg, and as we see it, there are so many cases of exploitation and distortion of values in China.

Deputy President, in the face of such confused values and lack of anchoring faith in the people, it is clear that the call for social harmony by those in power is useless. For what is involved in such attempts are confusions of cause and effect, and subversion of means and ends. As values are lost and morality crumbles, how are Chinese people to rebuild themselves and restore their confidence? The answer is to take a good look at history and learn from it. We are not afraid of touching the wounds of the past, for such wounds as the 4 June incident have proved that a government could have killed its people to consolidate its rule, that in the name of stability a brutal suppression could be justified, that the intrinsic values and rights of the people could be recklessly stripped, and all means could be employed to achieve political ends. The life and the freedom of the people are relegated to some means and they can be sacrificed.

Deputy President, now is the time that China should rebuild its values. Then let us admit our wrongs, vindicate the event and mend this gap in history. In this way, we can soothe the hearts of the people in China, rework our values system and rebuild the anchor for the life of the Chinese people.

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

MR WONG YUK-MAN (in Cantonese): Deputy President, leaving all aside, killing people is the most heinous crime. At this time 21 years down the line, the victims of the 4 June massacre are not vindicated, truth continues to be covered up and there are people who blatantly distort facts and try to whitewash the guilt of those killers in the massacre. This would only serve to add to the guilt of the killers and create more crimes.

During the late spring and early summer of 1989, students in their exercise of the constitutional rights of the freedom to march and organize rallies and the

freedom of speech organized activities to voice their demand for democracy. They asked that the government should tackle the problem of corruption and speculation by officials. But this pro-democracy movement by patriotic students was smeared as a disturbance, and it ended in a bloody crackdown. Many students died a tragic death as they were rolled over by tanks and shot by guns. This pro-democratic movement was thus aborted and corruption and decadence then ruled over China, and so the seeds of man-made disasters in the wake of the reform and opening were sown.

LU Xun wrote in the 15th year of the founding of the Republic of China after the 18 March Incident to this effect: "This is not the end of an event but an opening. Lies written in ink can never hide the facts written in blood. Blood will have to be paid by the same and the longer it takes to pay, the greater amount of interest shall be required." When these remarks are applied to the 4 June incident, they are not far from the truth at all. The tragedies that took place on the Mainland in recent years were all rooted in a neglect and contempt for truth. When the Sanlu milk powder was found to have problems, the local government at Shijiazhuang did not report the problems promptly. This comes from the decadent mentality of not allowing a report to destroy an industry and a brand. When a mega earthquake took place in Wenchuan, the Sichuan government flatly denied that those tofu-dreg works projects had caused the collapse of school buildings that claimed many lives. On the same day two years later, such disclosures of tofu-dreg works projects were found in the newspapers. The blood spilled in Wenchuan was for nothing. Then human rights activists like TAN Zuoren and ZHAO Lianhai were arrested and locked up. In this great country of China, how could criminals be allowed to loom at large and those who expose crimes and those victims are made the accused? One just pities the children born in a country like China that cares nothing about reason and that they have to bear the sins of the adults. When history is forgotten, distorted and doctored, it would only serve to make the younger generation spill more blood.

We do not agree with the idea of blood should be repaid by blood. The 4 June incident is like those political movements that took place after the establishment of communist China which have been proven wrong, it will have to be judged by history. The Central Government must publish the truth regarding the 4 June incident, pursue those responsible and make compensation to the

families of those victims in the Incident. This is the iron rule of history. No one can turn back the wheel of times.

With the increasingly vociferous calls for democracy on the Mainland, some people think that political reform will commence at last and the 4 June massacre will be vindicated in the foreseeable future. But the fact is, nothing has changed in the human rights situation in China ever since the Olympic Games. Beijing is tightening the screw on the freedom of expression. This applies especially to policing the Internet, forcing through demolition and removal, the resumption of land by local officials and businessmen aided by malicious elements. And those who go to lodge complaints are intercepted, assaulted, abused and even raped. Many activists defending the people's rights are detained, charged, put under house arrest or forced to disappear. Lawyers defending the rights of the people are also oppressed. The judicial system is a shambles. LIU Xiaobo, one of the drafters of 08 Charter was sentenced to 11 years of imprisonment on Christmas day 2009. This is solid proof of the sheer arrogance and gross neglect of universal human rights values by this country after its so-called emergence. At the same time, some national leaders defamed democracy in public, saying that one-party dictatorship was the most desirable. The Communist Party of China (CPC) is the biggest clique ever in history characterized by collusion and money power, with a handful of people controlling most of the resources of the country and squeezing the fruits of labour of the people. What happens behind the spate of suicides in Foxconn is this naked and unabashed exploitation and oppression of the workers by the capitalists sheltered under the communist wings. People who talk about the emergence of China and its coming of age, and so on, are so deplorably shallow and short-sighted. Talks about China's coming of age are lies aimed at buttressing totalitarianism. All the glamour and splendour of the Expo and the Olympics are only jewels in the crown of the totalitarian rulers.

ZHOU Duo, one of the Four Gentlemen of Tiananmen Square wrote an article on the eve of the 21st anniversary of the 4 June incident to review China's past and look ahead to its future. His comments are so incisive. He said, "The capitalism in China as practised by those in power is a mixture with Chinese characteristics. It uses an extreme leftist ideology as the tool of oppression. It does away with its flavour of socialist equality in it. Bureaucrats who delve into the market with their power monopolize it and get rich to such a scandalous

extent. They do not want free competition in a well-functioning market, the rule of law and restraint by morality. It incites and cheats the people with this piecemeal pursuit of a wealthy and strong China. It is bogus patriotism. It aims at cheating the people for their support. But at the same time, it strongly resists freedom and democracy"

In face of this ruthless oppression by the state machine, LIU Xiaobo raised on a TV interview last year some very profound views he held. He said to this effect: "Now that so many years have passed since the 4 June incident. I have noticed some changes in the government. I find that it has changed from a revolutionary party to a party dominated totally by interest. In everything that it does, ideology becomes nothing more than window-dressing and everything is done from the perspective of maximizing interest. It is wholly a matter of calculating the cost of suppression, the political cost of suppression What the public can do is to add to the cost of its suppression. The cost that the government has to pay regarding someone who defends his rights when his home is to be demolished and relocated is far greater three years ago in 2007 than way back in 2003. A political dissident has to learn to not only resist but also how to face suppression and spend his life in a prison."

Surely LIU Xiaobo is much more clear-minded than those in the democratic camp who delight in opening dialogue with the CPC. Instead of harbouring hopes that those in power will better themselves and take the initiative to introduce reform, we should work through mass movements, and work hard to foster a trend in society. We should put up peaceful resistance. It is in this way that there can be progress in the constitutional system and there can be hope for democracy.

With these remarks, Deputy President, I support the motion moved by Mr Albert HO on vindicating the 4 June incident.

MISS TANYA CHAN (in Cantonese): Deputy President, "Who is not a Tiananmen Mother?" Over the past 21 years, the families of the deceased have always hoped to seek justice for their loved ones, and "Tiananmen Mothers" have even been living under tremendous pressure, suffering badly under the watchful eyes of the authorities and being deprived of the freedom to mourn their family

members openly. These "Tiananmen Mothers" are going to enter their 60s and 70s but as the deaths of their children have not yet been vindicated, they have still been living in fears and grief over the years. Any human being with the slightest bit of conscience and sympathy will be touched and enraged. On 4 June six years ago, Prof LUNG Ying-tai concluded her views on this tragedy with "Who is not a Tiananmen Mother?" She wrote this: "It is all for you, my child, that I have no choice but to do everything I can to stop the State from turning into a killing machine, no matter we are in which country, so that you would not be arrested or go missing one day when you go out." Coming back to Hong Kong, similar suppression seems to be near and yet far away from us. Members in this Chamber should examine their conscience and reflect on themselves: When the statue of the "Goddess of Democracy" was confiscated, what is there for us to pass onto our next generation?

Today, after six years, I am asking the same question: "Who is not a Tiananmen Mother?"

Today, the authorities have openly suppressed the voices calling for the vindication of the 4 June incident, and I ask the authorities this: How are they going to face their own children? You have destroyed freedom with your own hands; you have arrested peaceful demonstrators with your own hands, and the rule of law, in which Hong Kong takes pride, has been devastated by all that you have done. How can you not feel shameful when facing the next generation?

I had been so naïve before as to think that it is a natural right in Hong Kong to cry loudly for the vindication of the 4 June incident. But as we enter the third decade after the crackdown, I finally realized that the SAR Government has already begun to suppress people holding different views with more and more violent means and in a more and more conspicuous manner. The police, having twice seized the "Goddess of Democracy" statue and arrested members of the Alliance who were staging a peaceful demonstration, are creating white terror. After the rally on Sunday, it so happened that I passed by Times Square and saw with my own eyes how violently the police had enforced the law. I personally saw how LEUNG Kwok-wah was carried onto the police car, and I came to realize that the situation described by LUNG Ying-tai that a person who goes out can be arrested or go missing has already happened in Hong Kong. Eversince

1989, the Hong Kong Government has hitherto never made such brazen attempts to suppress activities commemorating the 4 June incident but now, law-enforcement officers have treated the public's basic liberties and rights in a way as if they do not exist at all.

Deputy President, "Rule of law" means protecting people's rights by the law and preventing the State machine from suppressing the public arbitrarily. Now, the "Rule by law" we see means suppressing the people by way of the law, and even the Places of Public Entertainment Ordinance can be used as a tool of suppression. Freedoms, and the rule of law, have all along been the core values in which Hong Kong take pride. Hong Kong is the only place in the entire China where the commemoration of the 4 June incident can be held in public but now, the authorities have outrageously suppressed these activities openly and created obstacles to them unreasonably. "Who is not a Tiananmen Mother?" I must ask the enforcement authorities this: Where is your conscience? Do you remember how thousands of our patriotic compatriots were suppressed by merciless bullets and tanks 21 years ago? Do you remember how "Tiananmen Mothers" have suffered from being made subjects of surveillance and suppression by the Mainland authorities over the past 21 years? What sort of an emerging super power is this if its people do not even have the right to mourn their beloved children? To you people who have buried your own conscience in order to fawn on the bigwigs in the north, have you ever thought of what you would do once other people's misfortune happens to you or your families?

"Who is not a Tiananmen Mother?" I think all Hong Kong people with a conscience are "Tiananmen Mothers". The passion of the students towards the country back then had touched the patriotic hearts of numerous Hong Kong people. Those scenes of a million people taking to the streets in support of the students at Tiananmen Square have remained vivid before our eyes. I trust that Hong Kong people are people with conscience and particularly on cardinal issues of right and wrong, Hong Kong people can always see the truth. Over the years the Beijing authorities have exerted themselves to whitewash the 4 June incident by barring families of the deceased from mourning their family members and taking actions over and over again to suppress voices calling for the vindication of the 4 June incident. These unbelievable suppressions actually are not far away from us. The fall of the two statues of the "Goddess of Democracy" has reflected that the authorities are gradually tightening their approach in handling the 4 June issue. It is only predictable that the enforcement agencies will

suppress the dissidents more and more harshly. However, we absolutely cannot bury our conscience. On the contrary, we must be more determined to light up a candle of hope for the victims and for China as well.

The 4 June incident is a part of history that can never be erased. In last year's debate on the 4 June incident, I said: "..... no matter how good the economic development of China is even if it has become the greatest super power in the world, even if China's astronauts have successfully landed on Mars the military crackdown that took place on 4 June 1989 was a fact that can never be changed." China has claimed to be a super power but bearing the sin of massacring its own people, how can it be qualified to claim itself as an emerging super power? The country's economy is becoming ever stronger and robust day by day, but human rights have deteriorated day after day. Just when the economy is growing rapidly, the names of countless prisoners of conscience, such as TAN Zuoren, LIU Xiaobo and ZHAO Lianhai, have been added to the prison's register. China is a giant moving on with an open wound. For how much longer must we hide this wound of morality? For how much longer must the voices calling for the vindication of the 4 June incident be suppressed? For how much longer must "Tiananmen Mothers" be barred from mourning their children openly?

Insofar as this wound of morality is concerned, we are all "Tiananmen Mothers". Members, please vote with your conscience. Let us faithfully safeguard this part of our memory till the very end.

I so submit.

MR LEE WING-TAT (in Cantonese): Deputy President, it is reported in the press today that CHAI Ling, a former leader of the student movement, said in an interview by the media in the United States that Hong Kong is the conscience of China, the conscience of the pro-democracy movement and democratization in China. I agree. So, I call on all Hong Kong people to take part in the 4 June candlelight vigil.

(THE PRESIDENT resumed the Chair)

I hope that Hong Kong people will not belittle themselves, and they should ignore the various restrictions seen at the present stage in taking forward the pro-democracy movement in China. History has told us many a time that although on the surface there seems to be a huge gap in terms of strength, our perseverance has actually incubated changes in China. Given the various human rights campaigns in the Mainland, especially those involving the people's rights and interests, our compatriots in the Mainland have spoken up more courageously, inspiring many more people to take up the cudgels for the people on the Internet and in campaigns fighting for people's rights and interests.

Many colleagues have said correctly that while China has a population of 1.3 billion with more than 60 million members of the Communist Party of China (CPC), together with millions of troops and very powerful armaments for controlling the people, how would it be so afraid of the armless people? This is actually a mere reflection of the fact that the way of its governance does not have the support of the people.

When we talked about the 4 June incident before, many people would say that we had politicized it too much. I hope that these people, when talking about this issue, can think about what is happening in China. A lot of things are happening in China now, and they did not necessarily start out to be purely political issues. With regard to local officials forcibly taking farmlands owned by civilians, revelation of the problem of "tofu-dreg" construction works in Sichuan, and protecting the rights of children victimized by Sanlu milk products, all these involve the people's rights and interests as well as the policies on the people's livelihood. But in China, discussions on these issues are not allowed by the CPC and people who talk about these issues would be arrested and driven away.

For those people who are always displeased with us for proposing a motion on 4 June or criticizing the Chinese Government, I do not understand how they think about this issue. Please put yourselves in their shoes. If you have family members or relatives living in Sichuan and even if they do not die but are injured only, and when someone is revealing the facts on your behalf, can this person be doing anything wrong? If you have relatives whose infants have become "big-head babies" as a result of having been fed Sanlu milk, can anyone be doing something wrong in bringing this incident to light? If farmlands in the New Territories are forcibly taken by the Government, can anyone be doing something wrong in speaking up for the owners in this Council, or speaking up for farmers

in China whose farmland has been snatched? There is just nothing wrong about these, and there is no question of challenging the CPC's ruling authority or threatening their ruling position. These are revealed only because the people's rights and interests have been suppressed and yet, the CPC do not allow this to happen and they do not wish to listen to just this bit of the people's voices.

President, last Sunday, I met a senior alumni of mine during the march organized by the Alliance — President, I think you also know this senior alumni of mine. He was a few years senior than me in university. He took part in the march organized by the Alliance but he used to be a supporter of the Democratic Alliance for the Betterment and Progress of Hong Kong. I asked him in private why he took part in the march, and he told me that it was the CPC's arrest of LIU Xiaobo that prompted him to take part in the march. As an intellectual himself, he could not see why an intellectual who had written only a few articles and drawn up the 08 Charter would be arrested, prosecuted and sentenced to imprisonment. He, being an intellectual himself, could not sit at home in peace. He said that although he did not know what changes he could bring about in taking part in the march, or even if the fact would be that no change could possibly be induced at all, he thought that being a Chinese and an intellectual, what he could at least do was to profess clearly that he did not agree to that decision.

Some people may ask: What is the point of debating this motion in the Legislative Council? In fact, we must say what our conscience wants us to say. What we must do is to voice our disagreement over anything which is unreasonable, and which goes against the principle of right and wrong and our conscience.

Recently, the Government has often talked about "Act Now" and rolling forward the constitutional reform, urging us to support the Government's package of proposals. In fact, this is not a question of whether or not constitutional reform can be rolled forward. It is most important that the freedoms of speech, assembly and expression that we can see in Hong Kong must not regress. We have been lowering our demands already, and we no longer have any expectation of the Government, but the freedoms that we possess must not regress any further. Our rule of law must not regress any further, and our freedom of the press must not be eaten up by the big bosses. Now that the Food and

Environmental Hygiene Department can use all kinds of reasons to seize even the Goddess of Democracy statue which poses no threat to the Government. What is it if it is not regression of the freedom of speech and freedom of expression? What threats does it pose to the Government?

President, we have already made a lot of speeches on 4 June in this Council. On the 21st anniversary of the 4 June incident, what we can do is to persist with what we consider to be right. History will not forget. The people will not forget. I support this motion.

MR RONNY TONG (in Cantonese): President, today is the sixth time that I speak on the 4 June incident in this Chamber. Of course, compared with many other colleagues, six years are just a very short time. Frankly speaking, at around this time each year, that is, from end-May to early June, I always feel a bit nervous. I feel nervous about having to speak on the 4 June incident. This is not only because I can get agitated rather easily, but also because this is a very emotive issue.

President, there had been times when I asked myself whether a person who never goes to a church can be considered a believer. If I do not go to the Victoria Park, does it mean that I have forgotten the 4 June incident? But after thinking about it for some time, I started to think that going to a church is not meant to prove to myself or people around me that I am a believer. Rather, we do so in the hope that we can rely on the mutual support among people who share the same beliefs to fortify our convictions and stand against the evil forces. That we speak on this issue in the Legislative Council and attend the candlelight vigil in the Victoria Park every year may have the same meaning.

Last week, someone asked me what changes had actually been made 21 years after the incident and whether we would persist with what we do continuously. I have started to think about whether what we have done in the past 21 years is futile, or whether there have actually been changes in the State or in Hong Kong. True enough, I have seen a change but this change does not seem to be what we wish to see. Over the past couple of days, as also mentioned by many colleagues, there was the case of the Goddess of Democracy statue and a sculpture being forcibly seized by the police. The question brought up by this incident is that over the past 21 years, the police have never invoked an

ordinance which is almost forgotten and the least expected to stop activities commemorating the 4 June incident as they suddenly did this year. What has upset me most is that the police had insisted that they had a legal basis to do so, but after much bargaining as if buying vegetables in the market, the Goddess of Democracy statue was returned with no strings attached and what is more, they even delivered the statue to the Victoria Park by car. President, this is actually indicative of the emergence of the rule of man in Hong Kong, which means that it is no longer some systems but the views on a certain issue of one person that decide matters.

President, in April this year, I read a news report on a drama titled "A small white flower on the square", of which the theme is about the 4 June incident. Many colleagues were going to watch it, but a dozen actors and actresses resigned collectively all of a sudden. Those who resigned said quite evasively that they had received telephone calls from some people — of course, they did not name the callers; nor did they reveal the conversations over the telephone. Worse still, while this drama group had made an application for putting up light box advertisements at bus stops for three weeks and even though the application had been approved, they were told just when they were going to hand in the cheque to the bus company that their application was rejected due to concerns about the advertisement being vandalized given the sensitive theme of the drama.

Even in trading or commercial dealings, things are not going anywhere insofar as "4 June" is involved. Cases of exercising self-censorship covertly or insidious attempts of suppression have abounded. For example, last year, the South China Media's *Esquire* magazine laid off a reporter, Daisy CHU, who lost her job only because she had written an article on the 4 June incident. In her blog, Daisy CHU has recently written this: "You can lift my article but you cannot take away the day of 4 June".

President, the 4 June incident is a fact in history. Disregarding the extent of one's powers and influence and no matter what is being done to write it off, this fact in history will ultimately remain to be eternally recorded in history books.

President, over the past few days, I have kept on thinking of *The Song of the Spirit of Righteousness* (正氣歌) written by WEN Tianxiang. There are these two lines in it: "During the State of Qi it is the official historian's bamboo

slats; during the State of Jin it is Dong Hu's pen"⁽¹⁾. Our culture of more than 5 000 years shows that history cannot be doctored.

President, the 4 June incident has instilled a spirit of righteousness in each and every Chinese national, and this spirit of righteousness can never be written off. We know that it is always the darkest before dawn. We only hope that today is the darkest time. Thank you, President.

MR LEE CHEUK-YAN (in Cantonese): The Alliance has five operational goals. They are: Release the dissidents; Rehabilitate the 1989 pro-democracy movement; Demand accountability of the June 4th massacre; End one-party dictatorship; and Build a democratic China. When were these operational goals set? They were set 21 years ago. What is most heartrending and most saddening to me is that these five operational goals still apply despite the lapse of 21 years.

The first operational goal is "Release the dissidents". I remember that when I first took to the streets, I demanded the release of WEI Jingsheng, WANG Dan, WANG Juntao, CHEN Ziming and LIU Xiaobo. Now, we are still demanding the release of HU Jia, TAN Zuoren, LIU Xiaobo and ZHAO Lianhai. President, it has been 21 years, and what progress has been made in China? Twenty-one years ago, we talked about the release of dissidents and now, all that has been changed is that we talk about the release of human rights activists. This is even worse, for it means that even the protection of rights is not allowed. It has been 21 years and yet, we still have to take to the streets and chant loudly these slogans demanding the release of dissidents.

Just take a look at what crime LIU Xiaobo has committed. He was sentenced to 11 years of imprisonment all because he had drawn up the 08 Charter. Of course, this is not the first time that LIU Xiaobo is jailed, as he was once put behind bars before for the 1989 pro-democracy movement. This time, he is sentenced to 11 years of imprisonment for the 08 Charter. The CPC cannot even accommodate a 08 Charter. What crime did TAN Zuoren commit when he demanded compensation for the parents in respect of the "tofu-dreg"

(1) <http://www.tsoidug.org/Literary/Spirit_Righteousness_Comp.pdf>

construction works in Sichuan? I remember very well that when the Sichuan earthquake occurred, the CPC said itself that it would pursue responsibility for the "tofu-dreg" construction works, but whose responsibility has been pursued? Those who are ultimately held responsible are people who made allegations against the government, and TAN Zuoren has been held responsible. As regards the incident of contaminated milk powder, it is the parents of the victims who are held responsible. What kind of a regime is this?

The second operational goal is "Rehabilitate the 1989 pro-democracy movement". I think the 4 June incident has very positive meanings to China. The first and the most significant meaning is that this dictatorial rule has actually been plunged into a crisis of moral legitimacy, for it has already become an illegitimate regime. When a ruling regime fires at its people, it becomes an illegitimate regime and is no longer qualified to continue with its rule. It is precisely because it has lost the moral legitimacy to rule that it has no other alternative but to keep the people's mouths shut by all means with the use of money. But it does not mean that members of the ordinary public can share the fruits of economic prosperity. In the end, it is the bureaucrats and the bigwigs who have snatched all the wealth produced by the sweat and toil of the people.

I remember that 21 years ago, one of the slogans of the pro-democracy movement was to denounce official profiteering and bureaucratic decadence. But nowadays, bureaucratic decadence has become thousands of times, or tens of thousand times, or even hundreds of million times more rampant than before. A survey showed that at the end of March 2006, 3 220 people had assets with a value exceeding \$100 million and 90% of them were the children of senior cadres. President, they have snatched all the wealth of the people; they live in extravagance and enjoy all the benefits of wealth and power, and their children may have been sent abroad. This is what the corrupt bureaucrats are like now.

This ruling regime is seeking to keep people's mouths shut with money. But President, can economic development keep the people's mouths shut? Do you think that displaying fireworks and holding the Olympics and the World Expo can court a bit of luck for this regime? The biggest problem with this government is that it has no conviction and no spirit of righteousness. A nation with no conviction and no spirit of righteousness is a nation with no hope. But

fortunately, and as I very much believe, the people still have a spirit of righteousness and convictions.

Some people said that were it not for the crackdown, there would not have been economic stability and without stability, there would not be development. They seem to be suggesting that the development achieved over the last 21 years is all attributable to the firing of guns back then. How cold-blooded these remarks are! Think about this: If a regime has degenerated to the extent that it has to rely on the firing of shots to achieve economic growth, what sort of a regime is it? What kind of logic is this? I have heard these remarks in this Chamber before. They said that we should be thankful for the firing of shots at that time — they had almost said so, just that they did not say this direct. But they do hold this view, thinking that economic development would otherwise not be achieved. Is that true? Could it be that economic development must be built on people's blood? Must there be bloodshed before there can be economic development? LIU Xiaobo once said that from the bloody massacre to strict surveillance, there has not been a slight change in the selfishness and savagery of this regime.

The second meaning is that after 1989, the concept of human rights has penetrated deep into the public, and the community's awareness of human rights has heightened. As we can see, workers of Foxconn committed suicide as an accusation of the disparity between the rich and the poor in China. Workers of Honda are also staging a strike, and I believe a new labour movement will be taking place. Workers, farmers, and the general public will not allow suppression by this regime to continue. The human rights movement in the community will definitely rise.

Our third operational goal is "Demand accountability of the June 4th massacre". Even now, Tiananmen Mothers still cannot mourn their children openly. I have always asked this regime: What is it that you are so afraid of? DING Zilin said that she was not even allowed to mourn her son in that place where he died, and she is closely watched on 3 June every year. This is how this regime with such a guilty conscience has become.

The fourth operational goal is "End one-party dictatorship, Build a democratic China". We believe the root of the problem is entirely one-party dictatorship. We can harbour no fantasy about the CPC. We can only pin

hopes on the continuous growth of the people's power. In writing a poem LIU Xiaobo had said that he could see the candlelight in the Victoria Park. So, I hope that everyone will take part in the 4 June candlelight vigil on 4 June this year, and let us commemorate the incident together. Here, I urge Members to vote really with their conscience. I, therefore, have to give this to them, so that they can look at this statue of the Goddess of Democracy (*The buzzer sounded*) Serve them right if they do not return.

DR MARGARET NG (in Cantonese): President, on the night of 4 June every year, Hong Kong people attend the candlelight vigil in the Victoria Park to commemorate the 4 June incident, bringing along the young and the old members of their family regardless of whether it is a fine day or a rainy day. This is what they have persisted to do. Having said that, I very much agree with Mr LEE Wing-tat who said earlier that this is not purely a matter of personal feelings or perseverance, but a very important responsibility of the entire Hong Kong in that up till today, Hong Kong is still the only place on the land of China where the 4 June incident can be commemorated openly, and a place where the truth is not allowed to be washed away in history. Our persistence in safeguarding this truth is our responsibility for all the 1.3 billion people of China, also our responsibility for the whole world.

President, Hong Kong is a very small place and the candlelight is a faint flicker of light. But if even this tiny speck of light goes out, there would be darkness everywhere. If we think that since we go there every year and we can skip it this year, please think about how important this flicker of candlelight in your hand is. It preserves the truth not only for the whole world. It preserves this truth also for the straight line of history. We know that some truths are buried at a certain point of history. We would never be able to find them, and we would never be able to maintain its continuity.

Recently, an overseas scholar who was going to give lectures in China and who had never set foot on China asked me whether there would be problems if he touched on the 4 June incident in his lectures. Then we also discussed some issues. When he returned, he said that he had been very shocked at finding out from his teaching in university that the people there did not know that there was the 4 June incident and they did not know what the 4 June incident was all about. Then I said, "Now you see the importance of Hong Kong now." We are not just

talking about our importance to China as a free economy and a capitalistic society and in terms of the freedom and robust development of information technology, and not even in the sense of democracy only. Rather, our importance lies in the fact that a very small truth — a very small truth but one of great significance — can be preserved in Hong Kong. Nobody knows that we have such an important duty. I told this friend that as he might not know, after the introduction of the Individual Visit Scheme in recent years, more and more people from the Mainland have joined us in the Victoria Park. They think that while they can enjoy the freedom to commemorate the incident, they can also help with the preservation of these historical facts in Hong Kong, and they can gain an understanding of the truth that they cannot possibly obtain in the Mainland. We have a very important duty. So, let me say this to all Hong Kong people: Do not forget to go to the Victoria Park every year; do not say that this is useless; do not say that you are not going because this year is not a special anniversary; do not wait for the Government to do something to incite you to go; you have this duty and you have to go.

President, I wish to say that even if other people said, "Drink this 'soup of forgetfulness', and the moment that you forget the 4 June incident would be the start of a prosperous era and richness", we still could not act against our conscience and forsake justice for benefits. However, I would like to say that in fact, going against one's conscience will not contribute anything to prosperity and stability, as the case will be just the contrary. We all know that the rule of law is the cornerstone of prosperity in Hong Kong. As we can see today, that the 4 June incident is not vindicated will damage the rule of law in the Hong Kong Special Administrative Region. Why? From this incident of the Government invoking the Places of Public Entertainment Ordinance to seize the "Goddess of Democracy" statue, we can see that this is obviously an abuse of power.

President, I would like Members to understand that we must not only look at the provisions of the law. When invoking an ordinance, we must also look at the objective and effect of the ordinance, and we cannot arbitrarily apply it to matters which bear no relevance to the ordinance. Let us look at this ordinance, that is, Cap. 172. Its long title reads, "To consolidate and amend the law relating to places of public entertainment". It is meant to regulate places of entertainment. We cannot go against common sense in reading the law. We must first make a judgment on whether or not this is a place of entertainment, and whether or not these are entertainment activities, before making a decision on

whether or not the powers under this ordinance can be invoked for law-enforcement purposes. We cannot apply the provisions of this ordinance by turning places and activities that are obviously not for entertainment purposes into entertainment places and entertainment activities or defining them as such. Times Square is a public sphere and under the legislation governing public spheres, any person can exercise his normal rights, including the right to freedom of speech, so long as he does not transcend a certain boundary and hence causing nuisance to the public. If this Places of Public Entertainment Ordinance is applied to public spheres today, the resultant effect will be the freedom of speech being undermined and taken away. That would be an abuse of the law and violation of the rule of law. This is the reason why we must persist with what we do.

Thank you, President.

MR KAM NAI-WAI (in Cantonese): President, some colleagues mentioned giving up justice for economic benefits earlier on. Just take a look at the attitude of the Hong Kong Government and one knows that it precisely wants us Hong Kong people to give up justice for economic benefits. In the written question of No.19 today, I asked how the Government would promote civic education to deepen the understanding of members of the public of the 4 June incident. In the Secretary's reply there is a paragraph which says, "The Central Government has already drawn its conclusion on the '4 June incident' referred to in the question, which was a political turmoil that took place mainly in Beijing in 1989. In the past 20 years or so, the enormous progress made by China since the reform and opening up of the country is evident." The tone of these remarks is the same as that of the Chief Executive when he remarked that he represented Hong Kong people in a Question and Answer Session of the Legislative Council last year. As we all know, the 4th of June is approaching and as Mr Ronny TONG said earlier — He is here for the sixth year and for me, the second — In fact, we do not very much wish to speak on this. We do not wish to talk about this mainly because we do not dare to invoke our memories and yet, we do not dare to forget. But to many colleagues, this may be a "demon-spotting mirror", making them to tell the public their views and positions which they do not dare to express.

Last year, I asked some new Members of the Legislative Council who are, like me, newcomers to this Council, including Ms Starry LEE, Ms Regina IP, Dr

Priscilla LEUNG, Mr CHAN Hak-kan and Mr WONG Kwok-kin, who are in this Chamber today. I asked these new Members to express their views on the 4 June incident, so that members of the public would know what they think about the 4 June incident, but nobody responded. Is this a phobia for the 4 June incident? Is the 4 June incident a "demon-spotting mirror"? Is it that when they speak their conscience, their position may be different from that of the Beijing Government or the Hong Kong Government, and this would make them feel very worried?

I brought along a book with me last year. This book has been in my home for two decades, and its title is "People will not forget". Does the Hong Kong Government wish that the people will forget? But it is very difficult for us to forget this incident engraved on our hearts. Similarly, as Members can see, with regard to the statue of the Goddess of Democracy which has been the subject of talks over the past two days — copies of the statue are actually put on the bench before Members, and this statue that I have with me here has been put in my home for almost 21 years and it is a private copy that I have brought here — What does the Goddess of Democracy statue stand for? Why should it be erected for so long a time? This book entitled "People will not forget" talks about what the Goddess of Democracy stands for. In the book there is an article which mentions an interview with a student of the department of sculpture who said that it represents an image of "democracy, freedom, equality, peace". These are the characteristics epitomized by the statue of the Goddess of Democracy. Besides, in the book there is also this short extract: "If the Government truly neglects public opinions and forcibly pulls down the statue of the Goddess, that would show even more clearly the ugly faces of the authorities of being 'narrow-minded' and 'anti-democracy'." That the authorities have forcibly seized the statue of the Goddess of Democracy is precisely a reflection today of their ugly faces of being narrow-minded and anti-democracy. We now come to realize that what happened in Beijing two decades ago has happened in Hong Kong today.

However, the Hong Kong Government may not have read this book. In one section, it is written that the Beijing Government issued a public notice in May and according to the late news on that night, the notice said, "Tiananmen Square is an important venue, a Square for all the people in the country, and a place of great solemnity. Erecting a 'statue of a so-and-so Goddess' is gravely disrespectful for the solemnity of the Square." What happened after the Beijing

Government had issued this notice? It is written in the book that "the issue of the notice had unexpectedly become a free round of effective propaganda for the statue among students who swarmed to the Square to take a look at what this "statue of a so-and-so Goddess" is like, thus thronging the Square with hundreds of thousand people again."

Has the Hong Kong Government read this book? I believe on the night of 4 June, tens of thousand people will also be going to take a look at why the Hong Kong Government has to seize this "statue of a so-and-so Goddess". In fact, our Hong Kong Government does not only have the ugly faces of being narrow-minded and anti-democracy as described in this book, and I also wish to cite from the editorial of *Ming Pao* yesterday (which is actually a very important point). *Ming Pao's* editorial yesterday said, "Over the past 20 years, the Alliance has organized annual commemorations of June 4. Hong Kong people have been keen on taking part in them. Hong Kong people's inflexible stance on June 4 is an indicator of their freedom of expression — a vital part of their core values. What the SAR Government has done is essentially to deal a blow to Hong Kong people's core values." I wish to tell the Hong Kong Government that as it is making these "small gestures" to deal a blow at the freedom of speech in Hong Kong, I must tell the Hong Kong Government and Members that even though thousands or tens of thousands of statues may be confiscated today, in the hearts of Hong Kong people, we are still in pursuit of "democracy, freedom, equality, peace" — This statue of the Goddess of Democracy can never be taken away from our hearts, and I hope the Government can learn a lesson from this.

President, I so submit.

MR WONG SING-CHI (in Cantonese): President, on 4 June every year, the Hong Kong Christian Patriotic Democratic Movement will place in a newspaper a prayer about Christians' concern over the 4 June incident and their love for the country. The theme of this year's prayer is actually saying that those parents are suffering the greatest pain. It has been 21 years. Had those young people not passed away, they would have become parents themselves today. But much to our regret, this can never happen.

My son and I had once attended a banquet. He took out a book and read it in front of my friends. I said, "Stop pretending to be hardworking." My son

then said to me, "Daddy, why do you have to hurt me?" At that moment, I was playing the role of a father and to save face, I chided my son, asking him if there was something wrong with him in daring to speak to his father in such a manner in public and in front of my friends, and accusing him for being unfilial. Later, I reflected on myself and realized that I was wrong, for I did not try to understand my son's intention of reading a book at that time but instead, I chided him just to save my face. Of course, I still felt upset on that day and so, some 20 hours later — not some 20 years, but some 20 hours later — when I had calmed down, I said to him, "My son, I am sorry. Your father was wrong yesterday." To a father, apologizing to his own children is no great deal. To leaders of the State, when they have killed so many civilians and caused so many parents to lose their children, why is it so difficult for them to even tender an apology or do something to exonerate them and to clear the names of these young people who are truly patriotic and give them recognition?

Since I made an apology to my son, my son and I have had a very good relationship. Why can our State leaders not admit that what they had done was wrong back then and apologize to the people? Obviously, they carry many interests on their backs and they have many immoral mindsets, and it may even be all for face-saving's sake. But these have resulted in the mysterious death of so many people who have not yet been vindicated even now.

President, I am going to read out a prayer that the Hong Kong Christian Patriotic Democratic Movement will place in *Ming Pao* on 4 June. I wish to share it with all Christians as well as friends in this Chamber in support of democracy:

Lord, creator of heaven and earth, maker of all things,
Let us pray to Thou.
May Thy name be hallowed,
May righteousness and mercy be made known in the world,
May the peaceful gospel awaken the sleeping souls.

O Lord! It has been 21 years, and here we are still waiting,
Waiting for the dawn of democracy in China.
When the country's economy develops like a rising dragon, and
People's living becomes more and more affluent,
Behind the ever increasing gross domestic product,

Human rights and rule of law remain stagnant.
Inside harmony there is no room for dissidents' views.
Sincerely we hope that on this land of our country,
There are people who lift their eyes up to the sky,
In order for vision and hope to arise.
If everyone bows to money and kneels to benefits,
Our nation will be on the road to decline.
O Lord! Rise up even more Chinese people to lift their eyes up to the sky.

Lord! It has been 21 years, and here we are still waiting.
Eroded by ages and times,
One generation passed while one generation grows up.
So many parents of the 4 June victims,
In rage, they died with sorrow, or
In shackles, they live each day with anxieties.
Most excruciating to them is not seeing in their life
Due respect and vindication
For their children who died for the birth of the Republic.
Parents are the greatest sufferers of 4 June.

O Lord!
You said that vengeance is yours.
Though our hearts are hurt,
More pitiable is parents' hearts of sorrow.
Their hair has turned grey and they can wait no further.
The country is our country,
The children are their children.
Let the children who died and the relatives, and
Parents who still live luckily be given recognition and dignity.

O Lord! Here we are still waiting.
When our Lord, Jesus Christ, was in the world,
He suffered the trauma of being deserted and misunderstood,
Going through the lonely prayer at Gethsemane.

He accepted the cup of suffering,
Abolished enmity on the cross,

Bringing the hope of resurrection and redemption.
Every year there is a sea of candlelight in Victoria Park,
Lighting up tens of thousand prayers and hopes.
With faithful perseverance in our hearts,
We allow no conclusion patched together with distorted history.
In the songs and memories,
Let us have no regret and let us never give up,
Let us join hands to keep watch on the country.
May our Lord's great love and gracious salvation,
Be with each and every soul of China.
We pray in the name of Christ our Lord.
Amen.

MS EMILY LAU (in Cantonese): President, the SAR Government is absent today. I wonder what it is afraid of. We are now preparing a report for submission to the United Nations Human Rights Committee on the implementation of the International Covenant on Civil and Political Rights (the ICCPR) in Hong Kong. One or two weeks later, the relevant Legislative Council Panel will hold a public hearing and we will again see impressive scenes like those in the film "Ben-Hur".

President, the report will surely cover how the SAR Government has targeted the Alliance recently, such as arresting and prosecuting its members and seizing the statues of the Goddess of Democracy several times. These incidents have already aroused international attention. President, you may also be aware that Amnesty International has also issued a statement. They are highly concerned about whether or not there is a rapid decline and regression in the human rights and freedom situation in the Hong Kong Special Administrative Region (SAR). On such matters, all of us who love freedom and aspire to democracy have to heighten our constant vigilance. Otherwise, why did some 700 000 or 800 000 people come out and join the march opposing the enactment of legislation on Article 23 of the Basic Law in 2003? Because each and every one of them was afraid of losing their freedoms. Therefore, just now, "Ah Wai" put it very well in asking why some people were so mute. President, at other times, there are always verbal skirmishes in this Chamber. However, today, no

matter how much we have listened, there are only voices from our side. President, why are those people so reluctant to speak?

In fact, this matter can also be considered a controversial one, something that also sent shockwaves throughout the international community. In the past 21 years, numerous people have refused to forget it. When some people come to the Legislative Council for a debate, why dare they not speak and are unwilling to speak? President, what kind of strange phenomenon is this? However, no matter what, apart from the concern of Amnesty International, recently, some consuls of foreign consulates also asked us what was happening. Why did the SAR Government adopt such a lowly tactic? People may also ask, "Is this the 'Western District' controlling the 'Central District' again?" Therefore, whenever such things happen, it would impact on the SAR, that is, it thinks that it still enjoys a little bit of "a high degree of autonomy" and that human rights and the rule of law are still upheld. However, whenever something like this is done, Hong Kong is subjected to some impact. From another perspective, however, we may have to be grateful to it because this will also spur more people into joining the rally on Friday. President, it rained heavily last Sunday, but many people still braved the rain and came out. We saw them bring their children along and heard them tell the mass media, "Of course, we have to come out. We have no idea how much longer we can wait. When we are gone, our children will carry on until the vindication of this incident.". President, you know that many people in Hong Kong also have such a mentality.

President, you also said in the past that despite the reunification of Hong Kong, people's hearts had yet to be reunited. Last year, I attended a hearing by the United Nations on human rights in China. At that time, the United Nations pointed out, "China has signed the ICCPR but why has the NPC not yet ratified it?" Without ratifying it, China does not have to implement it, nor does it have to submit any report to the United Nations. How did China respond to this? President, it told the United Nations that it was not yet ready. I believe the 4 June Massacre is one of the things on which preparation has to be made. If China has to give an account of it to the United Nations, what would it say? Would it be mute like some Members in this Chamber? In that case, how can it appear before the United Nations, President?

President, in fact, you also know that China hopes very much to converge with the international community. If it wants to do so, not only does it have to

develop its economy, it also has to note that there are some very civilized practices in other countries. They are international standards. If China is unwilling to accept these international standards, how can it become a major power? How can it converge with the international community? Even though it has billions of dollars of wealth, many people will still look down upon it.

President, in 2007, Mr Albert HO and I established the China Human Rights Lawyers Concern Group because I strongly believe that if China wants to have democracy, freedom and the rule of law, it must have an independent judiciary. We hope very much that we can offer assistance. However, the experiences of these lawyers have told us time and again that the situation is deteriorating and more lawyers and human rights activists are being harassed. Mr GAO Zhisheng — President, I think you also know about him — was once one of the top 10 lawyers in China but I wonder where he is now. President, earlier on, he was released but he spoke incoherently on the radio and television, saying that he would not organize anything anymore. Other people could hardly believe it, then he went missing again. Nevertheless, these things will not make us stop. President, they will only spur us on.

Last year, it was the 20th anniversary — the 20th anniversary of the Massacre — and the Alliance raised over \$2.3 million in a matter of just a few hours in the Victoria Park. President, this year, I call on more people to join us in the Victoria Park, make it burst at the seams and make more donations. Hong Kong people are just like how Director LI Hou described them back then, "You are the champion. You are the champion throughout the world in voicing support for the 4 June incident." This year, I call on everyone to keep it up and do even better. With these remarks, I support the motion.

DR JOSEPH LEE (in Cantonese): President, I believe the Legislative Council has never stopped debating this issue in the past 21 years. Be it our friends in the pan-democratic camp or Members who did not speak, we all have to face the fact that the Legislative Council has been discussing this issue for 21 years. No matter if this motion is passed or not, Hong Kong people have never forgotten the 4 June incident during these 21 years.

I think all Members seated here have memories of this incident. Even those who were small children then would still remember the incident after growing up. I believe that in the past 21 years, Hong Kong people have never refrained from organizing any activity related to the 4 June incident on 4 June. However, this year is rather special. In speaking this time, I actually want to thank the SAR Government in particular for its groundless seizure of the statues of the Goddess of Democracy, thus reminding Hong Kong people that 4 June is here again, so it is time to go to the Victoria Park and take to the streets again, that it is time Hong Kong people faced an issue that some people can never forget but others may want to forget but cannot.

No matter what, I believe Hong Kong people will commemorate the 4 June incident in various ways each year and that people will express their views on it in various ways in various parts of the world, in the hope that it would be vindicated. However, I strongly believe that the special way in which the SAR Government has reminded people that 4 June is coming again in the past few days will serve to give greater publicity to the candlelight vigil in the Victoria Park this year. I also have to be thankful to it for reminding us that in fact, we have to pass our baton to the next generation, so that they will continue to commemorate the 4 June incident.

Of course, I also hope that very soon, we will not have to debate this subject in the Legislative Council anymore due to its vindication. However, I mainly want to say that if there would be the likelihood of vindication only after the reign of HU and WEN, that means the likelihood of this issue being brought up for discussion on the Mainland would only arise a decade later. Be that as it may, no matter if our generation or our next generation has to wait for it, I believe that on 4 June each year, both the Legislative Council and Hong Kong people will remember that an extremely unhappy event wiping out the pro-democracy movement in China happened on the Mainland 21 years ago. I hope that our next generation or this generation, and no matter if we remain in an expectant mood or continue to organize commemorative activities or not, they will bear firmly in mind that back then, an extremely unhappy event happened in China.

With these remarks, I support today's motion. Thank you, President.

MS CYD HO (in Cantonese): Recently, some young people have formed themselves into a drama troupe for the 4 June incident and the drama produced this year is entitled "Lifeagain8964". It is about some souls of those who were killed by the Central Government wanting to get death certificates in the nether world because the causes of their deaths, the locations where they died, the circumstances of their deaths and the time of their deaths are not stated in their death certificates. Why? Because many people claim that on that night, there was no lighting in the square, so how the incident unfolded could not be seen. For this reason, they could only get a temporary death certificate stating that they died in special circumstances. However, these souls are not happy. They want to obtain a formal death certificate, so that they can reincarnate with peace of mind and start a new life.

In fact, not only do these souls want to sort things out, the entire country also has to face up to this incident seriously. Otherwise, a lot of people will not find closure. Moreover, people will also ask: We are Chinese in this life and we have no choice, but would we still want to be Chinese in our next life? If we choose to be Chinese again, would we still choose to speak and act according to our conscience, or would we lower our heads and struggle to survive under autocracy and exploitation by multi-nationals, or even accept the rule of the game that power corrupts and when it is impossible to change society, we turn ourselves into part of the corrupt system, into people we once hated instead?

However, I believe that in real life, people who are truly patriotic and really have a conscience would still make the same choices. Those who opt to go left would still go left, and those who go right would continue to go right, and people with a conscience will continue to respond to the call of their conscience with actions. Today, the GDP of China has risen substantially but human rights are still lagging far behind. In Shanxi, there are coal mines and child labour but no safety facilities. As a result, accidents happened frequently, causing a large number of casualties. The Chinese are using coal stained with blood. In the Shenzhen Special Economic Zone, there are modern slaves who are subject to continued exploitation in modern factories. In fact, in times of an economic take-off, this kind of collusion between officials and businesses in the oppression of the public will only become systematic by dint of more modern and stricter

management methods, but the reality of corruption and decadence will continue to exist. However, I believe that many people, no matter if they choose to be Chinese in this life or the next, will still choose to speak the truth. Although they have paid a price for this, their spirit is free.

The first person who paid this price is LIU Xiaobo, who drafted the 08 Charter, as a result of which he had to bear the charge of inciting subversion of state power and was sentenced to 11 years of imprisonment. The second person is HU Jia. Originally, he was only concerned about the problem of AIDS but he exposed the fact that farmers were infected by AIDS due to contaminated syringes when selling their blood due to poverty. He was convicted of inciting subversion of state power and sentenced to three and a half years of imprisonment. The third person is TAN Zuoren and all he did was to investigate the tofu-dreg projects relating to the Wenchuan earthquake. However, he had to bear the charge of inciting subversion of state power on account of other articles written by him. The fourth person is Zhao Lianhai, who is still being detained without any verdict given. The indictment accused him of using a popular social issue to incite illegal gatherings of the masses and shout slogans in public places in Shijiazhuang City in Hebei Province and Daxing and Fengtai Districts in Beijing City to foment trouble and seriously disrupt social order. He was charged with the crime of creating disturbances and the authorities are pursuing his criminal liability.

There is also such a person in Hong Kong and he is LEE Cheuk-yan. He is the Vice-Chairman of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China and in 1989. He went to Beijing to support the patriotic students there. On 5 June, when he was about to leave, he was taken away by public security officers and allowed to return to Hong Kong only on 8 June. Since 1989, he has been warned by the police many times in Hong Kong for organizing peaceful assemblies calling for the vindication of the 4 June incident and on 25 December last year, he was again arrested outside the entrance of the building of the Liaison Office of the Central People's Government in the Hong Kong, charged with illegal assembly. This year, just five days ago, that is, on 29 and 30 May, he was once again arrested for defending the statues of the

Goddess of Democracy, charged with obstructing a police officer in the execution of his duty. He has not yet been convicted of any offence.

President, on 4 June last year, a lot of people tried to confound the truth and a young generation of university students was indignant at such distortions of the history, so there was a craze to revisit history. As a result, the attempt to cover up the truth failed. This year, all people are rising in anger because the authorities, after putting up with the Alliance for 13 years, were finally unable to hold themselves back, so naked political oppression was carried out. The SAR Government imitated the Central Authorities in using the law to harass people, that is, to use the law to fix them. In the past weekend, for two days in a row, it invoked the Places of Public Entertainment Ordinance to forcibly seize the bas-relief commemorating the 4 June incident and two statues of the Goddess of Democracy in the full glare of the public.

Hong Kong has changed from an eye witness to the Tiananmen Massacre to the "Conscience of China" calling for the vindication of the 4 June incident. Hong Kong is the only place in the country where large-scale rallies can still be held, so many Chinese are pinning their high hopes on us. However, in the future, we will play an even more important role because we have to face the naked oppression of the SAR Government. Still, it is not possible to cover up the truth in history and the more difficult the times, the more united Hong Kong people must be. Just as in the past five days, the greater the challenges, the stronger we will be. In the evening of 4 June, I believe many people will come and light a candle to shine the light on history.

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

MR LEUNG KWOK-HUNG (in Cantonese): President, I believe you also must have very mixed feelings. Twenty-one years ago, you were the mainstay supporting the patriotic pro-democracy movement and Mr TAM Yiu-chung of this legislature, who has gone out, was also someone taking the lead.

"..... I really have nothing to say, though. I just feel that we are not living in the world of men. In a welter of more than forty young people's blood I can barely see, hear or breathe, so what can I say? We can make no long lament till after our pain is dulled. And the insidious talk of some so-called scholars since this incident has added to my sense of desolation. I am beyond indignation. I shall sup deeply of the dark desolation which is not of the world of men, and present my deepest grief to this world which is not of men, letting it delight in my pain. This shall be the poor offering of one still living before the shrine of the dead."⁽²⁾

I do not have such flair in writing. This is written by Mr LU Xun in 1926 for the dozens of people who were either killed or maimed in front of the government house of the warlord DUAN Qirui. What did he say next? He said, "True fighters dare face the sorrows of humanity, and look unflinchingly at bloodshed. What sorrow and joy are theirs! But the Creator's common device for ordinary people is to let the passage of time wash away old traces, leaving only pale-red bloodstains and a vague pain; and he lets men live on ignobly amid these, to keep this quasi-human world going. When will such a state of affairs come to an end?"⁽²⁾ I believe a lot of people in Beijing nowadays also share this feeling.

One of the persons mentioned therein was LIU Hezhen. Perhaps when I read this essay, I was still very young, so I hated this DUAN Qirui thoroughly and I thought that this incident was already a great tragedy. Hardly did it occur to me that in 1989, an even greater tragedy would happen. President, I believe you were also a hot-blooded youth and you have perhaps also read an article entitled "In Memory of Miss LIU Hezhen".

Next, what did Mr LU Xun say? "I could not bear to look at this cruel sight. Even more, I could not bear to hear these rumours. What else is there I can say? I understand why a dying race remains silent. Silence, silence! Unless we burst out, we shall perish in this silence!"⁽²⁾

(2) Translated by Ingrid Tung, Yuk Hui, <www.040607.cyberrepublic.net/doc/>, 2007.

President, I know that you in this legislature and even many senior leaders of the Communist Party of China may ask us to reconcile. I am a follower of materialism, so I do not believe in ghosts or gods. However, I am convinced that if you really want to reconcile and if the souls of the dead could see that Mr TAN Zuoren had not been arrested for exposing tofu-dreg projects, Mr LIU Xiaobo had not been arrested for initiating the 08 Charter, Mr HU Jia had not been arrested for exposing the fact that the spread of AIDS was attributable to corrupt officials and Mr Zhao Lianhai had not been arrested for campaigning for the health of his own young son and that of other children, I believe the deceased who chose righteousness instead of their lives, fearless of the tanks and guns, would have been willing to reconcile. In daring come out and use their bodies to block the guns, they did so not for themselves but for the future. If you want to reconcile, please listen to the yells of Mr TAN Zuoren, Mr LIU Xiaobo, Mr HU Jia and Mr Zhao Lianhai. Not that we do not want to reconcile, we cannot.

Mr LU Xun went on like this, "Only last year did I begin to notice how Chinese women manage public affairs. Though they are few, I have often been impressed by their ability, determination and indomitable spirit. The attempt of these girls to rescue each other amid a hail of bullets, regardless of their own safety, is a clearer indication of the courage of Chinese women which has persisted through the thousands of years of conspiracies against them and suppression. If we are looking for the significance of this casualty for the future, it probably lies here. Those who drag on an ignoble existence will catch a vague glimpse of hope amid the pale bloodstains, while true fighters will advance with greater resolution."⁽³⁾ Tomorrow evening, there will be more "true fighters" who, under the oppression of the SAR Government and the Chinese Communist Government, "will advance with greater resolution". I call on all parents, teachers and "post-80" youths to go and attest to the conscience of Hong Kong people tomorrow. See you on 4 June in the Victoria Park.

MR CHIM PUI-CHUNG (in Cantonese): President, some friends asked me not to speak today, so that they can finish work early. In June 1989, I had not yet become a Legislative Council Member and it was in 1991 that I first set foot in

(3) Translated by Ingrid Tung, Yuk Hui, <www.040607.cyberrepublic.net/doc/>, 2007.

the Legislative Council. However, frankly speaking, for 21 years, my views and analyses of this matter have never changed at all.

The Communist Party of China (CPC) liberated China. In the history of their party and in actual fact, campaigns like the Cultural Revolution, the anti-rightist movement of 1958, the purge of landlords in 1953 and the Great Leap Forward happened and the 4 June incident was just one of the incidents, so why are we so concerned about this one? Naturally, it can be said that this is out of concern and care, and it can even be said that it is related to us. Let history attest to this then. My personal view is that for things that happened within China, the CPC has to be accountable to its people and naturally, it will spend time making its own arrangements. Hong Kong is part of China — it is a Special Administrative Zone, so we can show our care and concern about various incidents. However, what consequences and effects will excessive intervention bring about? We should reflect on this on our own.

I never intervene with the thinking or actions of other people, and if we look at this from another perspective, the valuable thing about Hong Kong is that we respect each other. President, last year, I spoke here but was criticized by some members of the mass media. Of course, they can have their own views, but I feel that they have violated the principles of mutual respect and free speech. Why did I use the term "pitch dark"? Because that was the fact and I am talking about the fact. I assume responsibility for my own words.

President, in this world, there is this force that is hostile and antagonistic to the rise, the might and progress of China, hoping that China would still fare as badly as it did during the period of Japanese occupation. Of course, it is desirable to offer well-meaning criticisms and I firmly believe that Chinese leaders are also seeking to make progress. They will also make adjustments and changes according to their timetable and the situation of the nation. Certainly, the CPC does not need me to put cosmetics on it, nor does it need me to speak well of it.

In fact, as Hong Kong people, of course, we hope that even as China advances economically, its other areas can also complement this development and they include the quality of its people and law and order in society. We can see

that the high-speed railway network in China is almost at the forefront globally but of course, the high-speed railway network does not mean everything. Still, this means that China is making even greater progress than others in various areas. For this reason, we have to understand that while China claims that it is practising socialism with Chinese characteristics, in the final analysis, it has yet to practise an actual form of communism. For this reason, I believe that since we are living under different social systems, if we malign them deliberately and maliciously, this will not serve to change or improve the situation and still less will there be any chance of promoting its development. I will by no means interfere with the views of Honourable colleagues on the whole incident, nor am I in a position to do so, but I hope that when standing on their high ground of democracy, Honourable colleagues of the so-called pan-democratic camp must have a compassionate understanding of the entire situation.

For 21 years, too much animosity and hatred have been created, but could they advance our cause in any way? If they could, results would have been seen 17 years ago (it is said that a man can start everything anew in 18 years). Of course, many people in society would go along with the trend, but too much instigation will make some members of the public — and I mean some, mind you, not all — descend into this abyss of hatred, so what good would this do? Of course, I do not oppose people making their own judgments according to their different political views and ideologies, but we have to respect other people's views on certain matters.

President, of course, some people also said that an unfortunate incident had happened in society, as a result of which some mishap had happened to their children. However, they also have to examine thoroughly what the entire incident was about and they cannot shift the responsibility to all the people in the world or to other people. I firmly believe that this approach will not make the souls of those unfortunate people in heaven rest in peace.

President, I do not oppose having a debate on this matter every year, but we have to do so rationally (*The buzzer sounded*)

MR ALBERT CHAN (in Cantonese): President, on the eve of the 4 June incident, it turned out that some people are extolling the merits and virtues and putting cosmetics on the murderers who massacred people, so it can be said that they are worse than pigs and dogs. Of course, at present, since the CPC is enjoying supremacy now, there is no need for some people in Hong Kong, including Members, to dab cosmetics on it but in this world, even if "Grandpa" does not ask anyone to dab cosmetics on him, a lot of people are still happy to act as sycophants and boot-lickers. Certainly, I have some even more apt adjectives, but in order to pre-empt the President ruling that such remarks are unparliamentary, I had better not repeat them here. However, obviously, the servility, that is, the slave-like mentality of these people has been revealed to the fullest extent. Even in a free society like Hong Kong, we can still see the emergence of these fawning, cur-like slaves, so it can be said that this is a special characteristic of Hong Kong, also a special phenomenon in a pluralistic society. However, as Hong Kong people, on seeing those faces, one would feel ashamed. Harking back to 21 years ago, when students who loved their country and democracy ardently were massacred by the People's Liberation Army, we feel all the more ashamed of this group of curs.

President, recently, CHAI Ling said in an interview that it was very dangerous to forget about history and this is precisely the major aim in moving this debate on the 4 June incident in the legislature today. Except the discussion in the legislature, in the entire Government or the entire administrative framework of the Government, under Donald TSANG's leadership, in this Government practising so-called strong governance, there is only dead silence on the issues, discussions or commemorations relating to the 4 June incident. Except the pan-democratic camp, which takes part in the relevant activities under the leadership of the Alliance, other political parties dare not remember or hold any discussion on the incident. Many years ago, the Alliance came up with a slogan, which was "Do not want to remember, but dare not forget". Why is it that nowadays, after a lapse of 21 years, we are still having discussions, commemorating our compatriots killed and condemning the government that committed the massacre? Just now, Mr LEE Cheuk-yan mentioned the five goals of the Alliance. In fact, back then, there were four major goals. To pursue responsibility for the massacre and seek the release of people involved in the pro-democracy movement has all along been a slogan of the Alliance.

However, since 1989, the four major goals of the Alliance have been to vindicate the 1989 pro-democracy movement, pursue accountability for the 4 June massacre, end one-party dictatorship and build a democratic China.

As regards the chant of "not daring to forget", not only have the pro-Beijing regime, in particular, the curs, forgotten everything, they have even cleanly forgotten the joint statements condemning the massacre made frequently by them when they were interviewed by television or radio stations back then. In the debates held two or three years ago, I read out some statements to which many Members here had appended their names in condemnation of the murderers responsible for the massacre. However, subsequently, they have cleanly forgotten about this and, not to mention the royalist camp or the slaves of the CPC, even the memory of some members of the pan-democratic camp is also beginning to fail them.

Earlier on, together with a member of the pan-democratic camp, I was the guest of a programme of an internet radio station. All that this person talked about was the vindication of the pro-democracy movement in 1989 and I asked him why he dared not talk about ending one-party dictatorship. Was he afraid of the CPC? As a representative of the pan-democratic camp, why dared he not talk publicly about ending one-party dictatorship? No matter how I asked him, he would not say this, saying only that he did not want to talk about this. No matter how I forced him, he would not say so. Concerning the four major goals of the Alliance, as a member of the pan-democratic camp, why dared he not talk about ending one-party dictatorship? If I look at the contents of the debates in the past decade or so, the attitude of the pan-democratic camp has become increasingly harmonious (that is, more "river crab"⁽⁴⁾ like) in the debates on the 4 June incident. When discussing this issue, there was a great of sentimentalism but when condemning and criticizing the dictatorial regime, they have become increasingly "river crab" like. For this reason, when condemning the curs of the CPC, in view of the four major goals, friends in the pan-democratic camp must also reflect on how many of them have begun to waver.

(4) The Putonghua pronunciation of "harmony", he xie, is the same as that for "river crab".

President, why do I have to stress ending one-party dictatorship? Because the root cause of the entire problem of corruption and decadence, that is, the root cause of the scourge, is one-party dictatorship. Under one-party dictatorship, in order to bolster the regime, the basic rights of the people are disregarded and the right of survival of the people is disregarded. In order to bolster the regime, innocent citizens were massacred. For this reason, so long as one-party dictatorship is not ended, people in Hong Kong and China will still face the danger of massacres. Ninety-one years ago, the Northern Warlords massacred people and a government that is not returned by democratic elections would also use its power and army to massacre the people. Back then, the reason for opposing official profiteering and corruption was that some people were using such privileges to secure personal gains. However, 21 years later, nowadays, in China, official profiteering has been legalized and legitimized, and the princeling party is using its power to control many national enterprises and their assets are valued at hundreds of millions or billions of dollars. The phenomenon of official profiteering is even more serious and rampant than that 21 years ago and it has been legitimized, legalized and institutionalized. Such is the adverse effects of one-party dictatorship.

In fact, in the Third Plenary Session of the Seventeenth Central Committee this year, for the first time since the CPC came to power, it determined its own nature as the ruling party. In the documents of the CPC, it calls itself the ruling party. If there is a ruling party, there should be an opposition. For this reason, if the CPC calls itself the ruling party, it should be declared that one-party dictatorship has come to an end. This is because according to Marxism, one-party dictatorship is a temporary phase in the dictatorship of the proletariat and it is not permanent. Since the CPC is a ruling party, it has to end one-party dictatorship.

MR JAMES TO (in Cantonese): First, I have to declare my interests. At 1 am today, I suddenly became a volunteer lawyer for the artist CHEN Weiming, but he was removed from the territory at 9.45 this morning. CHEN Weiming is Chinese, and Jens GALSCHIOT is Danish. They are both artists, and they have both created contemplative works of art relating to the 4 June Massacre. However, they both met the same fate in that they were both barred from entering Hong Kong without grounds. Why is Hong Kong so afraid of art works relating

to the 4 June incident? Is it afraid of the "Fragments of a Democracy Story" by Jens GALSCHOT? Or is it afraid of the Goddess of Democracy and the bas-relief on the June 4 Massacre created by CHEN Weiming? Why are they scared to such a great extent? In addition to the works of art, why are they also afraid of the artists? To refuse the entry of artists means totalitarianism is acting now, but freedom is running aground. Artists are refused entry because it is feared that they would talk about their feelings and the truth, that they would meet people and the Central Government may level blame, causing the Chief Executive to lose his job. They are afraid of the freedom of speech and the conscience expressed in art. Regarding such an SAR Government, I think it only deserves one word: Slave.

Under the rule of such a slave-like Government, there cannot be any art voicing dissent and any outspoken artist cannot be tolerated. It only has a brutal Immigration Department and the slave-like power of a Eunuch. In the office of the Immigration Department, Mr CHEN Weiming wrote a statement in my presence at 2.25 am last night. He very much wanted me to read out his statement for him as a Member of the Legislative Council because he knew that I would be present in the debate today. This is his statement, to this effect:

"I am CHEN Weiming, an artist. If the authorities in Hong Kong deny me entry, it will mean that Hong Kong's "one country, two systems" is a hoax. The authorities in Hong Kong are subservient to the one-party dictatorship of the CPC. My art works have been detained on two occasions, one on the pretext of searching for illicit drugs and the other on the pretext of causing obstruction. In fact, these are only pretexts. The main reason is that my artworks reflect a true page of history that happened 21 years ago and it hurts the nerves of some people, who prevented the works from being displayed. I believe that with the widespread support of members of the Hong Kong public upholding the ideas of democracy and freedom, the unfaltering efforts of the Alliance and the assistance from people in the legal profession and Members of the Legislative Council with a conscience in Hong Kong, my art works, a new statue of the Goddess of Democracy and a large bas-relief on the 4 June Massacre in Tiananmen Square, will surely be displayed in the square of the Victoria Park and meeting members of the Hong Kong public who love democracy and freedom and uphold citizens' dignity ardently.

Thank you, brave Hong Kong people and members of the Alliance! Thank you to the 13 valiant people arrested for defending the sculptures! Thank you to all members of the mass media who care about justice! Thank you, members of the Hong Kong public who love freedom ardently.

CHEN Weiming, Sculptor
In the office of the Immigration
Department of Hong Kong
2.25 am, 2 June 2010"

MR ALAN LEONG (in Cantonese): President, since the occurrence of the tragic 4 June incident in 1989, people who have all along been seeking to exonerate those responsible are essentially making only one point, "We have to forget history in exchange for prosperity and the end will justify the means."

Precisely because of this kind of attitude, the Central Government has all along adopted an evasive approach in dealing with the 4 June incident and as a result, not only is the new generation in China unable to learn from history, they are even led into thinking that what is right and wrong can be judged against the benefits and economic achievements.

President, from the recent case of the exploitation of workers and the disregard for workers' rights in Foxconn, we can see how terrible it is for a society to care only about profits. Whenever I think of those precious lives, I cannot help but sigh. When the next generation in China only care about benefits, neglect care and love and forget about justice, does China still have any future? Can the Chinese still live happily?

President, in 1997, when the Alliance adopted "vindication of the 4 June Incident, straddling 1997" as the theme of the activities commemorating the 4 June incident, it actually reflected the fact that at that time, many members of the public were concerned about being unable to organize or take part in activities commemorating the 4 June incident after the reunification. Since the reunification, not only have the candle light vigils and a series of activities commemorating the 4 June incident held for more than 10 years in a row shown

the perseverance of Hong Kong people in seeking the vindication of the pro-democracy movement in 1989, they also let the world see that on this piece of land where the five-star red flag of the People's Republic of China is flown, Hong Kong is the only place where vigil candles for the 4 June incident can be lit and herein lies the success of "one country, two systems".

However, this year, it is necessary to persevere with the activities commemorating the 4 June incident despite the adverse conditions, and this has aroused concern about whether or not the human rights, freedom, democracy and rule of law under the "one country, two systems" principle are being challenged. In April this year, a group of young people came together to perform a drama about the 4 June incident originally entitled "Edelweiss". On the eve of the performance, 60% of the workers resigned *en masse* and some members even said that they had backed out due to political pressure. This incident shows that political pressure is beginning to permeate the cultural and artistic sector.

In addition, a couple of days ago, the SAR Government took high-handed measures to hinder the Alliance from organizing activities commemorating the 4 June incident in Times Square and for two days in a row, it adopted the hard-line tactics of seizing the statues of the Goddess of Democracy, thus completely violating the rule of law. Last year, the Hong Kong Federation of Students also displayed the statue of the Goddess of Democracy at the same location for many days in a row without any intervention from the police or the Food and Environmental Hygiene Department (FEHD). However, this year, the FEHD suddenly took action to clear the square on the ground that the Alliance "had not applied for a temporary place of entertainment licence" and forcibly confiscated the statues of the Goddess of Democracy. Such action is akin to using absurd grounds to make an affront to the perseverance of Hong Kong people, using high-handed tactics to challenge the conscience of Hong Kong people and adopting an arrogant attitude in trampling on the demands of Hong Kong people. This incident reflected the fact that the SAR Government is manipulating its power to enforce the law selectively, so that those in power can exploit the law as a tool of political oppression at any time.

President, in the past, the SAR Government always kept a low key before the eve of the anniversaries of the 4 June incident and it would seldom respond to the stances relating to the 4 June incident. In fact, Hong Kong people have already become insensitive to the bureaucratic attitude of the Government. For

21 years, Hong Kong people have adopted a peaceful and rational approach in commemorating the 4 June incident on their own. However, this year, the SAR Government suddenly invoked an outdated law to pose obstacles to the activities commemorating the 4 June incident in high profile, thus arousing concern that the Government has changed its past approach and that through such tactics, it is actively testing the bottomline of Hong Kong people's perseverance in seeking the vindication of the 4 June incident, so as to pave the way for curtailing the political freedom enjoyed by Hong Kong people. Even though today, government officials are again evading the motion debate on the 4 June incident. The Civic Party is outraged by the high-handed interference with the activities commemorating the 4 June incident made by the Government. At the same time, it also demands that the Chief Executive, Donald TSANG, give a full account of the incident to the public as soon as possible.

President, compared with the stumbling civil rights movement on the Mainland, Hong Kong people have all along cherished and defended the core values of our society, in order to demonstrate to the whole world the soft power of Hong Kong as an SAR of the People's Republic of China. The SAR Government is trying to breach the bottomline of Hong Kong people by despicable means, and it is behaving like the enemy of the people. Just as Mr MAO Ze-dong said, "Where there is oppression, there is resistance.". Political oppression will not enable those in power to achieve its ends, instead, these oppressive tactics will undermine the confidence of the public in the Government and escalate the deep-rooted contradictions. Ultimately, it is surely the SAR Government that will stand to lose.

President, I call on Hong Kong people to actively participate in the candlelight vigil to be held in the evening of the day after tomorrow, that is, Friday, in the Victoria Park to commemorate the 21st anniversary of the 4 June incident and give "one country, two systems" a boost using their candlelights, so that the next generation can continue to fulfil their mission of vindicating the 4 June incident in an atmosphere of freedom, democracy and the rule of law.

With these remarks, I support the motion.

MR CHEUNG MAN-KWONG (in Cantonese): President, this year marks the 21st anniversary of the 4 June incident and the Chairman of the Democratic Party,

Mr Albert HO, has moved this debate on vindicating the 4 June incident, thus abiding by the political conscience to which the pro-democracy camp has adhered for 14 years in the Legislative Council after the reunification in 1997.

We all fully appreciate that the road the vindication of the 4 June incident is an arduous and long journey. However, we can still see the perseverance of Hong Kong people and the changes in China, which give us hope that the 4 June incident will be vindicated.

China can no longer impose a total blackout of news. On the eve of the anniversary of the 4 June incident, the Sina Miniblog uploaded pictures of the military clampdown on 4 June continually. The *Nan Fang Daily* also published a comic strip for the Children's Festival and in it, the picture was none other than that of WANG Weilin blocking a column of tanks and there was even a Goddess of Democracy holding a torch in the comic strip. Be it the picture in the Mini-blog or the comic in the *Nan Fang Daily*, all these show that the Chinese have not given up hope and they still have the 4 June incident in their hearts. Although they are forced to adopt an indirect approach, their courage absolutely deserves our respect.

In China, an even more important change is that civil right activists are waging waves after waves of struggle courageously for the sake of the public. The 08 Charter drafted by LIU Xiaobo represents the awakening and endeavours of intellectuals in China and the concept of a democratic constitution is a continuation of the dream represented by the 4 June incident. Although LIU Xiaobo and his comrades-at-arms are in prison, the hearts of the Chinese are with them and they are the hope of China in its peaceful quest for democracy.

After the clampdown on 4 June, some conscientious people organized themselves into a group in China, the Tiananmen Mothers. This group of people will lose their freedom whenever 4 June comes and they cannot openly commemorate their dead relatives. It was not until the 18th anniversary of the 4 June incident that DING Zilin could leave her home in the middle of the night to pay tribute to her son, JIANG Jieliang, at the roadside at Muxudi, where he was shot. It was a victory for the Tiananmen Mothers.

On the 17th anniversary of the 4 June incident, the Sichuan Government also offered compensation on one occasion to the family of ZHOU Guocong, a

victim in the 4 June incident. Some people said that this had set a precedent of offering compensations to the victims of the 4 June incident. However, it is a fact that the Tiananmen Mothers are experiencing difficulties in their lives in their old age because of the sacrifices made by their children. More importantly, offering compensation to them will give them freedom and dignity.

It is now the 21st anniversary of the 4 June incident and the Alliance is still unrelentingly campaigning for the vindication of the 4 June incident. We are also campaigning for China to heal the wounds inflicted on the hearts of the people in the 4 June incident, including firstly, giving the Tiananmen Mothers and family members of the victims of the 4 June incident good treatment by giving them the human right to openly commemorate and pay tribute to their children. Since the victims have died, why is even paying tribute to them forbidden? The government should provide for their living, offer compensation to them and vindicate their children. However, it is even more important to give them dignity, freedom and a stable life in their old age.

Second, exiled pro-democracy activists in the 4 June incident should be allowed to return to their country. Today, China has opened up to the world but not to the dissents in the 4 June incident. They are still deprived of their right to return to their country. The author LIU Binyan has already died in a foreign country. Even the leader in that incident, WANG Dan, is in his middle age. Their exile is a tragedy resulting from the 4 June incident, so why can these tragedies not end even after 21 years? Why can they not return to their country even if they die of old age? Does one mean that the opening up is only for foreigners, but to the pro-democracy activists in the 4 June incident, their country is forever closed and locked?

Third, all the prohibitions relating to the history of the 4 June incident should be removed and leeway given to the discussion of the 4 June incident by the public. In the age of the Internet and miniblogging, a news blackout is meaningless. Why can the people still not access information on the 4 June incident even though we have come to its 21st anniversary? Why can they still not freely discuss the rights and wrongs of the 4 June incident? In the 21st century, in the World Expo in Shanghai, it is possible to show off an animation of the people of a bygone era in the thousand-year-old painting "Along the River During the Qingming Festival" to the world, but it is not possible to let the

Chinese people enjoy the civilized values of the 21st century, that is, the freedoms of speech and information.

Fourth, civil right activists should be released immediately and the law must no longer be used as a weapon against the people. People like LIU Xiaobo, TAN Zuoren and HU Jia are all the spine of the Chinese nation, and it is a disgrace for China to continue to incarcerate them on trumped-up charges. The history of persecuting people for their opinion must become a thing of the past. Otherwise, China is not qualified to represent the civilized world in hosting the Shanghai World Expo.

Although China is changing, Hong Kong is retrogressing all the time. Recently, the Government used the law to institute prosecution against SZETO Wah and press charges against the committee members and volunteers of the Alliance involved in lawful petitions. It also used the legislation on entertainment to forcibly seize the statues of the Goddess of Democracy and a bas-relief on the 4 June massacre. This shows clearly that the SAR Government cannot abide by the core values of Hong Kong, and it is using the law to suppress freedom and human rights in Hong Kong. When the law degenerates into a tool for suppressing people voicing dissent over the 4 June incident and a weapon for the Government to stymie the freedom of speech, we can see a retrogressive Hong Kong where hypocritical politicians use the law to suppress the people. This has brought disgrace both to Hong Kong and the rule of law in Hong Kong.

With these remarks, President, I support the motion of conscience moved by Mr Albert HO on the vindication of the 4 June incident.

MS MIRIAM LAU (in Cantonese): President, it will mark the 21st anniversary of the 4 June incident two days later. Looking back at these two decades, there have been dynastic changes in the people and things in both Hong Kong and the Mainland. We can say that both places have completely different experiences and changes in terms of people, things and places. When recalling the incident that occurred at Tiananmen Square in Beijing at that time, we are really overwhelmed with mixed feelings.

In Hong Kong, the relationship between the Central Authorities and the democratic camp has been frozen since the occurrence of the 4 June incident.

However, LI Gang, Deputy Director of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region had a historical "ice-breaking" meeting with the democratic camp last Monday. There were public comments that the Central Authorities had taken an important step forward this time.

Ming Pao even carried this description in its editorial the next day, and I quote: "In order to meet with the Democratic Party this time, the Central Authorities should put down a burden first The Central Authorities is willing to leave aside the great difference in respect of the 4 June incident, so as to seek greater common grounds to promote endorsement of the constitutional reform. In our opinion, the one who makes such a decision has revealed not only his political wisdom but also his political courage and commitment. He has taken a step forward bravely"(end of quote).

The Liberal Party agrees that we should uphold the spirit of "tolerating great differences in order to seek greater common grounds" and work jointly for the future of Hong Kong and China. However, I am not asking you to forget the 4 June incident completely. We should rather put down the burden and mistrust, heading afresh for the road of dialogue. It is indeed necessary for both sides to have such courage.

The Liberal Party deeply believes that many Chinese people, same as us, do consider that the 4 June incident is a tragedy. All Chinese people who love our Motherland do not wish to see the recurrence of similar incidents again. Based on such belief, whenever Honourable colleagues propose the relevant motion debate in the Legislative Council, the Liberal Party will never evade from it. We insist on stating our stance clearly and casting our votes.

As for why a commemorative activity initiated by students would become a movement for democracy to combat corruption and eventually cause a fatal incident, I believe we should analyse it in an objective manner and pass a fair judgment accordingly.

WANG Dan, a leader of the students' movement for democracy once commented on the 4 June incident, and I quote: "The Government had faults, and so did the students" (end of quote). What were the faults of the students? And what were the faults of the Government? This warrants our deep thoughts. No

matter who were right and who were wrong; and who had faults and who had not, so many people, youngsters in particular, were injured and killed. The incident itself was a tragedy. This is an indisputable fact. The Liberal Party deeply believes that history will eventually pass a fair judgment on the 4 June incident.

But undeniably, looking back at the development of our country in the last two decades, it has achieved sustainable and even substantial progress in political, economic and social aspects. Taking anti-corruption strongly advocated by students at that time as an example, the Central Government has made certain achievements in combating corruption in recent years. WEN Jiabao, Premier of the State Council, has even upgraded anti-corruption to the level that "it is directly related to the reinforcement of political power", and implemented a number of measures to prevent corruption.

Regarding people's livelihood, apart from the improvement in their living, President HU Jintao has advocated the philosophy of "people-orientated" and "governance for the people", whilst Premier WEN Jiabao has adopted the style that is approachable and shows loving care for the people. Both of them have won popular support. At the time of the Qinghai earthquake that occurred this year as well as the Sichuan earthquake that occurred two years ago, they arrived at the earthquake-stricken areas immediately to co-ordinate the rescue and show sympathy to victims, fully demonstrating their style that was approachable, one that cared for the hardships of the people.

On the economic front, China has made substantial progress in recent years. As for the World Expo being held vigorously in Shanghai, more than 20 heads of states and government heads of overseas countries have attended the opening ceremony, showing that various achievements made by China in recent years have gained international recognition. In April this year, 186 member states of the World Bank endorsed the reform proposal on the right of voting. China's voting power on the operation and loan businesses of the World Bank was thus raised by 60% from 2.77% to 4.42%, coming after only the United States and Japan. As shown in various aspects mentioned above, China's status has been upgrading continuously in the international arena.

President, the development of China in the last 20 years has demonstrated unprecedented features whilst its future development can even be unlimited. I am not flattering our Motherland. Rather, it is a fact. Hong Kong is a place

with the freedom of speech. We can of course voice our views on the 4 June incident. The Liberal Party respect that we all have such freedom. However, our stance on the motion remains unchanged. We will still abstain from voting on it.

President, I so submit.

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

MR ANDREW CHENG (in Cantonese): President, over the years, only a few Members from the Liberal Party or other colleagues not supporting the motion on "vindicating the 4 June incident" will speak. But we do respect them in putting forth some different views briefly. Hopefully, we can clarify some issues through this debate. First of all, we have no intention to vilify other people. We all stick to our most basic conscience for the sake of enabling China to make progress, as well as upholding the spirit of "tolerating great differences in order to seek greater common grounds" in Hong Kong, which has been mentioned repeatedly by Ms Miriam LAU just now.

President, regarding the motion on "vindicating the 4 June incident" this time, at least a number of issues have stirred up my mixed feelings. The first one is our trip to Shanghai, followed by the meeting with LI Gang, the slogan of "Act Now" advocated by the Chief Executive and the Secretaries and Directors of Bureaux, as well as the forcible seizure of the statue of the Goddess of Democracy by the police at Times Square. If LI Gang represents the Central Government, he should also wish that the people of Hong Kong, in particular Honourable colleagues from the Liberal Party, can tolerate great differences in order to seek greater common grounds "Tolerating great differences" is very important. What we hope is to tolerate great differences on vindicating the 4 June incident, which may be very great differences indeed, so as to seek greater common grounds on enabling China to make progress on democracy. I believe the administration of the communist regime also wishes to see China make progress.

After the visit to Shanghai, many reporters asked me whether I had seen its prosperity. I told them that Shanghai was really very prosperous. But it was

known to me even before my visit. As I can witness it myself, I am of course overwhelmed with mixed feelings. However, after coming back from Shanghai, we may query why the human rights and rule of law for our compatriots in the Mainland do not have such progress as the prosperity in Shanghai. When we see that our country has made brilliant achievements in many issues superficially, why are the human rights and rule of law Why are so many people, including parents affected by contaminated milk powder, those affected by tofu-dreg projects and human rights lawyers, still being treated inhumanely? Therefore, Members from the pan-democratic camp hope that Hong Kong can still have the freedom of expression. We should fully give play to such an edge.

Earlier on, the Chief Executive, in collaboration with the Secretaries and Directors of Bureaux, shouted boldly "Act Now, Act Now, Act Now" with his amplifier. It reminds me of the Government's criticism that some people only chant empty and meaningless slogans. My immediate response is that as we are not in the ruling, what we can do is to voice our views to the Government in the form of slogans, actions and demonstrations. However, President, they are the Government. How can the Government chant slogans only, yelling "Act Now"? What kind of "Act" is it? It is an act to seize the statue of the Goddess of Democracy. What kind of "Act" is it? It is an act to take away the most concrete room of freedom and democracy from us. Therefore, I hereby make a strong appeal to the Chief Executive. If the Government considered it useless to yell empty slogans and do nothing in the past, or even considers that it is the case now, I wish to ask the Chief Executive about his slogan "Act Now" There is no need for me to elaborate my criticism, as a lot of such criticisms are already available on the Internet. What is the direction we are heading for in this "Act Now" campaign? Shall we head in the same direction as that of the Titanic? With this "Act Now" campaign, can we really achieve the ultimate goal of universal suffrage?

Hong Kong is the last safety net of democracy. If this Council fails to make full use of our conscience and room before vindicating the 4 June incident today, how can we give an account to the people of Hong Kong as well as the 1.3 billion compatriots in the Mainland? I stress once again that the Alliance has five goals instead of four, which include: vindicating the 1989 pro-democracy movement; finding out who should be held responsible for the massacre;

releasing Chinese democracy activists; putting one-party dictatorship to an end; and establishing a democratic China. This is we in pan-democratic camp No matter we have a loud voice or not, and no matter some people consider that we are already "harmonious" or not, we will put forth our views with conscience without humbling ourselves or showing disrespect. We have different means, and so do those in the pan-democratic camp. As for those pan-democrats and other Members who have spoken today, say Ms Miriam LAU and Mr CHIM Pui-chung, they have different point of views. However, I do wish that we should consider the meaning of "tolerating great differences in order to seek greater common grounds" seriously. Although politics means compromises, we should adhere to our principles in making any. Regarding the "Act Now" campaign promoted by the Government, I do wish that it has a clear target, rather than being an act that take away the dignity of our "one country, two systems".

President, I so submit.

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

MS AUDREY EU (in Cantonese): President, the motion on the 4 June incident proposed every year is simply a motion to review our conscience on history and look forward to achieving democratic development in China in the future. A number of Honourable colleagues have mentioned today that even nowadays, LIU Xiaobo, HU Jia, TANG Zuoren and many human rights lawyers are still being oppressed. In fact, what people advocated on 4 June 1989 was their aspirations for freedom and democracy as well as combat on corruption and official speculation. But such problems still exist today.

I have listened to the speeches given by Mr CHIM Pui-chung and Ms Miriam LAU just now, which reminded me of the Chief Executive's Question and Answer Session held in this Chamber on 14 May last year. At that time, Margaret NG asked if he supported the vindication of the 4 June incident. The Chief Executive simply kept on talking about the brilliant achievements made by our country and economic prosperity being brought to Hong Kong. Margaret NG further asked about his personal conscience and principles. President, even though you had given him hints to stop, he just insisted on talking about this.

Worse still, he said, "I say this once again. My opinion represents the opinion of Hong Kong people as a whole". Margaret NG later said that as the Chief Executive would forget what was righteous when he saw something beneficial to him, he could not represent us. For this reason, we walked out in protest at that time.

CHIM Pui-chung mentioned the express rail in his speech today, while Miriam LAU mentioned how China could compete with many other places in the world. President, being a Member from the democratic camp, I do agree that we should respect others' views and uphold the freedom of speech. But I still have to make some humane remarks. I can in no way respect the comment that national development can be achieved at the cost of killing our own people by tanks.

President, why do we have this debate on conscience today? Human beings are different from animals, for we have souls and conscience. The comments we make should be acceptable to others as well as ourselves. We can in no way forget what happened on 4 June 1989 simply because of the benefits brought by the development and economic prosperity of our country to the people of Hong Kong. President, by the same token, I think "one country, two systems" and the rule of law in Hong Kong are deteriorating, for I see that Secretary Ambrose LEE, the spokesman of the police and officials representing the Chief Executive have come out to explain why the statue of the Goddess of Democracy was seized. I think nowadays, the SAR Government has deviated from common sense and remarks that should be made by human beings. It has used the law as a tool of oppression.

Given that the statue of the Goddess of Democracy was seized this time, I have read the Places of Public Entertainment Ordinance (Cap. 172) from cover to cover once again. President, I wonder why an activity to commemorate the 4 June incident can be regarded as an activity being held in a place of entertainment. I think this is not only an insult to humanity, but also a great irony. How can our SAR Government say that this is an activity for public entertainment? As advised by the Government, activities held in places of public entertainment in Schedule 1 of this Ordinance include exhibitions. If any exhibition is involved, the activity can be regarded as an entertainment. President, this is against common sense. No matter you ask anyone, no one will regard the activity to commemorate the 4 June incident as an entertainment.

How can the Government regard an activity of such nature as an entertainment? This is simply an abuse of the law, for we are supposed to use it to uphold justice, rather than using it as a political tool of oppression.

Apart from reading this Ordinance, President, I have also browsed the Government's homepage on the Internet to see how to apply for licences for places of entertainment. What is it all about? We are required to apply for licences in case we wish to replace seats of a cinema, use chemicals to achieve certain effects in a place of entertainment or reposition amusement game machines. I have also consulted the staff of the Civic Party who is responsible for organizing activities on how to apply for a licence each time. He said that such application was made according to the Public Order Ordinance, that is, the legislation relating to public meetings and processions. Why should such an application be made according to the Places of Public Entertainment Ordinance (Cap. 172)? President, once the SAR Government has made such a move, it is not "Act Now"(起錨), for "錨"(phonetic translation: naau⁴) is different from "茅"(phonetic translation: maau⁴) in the phrase "發茅", meaning in a messy and chaotic situation. Indeed, the public have no idea why we are deviating further and further away from this issue.

President, although the power of each individual is minimal, we should never give up. Therefore, I advocate that we should go to the Victoria Park on 4 June. We should continue to stand up for what we think is right. Even though we still have a far way to go to achieve the goal of vindicating the 4 June incident, we should demonstrate our perseverance. Thank you, President.

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

MR FRED LI (in Cantonese): President, I do not wish to repeat too much the viewpoints already put forth by Honourable colleagues from the pan-democratic camp. However, I think the debate on the 4 June incident held each year can, at least, provide a forum for Members from the pan-democratic camp to voice their expectations and grievances over China in one go.

On 8 to 10 May this year, I visited the World Expo in Shanghai with the President and more than 40 colleagues. Seemingly, those four colleagues with

no Home Visit Permit have never been to Shanghai before. The World Expo is very grand and well-organized, with a lot of pavilions. We have to sing praises of many aspects in the China Pavilion. But the problem is, with the substantial growth of China's economy, many overseas countries are trying to force us to have appreciation of the Renminbi and impose many tariffs on us. It is because they are afraid that the competitiveness of our products will affect their countries. Protectionism has surfaced. Moreover, in the financial turmoil this time, China has also demonstrated its status as one of the very important economies in the world.

Pavilions at the World Expo are all very grand and advanced, with application of a lot of scientific and audio-visual technologies. However, all these are hardware only. Regarding our software, the brain of the senior management and officials of the Communist Party of China (CPC), has it made any progress, advancement or changes to tie in with the hardware? As we can see, it is not the case that there has been no progress at all, only that the pace of such progress has been very slow. In fact, this depends on the angle from which we are looking at it. Members from the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) may have a high degree of tolerance. No matter what the Chinese Government has done, they can be very tolerant, thinking that it will make changes gradually. They may think that the pan-democrats are too demanding. For example, they may find us too aggressive to request that the District Council seats be returned by universal suffrage in 2012.

We have different points of view regarding the aspiration, pace and progress of democracy. This does not matter at all. But the problem is, can human rights, democracy and freedom in the Mainland have Chinese characteristics only, such that people are not allowed to put forth their opinions? Of course, the Democratic Party thinks that everyone should have human rights, freedom, democracy and freedom of speech. Just now, many Honourable colleagues have cited examples of tofu-dreg projects in Sichuan, parents being affected in the incident of milk powder with melamine, as well as dissidents like FENG Zhenghu, WEI Jingsheng at the earliest stage and even LIU Xiaobo now. They have made a lot of criticisms against the Chinese Government. They may very much agree to the concept of democracy and human rights in overseas countries. However, because of the expression of such opinions, they have been jailed, gone missing and lost their freedom. If someone says that all these are

acceptable under socialism with Chinese characteristics and China should treat them in this way, we can in no way accept such different points of view. We cannot tolerate everything simply because we should have tolerance.

I wonder if the Chinese Government still fears very much that overseas countries can deal a heavy blow to the CPC by capitalism through their peaceful evolution, economic invasion and penetration. If you seek my opinion on the Foxconn incident that occurred recently, in which a tycoon from Taiwan has established factories in China and employed 80 000 or 100 000 workers Indeed, the CPC is supposed to protect the working class, practise the dictatorship of the proletariat or advocate slogans such as the centralized system of democracy. But surprisingly Taiwan is also part of China. The tycoon has set up factories, exploited workers and even caused deaths of the people in China. I will query, is the CPC offering any protection for the working class? They established the country with the help of the working class, didn't they? During the 1940s, they advocated combat on corruption, alleging that the Kuomintang was corruptive. But now, has the CPC modernized at all?

The issue of 4 June has in fact reflected Hone Kong can still commemorate the 4 June incident. Of course, pro-China people, when communicating with Albert HO, might have expressed When Mr TUNG Chee-hwa met with the Democratic Party a few years ago, the first thing he requested us to change was to stop organizing activities to commemorate the 4 June incident. He said that it was not advisable to hold candlelight vigils each year, for this would make the Mainland unhappy and ruin the mutual relationship. He said that if we wished to get Home Visit Permits, we had better stop organizing such activities. "Uncle TUNG" was so cute, for he stated this point frankly at the very beginning. I still remember and keep to heart his words. At that time, he was supposed to discuss the policy address with the Democratic Party. But he mentioned all these instead, which was his sincere confession.

Now, the question is, given that what we have done has made the Mainland unhappy, it refuses to issue Home Visit Permits to us. It simply differentiates their men and others as well as those mild and aggressive parties in this way. Being such a big country, why does it act so cowardly? Is it a big deal to allow the democrats to visit the Mainland? Are we perpetrating a revolution? Are we delivering weapons to overthrow the CPC? It is absolutely impossible for us

to do all this. Why does it have no confidence in its management at all? Now, its economy is so brilliant, with a growth rate standing at 8% or 9%. Moreover, the express rail is running at such a high speed, which will sooner or later link up the whole country. Regrettably, despite such advancements, what is the state of our software? What is the brain of those riding on it? What is the brain of those ruling this country? Their prime task is to protect the leadership of the CPC, which explains why they resort to every means of oppression in case any challenge or threat arises. Precisely for this reason, we should put forth different points of view.

Hong Kong is still under "one country, two systems". However, we do not wish to see the Food and Environmental Hygiene Department and the Leisure and Cultural Services Department seize the statue of the Goddess of Democracy for no reason, resulting that we are moving further and further away from Do we still have "two systems"? Our colleagues are forced to sign some declaration or letters of apology in the police station. Is there any difference from the practice adopted by the Mainland?

I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Albert HO has used up his speaking time. I now put the question to you and that is: That the motion moved by Mr Albert HO be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Albert HO rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE, Dr LEUNG Ka-lau and Mr CHEUNG Kwok-che voted for the motion.

Dr Philip WONG, Mr WONG Yung-kan, Mr Timothy FOK, Mr CHIM Pui-chung, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou voted against the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr LAM Tai-fai, Mr Paul CHAN and Mr CHAN Kin-por abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the motion.

Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin and Mrs Regina IP voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, five were in favour of the motion, seven against it and 10 abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 19 were in favour of the motion and eight against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): Second motion: Increasing the powers and responsibilities of District Councils in district planning.

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

I now call upon Prof Patrick LAU to speak and move his motion.

INCREASING THE POWERS AND RESPONSIBILITIES OF DISTRICT COUNCILS IN DISTRICT PLANNING

PROF PATRICK LAU (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

An editorial of *the Hong Kong Economic Journal* carried the following comments on the motion I moved today: "While the discussions on the constitutional reform package remain largely in a stalemate, the Legislative Council is now discussing how to increase the powers and responsibilities of District Councils, which can lead to discussions about whether District Councils can play an active role in increasing people's participation in administration.

The proposition of allowing people to participate more practically in policy planning and implementation through further enhancing the functions of District Councils and the standards of District Council Members merits thorough consideration."

I hope Honourable Members can discuss in detail the subject of "Increasing the powers and responsibilities of District Councils (DCs) in district planning" — I emphasize "the powers and responsibilities in district planning". An Honourable Member proposes an amendment to "completely abolish District Council appointment system", but I do not wish to discuss that in the context of this question for the issue should be further considered in a thorough manner at other meetings. However, I would like to encourage more professionals to participate in the work of DCs, so that the quality of district planning can be upgraded.

Since the constitutional development that started in the 1980s, DCs have always been playing the role of primary advisory bodies. It is specified in Article 97 of the Basic Law that "District organizations which are not organs of political power may be established in the Hong Kong Special Administrative Region, to be consulted by the Government of the Region on district administration and other affairs". Although the SAR Government promised when it scrapped the two former Municipal Councils in early 2000 that the functions of DCs would be correspondingly enhanced, and it also suggested during a review of the functions of DCs in 2006 that DCs should also be responsible for district facilities management, it has not mentioned anything about "increasing the powers and responsibilities of DCs in district planning".

Currently, there are a total of 543 DC members in the 18 districts in Hong Kong, and I understand through the regular meetings between the Legislative Council Members and DC members that DC members know their districts very well, have a close relationship with the residents and understand deeply the conditions of people in the districts. Nevertheless, they give us an impression that they are only responsible for handling residents' complaints, fighting for bus routes and recreational facilities for the residents, and so on. But they do not play crucial functions in regard to major planning such as public housing planning and resuming the construction of Home Ownership Scheme flats, which are significant policy questions. A DC member has complained to me that the Government basically does not take the communication with them seriously. The Director of Planning seldom and even never visits the districts or meets with

them. More often than not, DCs are consulted only when it has already been decided to construct public housing or large infrastructures in the districts and when plans are already available. No matter how many people raised opposition, the consultations are just window-dressing efforts because decisions have been made by the department.

A recent example is the proposed explosives magazine at Chung Hom Shan. Although DCs have collected the signatures of over 3 000 residents opposing the proposal and Legislative Council Members from a few major political parties have unanimously raised objection, the Government and the MTR Corporation Limited (MTRCL) still persist in their ways despite the opposition. I do not quite understand why a large quantity of explosives should be conveyed through various parts of the urban areas in Hong Kong, Kowloon and the New Territories before being stored in Chung Hom Shan in Stanley which is only 300 m away from residential areas. Why can better planning not be made? In fact, the Government can store the explosives at the derelict Shek O mine. It can convey the explosives directly to Shek O by sea before conveying them to blasting sites in the same district. The most important point is that the geographical location of the Shek O mine will not have any impacts on the residents in the district.

President, in moving this motion, I hope the Government can make use of the DC platform to allow public participation at the early planning stages instead of notifying the public or even not notifying them before making a final decision or finalizing the plans for project implementation. The Government has met with stronger and stronger resistance, harming social harmony as a result of this.

In fact, urban planning should comprise advanced planning and community or district planning. At present, Hong Kong only focuses on overall planning and district planning is inadequate. Unlike the case in foreign countries where an urban planning exhibition centre is established in each community, and there are public venues that encourage public participation in community planning consultations. Given the absence of bottom-up public consultation, many community plans met with strong opposition from the local community at the final implementation stage, for example, unwelcomed public housing blocks, incinerators, landfills and even school projects; as a result, the projects have been forced to be delayed or even withdrawn.

President, I am a Housing Authority member, and I heard the remarks made by the former Director of Housing, Mr Thomas CHAN, at his retirement dinner. He said that a lot of work had been completed smoothly but he failed to answer the question that professor — I believe that is me — frequently asked, that is, how much land has been reserved for public housing construction? I really think that there are problems for he used to be the Permanent Secretary for Transport and Housing, but he was not clear about the advance planning.

Another former Planning Department (PD) official has also told me that the PD has actually made a lot of efforts, but quite a number of planning projects have been delayed and failed to commence because of differing priorities accorded by the departments to the utilization of resources. One example is the Fisherman's Wharf in Aberdeen. Thus, I especially stress that attention must be given to the co-ordination among departments insofar as the use of human resources is concerned.

As a matter of fact, there was a three-tier planning structure in the 1970s: the first tier was the territorial planning level, and overall planning was made according to the guidelines of the Hong Kong Planning Standards and Guidelines; the second tier was sub-regional planning strategies under which Hong Kong was divided into five sub-regions for the formulation of strategic planning objectives; and the third tier was district planning (similar to the current Outline Zoning Plans). Unfortunately, the three-tier planning remains in name only now for various reasons, such as the flat production target.

President, my motion today is intended to put in place again the "district planning" advisory structure. Hong Kong will be divided into five large communities, and corresponding planning will be carried out on the basis of the characteristics and actual needs of various districts. Most importantly, DCs should be consulted when planning is being undertaken at the initial planning stage. I must stress that these should be genuine consultations with public participation rather than rubber-stamp consultations. District planning public forums should be organized by DCs to extensively collect residents' views and encourage community participation. Public design competitions, as I often emphasize, should be held for the preservation of the characteristics of the districts so that stereotyped public buildings will not appear in each and every district. President may know that there is a City Hall in Central and a replica in Sha Tin, but we cannot see the different characteristics of various districts. In

the past, the Architectural Services Department and the Housing Department used the so-called standard design, therefore, all housing estates and schools were just like products off the same mould, and we might not know it even if we had gone to the wrong districts and the wrong schools. Subsequently, thanks to the criticisms and opinions of many professionals and people, the practice was changed and designs are now revised in the light of different topographical environment.

For this reason, I think that the Urban Design Guidelines under the Hong Kong Planning Standards and Guidelines should also be reviewed, so that flexible planning and urban designs can be made for various districts in the light of their different needs. The public should be allowed to reflect their views on the characteristics of the districts through forums and design competitions, and DCs should then appoint architects and landscape architects to give professional advice to district planning consultants, especially in respect of community beautification and greening.

Through early participation by different social strata in the community, we can give full play to the role of DCs as an advisory platform to pool the views of the public and professionals, and harmoniously co-operate, consult and reach a consensus with the Legislative Council and government departments. In this way, social planning premised on the overall interests of society and giving up the attitude of "no constructions at my doorstep" would be the ideal community planning concept. Nevertheless, there is the worry that the political background of DC Member may affect the decisions they make for the sake of votes, we should encourage more people and professionals to participate directly in advocacy planning when we consider collaborative planning between DCs and the PD. A planning exhibition centre should be established or a public venue should be planned in each district to enable the public to obtain urban planning information at any time. The most important points are public education and people's being able to directly reflect their views on planning.

President, during the overseas duty visit of the Legislative Council Panel on Development that saw my participation, I visited many European cities including Bilbao, Amsterdam and Prague, and inspected their planning systems and urban renewal strategies, and so on. We learnt from their experience for they attached great importance to "bottom-up" sub-area planning consultations. For example, there are public venues in each area accessible by people at any time where they will be briefed by specially assigned persons on urban planning.

People can also express their views there. Amsterdam is a very good example. Actually, the Netherlands has the same physical landform as Hong Kong; it has a densely populated small territory and little land for development. After the collection of views, rows of very characteristic small houses have been preserved, each being a different design. The reclamation method adopted there differs from that in Hong Kong. In Hong Kong, the reclaimed area is connected totally to the land while some watercourses are retained in the Netherlands, such that it does not look like a reclamation. This reflects the views of the local residents. I trust that such a characteristic place would be able to drive the economic development of the area. Bilbao is another old industrial area that has been turned into an economically prosperous arts and cultural tourism node through district planning.

I hope Hong Kong can learn from these cities and eventually achieve what London in the United Kingdom did. After the implementation of district planning, London successfully extended the Light Railway to Greenwich, thus stimulating the tourism and economic activities in the district and breaking away from the excessively bureaucratic practices of the Greater London Council (GLC) in the past, which was often criticized as making planning decisions without sufficient community consultations. Hong Kong is now facing the problems that GLC used to face before; despite economic growth, the community was discontented with the government because of a lack of channels for the grassroots to participate in decision-making. Thus, the administration by the government is often unsuccessful due to the lack of support.

President, the focus of our discussion today is the implementation of people-oriented district planning through DCs, and promoting collaboration among departments with the mandate given through public participation, as well as expediting the implementation of many community building efforts that have been planned but have taken too long to make. The crucial role to be played by professionals in the course of district planning should also be enhanced in order to avoid repeating the same mistake of turning Tin Shui Wai into a city of sadness because of the failure in supporting community building efforts. It is most important to encourage various districts to undertake planning in the light of their respective characteristics, and to provide better ancillary facilities to enhance the living environment of various districts. Efforts should be focused on improving the communities to which negative labels are attached, with a view to increasing

the competitiveness of various districts and jointly developing Hong Kong into a quality city.

With these remarks, I hope Honourable colleagues will support my motion. Thank you, President.

Prof Patrick LAU moved the following motion: (Translation)

"That, as the current role of District Councils is mainly advisory in nature, and their substantive powers and responsibilities regarding district planning have yet to be clearly defined, the actual circumstances and wishes of residents of the respective districts cannot be relayed promptly to the Administration in a 'bottom-up' manner during the planning process, and due to the segregation of policy departments and disparity between their priorities, resources cannot be put to the best use, and hence the district planning undertaken by the Government often does not have support from the local community; in this connection, this Council urges the Government to increase the powers and responsibilities of District Councils in district planning, including:

- (a) to enhance the participation of District Councils in landscaping, greening and environmental improvement projects and their management, and organize community building forums and open design competitions to forge consensus on district planning;
- (b) to divide Hong Kong into several major communities, in respect of which District Councils and the Planning Department should collaborate and co-ordinate with the relevant policy departments to jointly formulate and review regularly 'community-based' district planning programmes and practicable improvement plans, according to the actual needs and wishes of individual districts, as well as for the benefit of the community as a whole;
- (c) to allocate more resources for District Councils to engage professionals to conduct various thematic planning studies and urban design in respect of the respective districts, and submit the reports to the Planning Department for consideration; and

- (d) to confer powers and responsibilities on District Councils to participate in the planning of the major community works and ancillary facilities required by the respective districts, including public housing, community halls, cultural and recreational facilities, open spaces, refuse recovery yards, incinerators, columbarium niches, etc., so as to develop an integrated and comprehensive community,

thereby combining the strengths of the Government, representative councils and the public to implement district planning and development, and to jointly enhance the living environment of various districts, so as to develop Hong Kong into a quality city."

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

PRESIDENT (in Cantonese): Mr Frederick FUNG, Mr WONG Kwok-hing, Ms Miriam LAU, Mr IP Kwok-him, Mr Ronny TONG, Mr James TO and Mr Paul TSE intend to move amendments to this motion; and Dr Priscilla LEUNG intends to move an amendment to Ms Miriam LAU's amendment. This Council will now proceed to a joint debate on the motion and the amendments.

I will call upon the Members who intend to move amendments to speak one by one; but no amendments are to be moved at this stage.

MR FREDERICK FUNG (in Cantonese): President, my amendment is mainly about two aspects: first of all, I request that the District Council (DC) appointment system be abolished during the process; and second, I wish to point out that at present, the Government's planning is very often tilted in favour of major real estate developers. I therefore raise these two proposals in my amendment.

Basically, I agree to the four proposals raised in the original motion. I also know that certain political parties from the democratic camp, such as the Democratic Party, may not support my amendment. However, I still wish to say

a few words here, hoping that the Democratic Party can consider it again, for I support the fourth proposal raised by Prof Patrick LAU, that DCs should have the power to participate in the planning of major community works required by the respective districts. In fact, what I am talking about is participation rather than decision-making. If DCs were given the power to make decisions, I might not agree to it. However, if DCs have the power to participate, irrespective of the mode of participation, there can still be much room for discussion, including engaging them in discussions and consultations. In case a committee wishes to discuss whether major works should be conducted in a certain district in future, should representatives of that particular DC be invited to join the discussion? I think so. Therefore, the word "participation" can be interpreted in different ways, which may not necessarily be equivalent to conferment of decision-making powers on DCs.

President, why do I request that the DC appointment system be abolished and consider it very important to this motion? Although Prof LAU considers that the focus of this motion does not lie on DCs, it is indeed important because at present, about 20% of the DC members are appointed by the Chief Executive. These 20% of the DC members are very influential. Take the Sham Shui Po DC as an example. With these appointed members, the chairmen and deputy chairmen are taken up by the pro-establishment ones. They can become the majority in the DCs, controlling more than half of the votes. The voting result can be totally different if the votes casted by these 20% appointed members are counted or not. If you ask me, is it the case in all the 18 districts throughout the territory? The answer is no. But I am sure that if all appointed DC seats are abolished, the chairmen of at least six DCs will no longer in office. And in the course of voting on the provision of facilities in these six DCs, the result will be totally different. Therefore, the DC appointment system has precisely become It is because these appointed members will tilt towards where the power lies. As their mandate comes from the Government, they will tilt in favour of it as a matter of course. I will not blame those appointed members, only that I will blame this system. Why do we have such a system in our society nowadays? Given that Hong Kong, being an international city, is so rich, I wonder why the Government still has to secure its power over this consultative structure, which is merely responsible for reflecting public opinions and has no concrete power at all. I think there is utterly no need to do so.

Thirdly, under the democratic system, democracy means that the public can choose representatives to reflect views for them in the Legislative Council, who may even have certain powers in this Council. In my opinion, the opposite of democracy is appointment. The appointment system runs completely counter to democracy. Under the governance of Chris PATTEN in the 1990s, the DC appointment system was once abolished. Was it a big deal? Was there any problem at all? Had it given rise to any chaotic situation in local communities or even Hong Kong society as a whole? No, our society did operate healthily and properly as usual. I even consider that we did not have so many political arguments during that era, for we were all convinced that you should give way in case the number of representatives from your political party was less than that of other political parties. But now, some chicken and bird faeces have dropped into it, making the entire bowl a mess. I have quoted this example frequently: for a bowl of nice congee with many good ingredients, once there is a tiny piece of cat faeces, the entire bowl of congee should be discarded. This is exactly the case with the appointment system.

Given that the appointment system will affect the provision of community facilities, why do I agree that there should be participation of DCs? President, I wish to quote some examples here. There are a number of very special examples in Kowloon West that can clearly illustrate the shortcomings without the participation of DCs. Regarding the relevant facilities, no matter which political party it is — the pan-democratic ones, pro-establishment ones or the majority — there is bound to be objection to the existing planning. Even though we do not agree to it, the Government will still go ahead in an autocratic manner. Let me cite some examples here. The first one is the Nam Cheong Station. As for the Nam Cheong Station, although the Government has The Secretary is also here now. Although the Government has accepted many of our recommendations, it has all along been reluctant to accept one of the most important ones, that is, to delete two more buildings from the planning, resulting that the ventilation opening is not big enough. Moreover, as many high-rise buildings will be constructed at the big ventilation opening on the right of the Nam Cheong Station facing the waterfront, we propose to move them slightly towards the left side facing the waterfront, so that the ventilation opening will not be totally blocked. But the Government has all along been reluctant to make this change.

The second example is the Express Rail Link. Its existing alignment in Tai Kok Tsui will affect 14 buildings. In fact, we do not agree to this alignment,

hoping that it can be moved slightly to the left or the right, thereby easing the impact on buildings and residents' worries. But the Government does not accept this recommendation.

Thirdly, if we pay a visit to West Kowloon now, from Yau Ma Tei to Tai Kok Tsui and nearly to Sham Shui Po Perhaps, as people living in Sham Shui Po have a louder voice and are fiercer, the situation there will be better. At that time, we said that if it did so, we would stage a sit-in protest at the construction site and would not allow them to commence the works. We did resort to such an action. In the entire West Kowloon, 50-storey tall buildings have been constructed one after another. The whole Yau Ma Tei has been blocked by walls of these so-called luxurious buildings, resulting in the blocking of all ventilation openings in this old district. At present, the temperature in Yau Ma Tei will be 1°C higher than that in the waterfront areas. In summer, the temperature may even be 2°C higher. In fact, all DCs had objected to such planning at that time. No matter the pro-establishment or pan-democratic ones were in power, they all objected to it. However, the Government simply turned a deaf ear to us, for we had no participation at all. In particular, we did not have any representative on the decision-making bodies to voice our views. Even if there was only one vote, we should enable it to speak for us. Regrettably, we do not have such a single vote now. What I mean is the vote representing DCs. Even though you have appointed a person, if he is not a representative of DCs, he is not representing the DCs.

Therefore, I consider that in order to co-ordinate or balance the planning and policies between various districts and the central authority, there should be participation of some representatives from DCs under the system, in particular, during the discussion on planning of their respective districts. At present, with a detached mode of participation under which some departments (I do not know the rank of those public officials), after the works has been gazetted, would come to the DCs and ask if they have any opinion. After listening to the DCs, they say that they will reflect their views. But have they really done so? When is such discussion held? What have been discussed? They may only revert to the DCs a long time later. Taking the Nam Cheong Station as an example, the situation was really very bad. They did not revert to us until the tender had been submitted and the result would be announced in two weeks' time. At that time, the DC, including the Hong Kong Association for Democracy and People's

Livelihood (ADPL) wished to stop the announcement of the tender result. As we can see, under such a situation, it absolutely fails to balance the planning between various districts and the Hong Kong Government In terms of benefits, needs or community developments, nothing can be achieved now. Everything is stuck.

Of course, someone may argue that with the participation of DCs, they may become very eager to strive for the benefits of local communities, focusing merely on matters relating to their respective districts. But is it really the case? I have some other examples here. Let us take a look at the planning of some territory-wide facilities, including hostels for mental patients, sheltered workshops and workshops for people with intellectual disability. You may note that at the beginning of the 1990s, a number of workshops were moved to the estates in Sham Shui Po. At that time, the ADPL agreed to moving these workshops to Sham Shui Po, most importantly, on the condition that these people did not have any tendency of inflicting violence. We used many methods to persuade the mutual aid committees of these estates to agree to this. One of them was Lei Cheng Uk Estate. On the date of the ADPL's consultation, 500 kaifongs attended and 50 of them were prepared to attack us with brooms. After all, we were able to convince them. There are sheltered workshops for mental patients and even sheltered workshops for people with intellectual disability in Lei Cheng Uk Estate now. Sheltered workshops are established not only for kaifongs in Sham Shui Po, only that one of them is set up in Lei Cheng Uk Estate. Now, kaifongs can organize activities and play games in football pitches with people with intellectual disability and even those mental patients. Only if we can let kaifongs have such knowledge and conduct publicity and briefings as soon as possible, we can make it with the participation of DCs. These are two relatively important examples to illustrate the situation with and without the participation of DCs.

Therefore, I think the Government should strike a balance in planning. In particular, the public holds the impression that there is an unholy alliance of officials and the business sector, and the Government will only make concession to the large consortia. But the Government tells us that this is not the case. In striking a balance, it should provide an opportunity and a channel for the public at the district level to assure the interest of local communities. They can not only put forth views to the Government, but also participate in the course of decision-making. As for the extent of participation, I agree that for matters

relating to their respective districts, they should be further involved and even be allowed to make decisions. At that time, we also suggested if the number of DCs could be reduced from 18 to five. Moreover, DCs should have solid powers and authority to represent local communities. For example, issues relating to cleansing arrangements, hygiene, markets, recreation and fire safety should be referred to DCs. It is not effective if the management of hawkers on streets should also be decided by the Government. In my opinion, the devolution of powers to various districts is an important subject. I hope to tell the Secretary via the President that regarding the constitutional development in future, apart from reforming the democratic system, separation of powers between the central authority and various districts is also an important subject that the Government should address.

Thank you, President.

MR WONG KWOK-HING (in Cantonese): The amendment proposed by me seeks to supplement and improve the original motion of Prof Patrick LAU. I would like to discuss a few aspects of my amendment.

First of all, I would like to say that, since the scrapping of the two former Municipal Councils, the Government has not effectively delegated powers to or increased the powers and responsibilities of DCs. For 17 years from 1991 to 2007, I was an elected member of the District Board/Council, and I was an elected member of the former Municipal Council for five years from 1995 to 1999. I spent eight years doing the job after the scrapping of the two former Municipal Councils by the Government. According to my personal experience, after the Government scrapped the Urban Council and replaced it with the Food and Environmental Hygiene Department (FEHD) and the Leisure and Cultural Services Department (LCSD), the past practices of consulting the two former Municipal Council through the council platform in six aspects including policy study, planning consultation, work review, financial expenditure, facility management, and establishment and decision-making have basically not been delegated to DCs.

For this reason, at the meetings frequently held between Legislative Council Members and DC members, the attending members almost unanimously

criticized the Government for failing to honour the promise it made back then. They generally criticized that the Government had not devolved powers as appropriate. They also criticized that they were not consulted through established procedures or given due respect. These DC meetings were also seldom attended by senior responsible officials. So, they aptly described that "we are something when we are needed, but we are nothing when we are not needed" after the Government scrapped the two former Municipal Councils. The Government would approach the DCs when it wanted to collect people's views, but it would not spare a glance at the DCs when it did not need to collect people's views through them. This is the first aspect.

President, about the second aspect, I would like to point out that, after the Government scrapped the two former Municipal Councils, all of the outstanding projects have not been completed so far. Among a total of 139 outstanding leisure and cultural facilities projects of the two former Municipal Councils, 55 projects, around 40%, have yet to be completed. As a Legislative Council Member representing the New Territories West constituency, I would like to say that many projects in New Territories West have been delayed. Some large-scale facility projects have been repeatedly delayed. Examples include Swimming Pool Complex in Area 1 (San Wai Court), Tuen Mun; Sports Centre and Community Hall in Area 101, Tin Shui Wai; Indoor Recreation Centre at Area 4, Tsing Yi; Indoor Recreation Centre in Area 14 (Siu Lun), Tuen Mun; and District Open Space in Area 27 (Sam Shing), Tuen Mun.

It is even more ridiculous with some projects. Besides postponing the implementation time, the Government keeps postponing the time for a review. For example, the Phase I works of the Ecological Park at Tso Kung Tam Valley, Tsuen Wan will only commence in 2013, and the Phase II works in mid-2014. The relevant progress is still under review, but a review of the Phase III works will only be conducted in late 2011. The Indoor Recreation Centre between the Tsuen Wan Park and Tseun Wan Road is even more ridiculous, for even a project timetable is not available. Evidently, the Government scrapped the two former Municipal Councils and does not take DCs seriously, thus jeopardizing public interests. As regards other examples, market facilities enhancement projects have been repeatedly postponed, and new excuses have been cited for the failure to carry out installation works for air-conditioning systems. On the other hand, the Government turned 10 100 workers originally responsible for cleansing

services, security services, horticultural maintenance, and the management of Indoor Recreation Centres and recreation grounds into outsourced workers. That was the outsourcing situation in these eight years after the Government scrapped the two former Municipal Councils.

President, concerning the third aspect, I would like to talk about the work closely associated with people's livelihood, hygiene and safety, as well as people's interests, for example, municipal and hygiene services, street cleaning, disease prevention and toilet cleansing. During the time of the two former Municipal Councils, the then Urban Services Department or Regional Services Department ought to regularly give the two former Municipal Councils accounts on an annual basis and conduct reviews from time to time; thus, they were substantively supervised. However, nothing was done in the past eight years for the Government did not need to be accountable to an elected council. Regular discussions on these issues were not even on the agenda of the Legislative Council Panel on Food Safety and Environmental Hygiene. Therefore, problems like rodent, mosquito and flea infestation have affected people's health from time to time in the past eight years. These were laughing stocks indeed. Recently, a tourist was bitten by a 10-inch-long rat in Central, and this incident made a major news story. Why did that happen? Another example is that Dr Priscilla LEUNG became famous because of rodent infestation and she was called the "Rodent Queen", which is really satirical. Why has Dr Priscilla LEUNG become the "Rodent Queen"? This illustrates that a parliamentary council system or a platform of an elected council is lacking for monitoring the Government's municipal and hygiene services which should be properly provided on a permanent and day-to-day basis. As a result, we have this rodent infestation and a one-foot-long rat (its body is even longer than a shoe) running wild.

Several Honourable Members present are members of the former Urban Council or former Regional Council, and I hope they will ask themselves if the Government has regularly given the Legislative Council accounts and conducted reviews on an annual basis? It has not. We do not have any information on the figures on rodent, mosquito and flea infestation and we have no way of monitoring the situation. All this illustrates that work that should constantly be carried out has not been done properly. Even if it failed to give the Legislative Council accounts, it should have done so at DC meetings. But it has not done that. So, President, on the basis of my 17 years' experience as a District

Board/Council Member, I have witnessed that the Government has not properly given accounts as it should have done. Frankly speaking, if the DCs in the 18 districts can monitor the work of the public health authority in connection with rodent, mosquito and flea infestation, I believe they will certainly achieve certain results. We would not have to rely on the "Rodent Queen" to force the Government to take actions, which simply mocks at the Government's public health malpractice.

Another point is that: after the abolition of the two former Municipal Councils, do we still remember the Ambassadors of Hygiene programme originally organized for all Hong Kong students? Do we still have any faint memory of it? We may not have any because it has already been eight years since then. Nothing has been done in promoting health education among students. Even if the Government does not give the Legislative Council accounts, it can do so at DC meetings; but, it has not done so. Therefore, I am pointing out these problems today as I hope Honourable colleagues would rethink about them and the Government would take such work seriously. Yet, the Secretary for Food and Health, Dr York CHOW, is not present today, which is a great pity.

On the fourth aspect, I would like to say that district planning should be district- and people-oriented, and it is very important for the views of DCs to be really respected and heeded. However, community planning nowadays often regards poor people as oxen for opening up wasteland. They are enticed and urged to open up wasteland in new towns, as a result, family tragedies happened one after another. There was another recent tragedy in which a mother and her daughter jumped from a height in Yat Tung Estate, Tung Chung. Actually, there were several incidents in which people jumped from a height in Yat Tung Estate before, and the estate has become another city of sadness. Why is that the case? Why are one fourth of the residents of a housing estate with tens of thousands of residents recipients of Comprehensive Social Security Assistance (CSSA)? Why are people there so very poor? Why are the travelling expenses so high? Why are other community facilities not provided there? It is because the Government does not respect the views of DCs, and it just undertakes planning behind closed doors, giving rise to the disparity between the rich and the poor in the districts. Another example is that many housing estates have been built in Kwai Chung in recent years, and tens of thousands of residents have moved in. But there is no community centre to speak of. Furthermore, though it has been many years since the demolition of the North Point Estate, the site is still baking

under the sun. This exactly proves that if district planning is not district- and people-oriented, there will definitely be a lot of problems with the Government's governance.

President, lastly, I really hope that my amendment can enhance communication and co-operation among the Legislative Council, government departments and various DCs so that they can achieve synergy, thus minimizing duplication and internal arguments, and improving the standard of services delivered to the people. I hope our views will be heard by the Government.

MS MIRIAM LAU (in Cantonese): President, after the Chief Executive, Mr Donald TSANG, proposed increasing the powers and responsibilities of DCs in district planning and the delegation of authority in his Policy Address 2005, in addition to its original advisory functions, DCs started to participate in district beautification, greening and environmental improvement projects, and in the management of some district facilities such as community halls and public swimming pools. At the district planning level, however, the Government has frequently failed to properly conduct basic consultations, let alone allowing DCs a bigger role in participation.

I would like to point out in particular that, insofar as district planning is concerned, apart from attending to environmental beautification and environmental improvement projects, the Government should also attend to the geographical environment and population profile of various districts. It cannot produce mould products or adhere rigidly to certain indicators when it undertakes planning for the community facilities of various districts. For example, Tung Chung and Tin Shui Wai have particular needs for public health care services, but the Government has taken so long to provide these services on the ground that there is insufficient population.

Another example is Yat Tung Estate, Tung Chung, where a tragedy in which a mother and her daughter jumped from a height happened recently. According to the figures from the Social Welfare Department, the estate is the third top public housing estate in Hong Kong with the largest number of CSSA households, just after Sau Mau Ping Estate and Kwai Chung Estate. At present,

there are 2 495 CSSA households, which account for 21.5%, in the more than 10 000 households in the estate, and that is why it is called a "CSSA estate". One fourth of these CSSA cases involve single-parent families while the rest involves the employed and the elderly.

Although some have compared the remoteness of Tung Chung and Tin Shui Wai, and Yat Tung Estate being at a corner in Tung Chung is utterly remote, Tung Chung actually has much more economic activities than Tin Shui Wai, even more than Yuen Long. The nearer ones include the large-scale middle-class residential clusters at the waterfront, the Citygate large-scale shopping centre, and the Ngong Ping 360 tourism and shopping area. Not too far away are the airport buildings and the related logistics and exhibition facilities. A lot of economic activities are going on, and there is a world of difference between Tung Chung and Tin Shui Wai. Nevertheless, why can the above facilities create a large number of job opportunities for residents in other districts, but not benefit Yat Tung Estate which is a small community just over the hill? The Government should really consider this thoroughly. Are there any problems with the manpower resources training? In fact, we cannot find any Job Matching Centre of the Labour Department in the Tung Chung district, and the residents can only go to Tsuen Wan for the nearest centre, which is so very inconvenient for the local residents who need such services.

Actually, one of the focal points in my amendment today is to actively support various districts in developing community economy according to their respective local characteristics, so as to boost employment in the local communities. Of course, we are not advocating the provision of central facilities or asking each district to have its own standard; yet, we do not think the Government should adopt a hard-and-fast rule, defying the practical needs of the local residents.

Taking the Sai Kung district which is known as Hong Kong's "back garden" as an example, though the Government has conducted a study and proposed improving ancillary transport facilities in Sai Kung and following the example of Taiwan in the development of lodges, there has been all thunder but no rain and the proposal has yet to be implemented. Even though a site for the development of hotels in Sai Kung has been included in the Application List, no developer has ever applied for triggering any lot on the List since March 2008. I

believe there is something to do with the unavailability of ancillary facilities. We hope the Government can step up planning and construction to benefit the local residents.

Furthermore, for the same reason, the Liberal Party has suggested several times that the Government should consider establishing in suitable districts conventional cuisine zones and open air bazaars with appeal and characteristics to promote district tourism and employment in the local districts. It is too bad that the Government often ruins the good suggestions made by the community. For instance, the food critic, CHOI Lan, suggested establishing "Hong Kong style classic da pai dongs" in Tin Shui Wai before. It is heard that nothing was done because the Government was unwilling to subsidize the project. I think that the Government should be more farsighted. If it can exchange petty subsidies for job opportunities, why should it be so calculating?

As regards environmental planning, the Government proposed in 2008 that five hectares of land in the Clear Water Bay Country Park would be excised for a landfill, and this aroused strong opposition from the Sai Kung DC and the public back then. Recently, the Government has further proposed an extension of the landfill, and covertly included 15.6 hectares of industrial land in Area 137, Tseung Kwan O in the landfill site. We hope that the authorities concerned would not try every means or secretly evade officially consulting DCs just because some projects are controversial.

About the allocation of more resources to DCs for the engagement of consultancies, we have noticed that some DCs have looked for additional resources for thematic planning. For example, the Tsuen Wan DC has appointed a consultant to conduct a similar thematic study, which covers 10 revitalization proposals, for example, using 12-year animal cycles as the design theme of the Tsuen Wan Riviera Park, turning the waterfront into a characteristic leisure and exercise space coupled with the establishment of a pet park and a planned cycling track; and improving such facilities as the old fashioned hawker bazaar at Hau Tei Square. If the proposal is implemented, it will be help to improve the living environment of the local residents. Yet, the relevant DC often needs to look for additional resources for conducting a consultant study on its own with a view to improving the facilities and ancillary facilities in the district. Hence, the

Government should consider deploying resources to support similar projects, such that the community environment can be improved on a sustained basis.

The original motion proposes dividing Hong Kong into several major communities in the course of planning. If the Government can take into account the characteristics of various districts, it would be able to prevent each of the 18 districts from doing things in its own way insofar as planning is concerned, and achieve synergy. This proposal merits support.

Lastly, the amendments of Mr WONG Kwok-hing, Mr IP Kwok-him, Mr Paul TSE and Dr Priscilla LEUNG's further amendment to my amendment respectively propose such principles as enhancing the participation of the public and DCs, enhancing the support for DCs, promoting the development of community tourism, and giving priority to consulting DCs. Since these amendments tally with the philosophy of the Liberal Party, we support them all.

Mr Frederick FUNG and Mr James TO's amendments request the complete abolition of the DC appointment system. We think that the current constitutional reform package has already proposed that appointed DC members should not have the right to vote and the right to stand for election, such that the rights of appointed DC members will be substantially reduced, thus the abolition or otherwise of the appointment system has become an insignificant issue. Nevertheless, since many appointed DC members have professional knowledge and expertise, and they have contributed a lot to the community, if the appointment system is completely abolished without careful consideration, it may not be beneficial to the community as a whole. For this reason, we can only agree that the Government can consider progressively abolishing the appointed seats in DCs, and we can hardly support the complete abolition of the appointment system at this stage.

Mr Ronny TONG's amendment proposes expanding the constituencies of DCs, but it has not elaborated the ways in which the constituencies of DCs should be expanded: for example, by how much should the electorate base be expanded, and how the number of DC members will be affected — Will it become smaller or larger? The most important point is how significant the effects on community services will be if the change is made. In fact, Mr Ronny TONG's amendment

has not mentioned these respects; and I will listen to his speech carefully later. If the problems mentioned by me are not solved, or a balance is not appropriately struck between those factors, we think the Government should give more careful consideration to this.

I so submit, President.

MR IP KWOK-HIM (in Cantonese): President, under the theme of "Act Now", the accountable team led by the Chief Executive last Saturday rubbed shoulders with the public to promote the constitutional reform package. The Chief Executive's move, reflecting the importance he attaches to public opinion, is worth supporting. Within the SAR's existing political framework, DCs are most capable of grasping public sentiments and opinions and DC members are most well versed in the needs of districts. Being an intermediary between communities and the Government, not only can DCs serve as a bridge between government officials and the public, they can also act as representatives of public opinion to monitor and supervise administration by the Government.

I believe all Members will agree with the fact that whenever incidents occur in the communities or disasters strike, it is usually the DC members who make it to the front line. Let me cite some recent incidents as examples. In an incident mentioned earlier in which a foreign female visitor was bitten by a rat in Pedder Street, Central on 26 May, Mr CHAN Hok-fung, a Central and Western DC member, was the first person who arrived at the scene and assisted the authorities in commencing an anti-rodent operation. After the occurrence of a serious car accident in Sha Tin on 17 May in which a public light bus crashed and fell into a tunnel, Mr CHENG Cho-kwong and Mr YEUNG Cheung-li, both being Sha Tin DC members, arrived at the scene promptly to help deal with and follow up the incident. These incidents are innumerable.

The work of DC members is not easier than that of Legislative Council Members. They have to deal with many minor and trivial matters. While their work might not be eye-catching, still less world-rocking, they are serving the

public in practical terms. Members of the Legislative Council also have the silent support of many DC members and district volunteers behind their back.

DC members serving the communities (whether they are elected or appointed) are all full of enthusiasm in serving the communities. Some of them have served the communities for more than a decade or even two decades. Both the DCs and the Legislative Council are part of the political structure of the SAR Government. However, DC members and Members of the Legislative Council are treated by the SAR Government very differently. As a representative of this sector, I have a most profound feeling. Among the DC members whom I have encountered, many full-time DC members who have served the communities for many years have actually made proper preparation for "passing the baton". Over the past decade or two, they have been serving the communities diligently and silently without regard to gains and losses as well as honour and disgrace. They merely seek to spend time to serve the public with enthusiasm. However, when they realize they will not receive any salaries after they cease to be politicians, they can only lament their miserable life in old age. They even ridicule themselves by asking if they will have to live on CSSA. What is more, they lament that they are worse off than their assistants and staff, for not only will they have no pension or Mandatory Provident Fund benefits, they will also not be entitled to any severance payments or basic medical insurance protection. All these are the voices of DC members. In moving towards universal suffrage, the Government is obliged to follow the arrangements for Members of the Legislative Council of this term by providing DC members with end-of-service gratuity and accountable medical benefits, if the Government is to absorb more quality young people aspiring to become politicians to work in the communities and serve the public without worries for the future, to ensure that the pay of DC members can reach a reasonable level to protect their livelihood, and to provide welfare support for ancillary measures.

Regarding the new Miscellaneous Expenses Allowance provided by the SAR Government for the DC members of this term, the provision of additional allowance *per se* is an extremely beneficent measure. However, DC members are required to use the entire sum of allowance to meet their office expenses.

Moreover, the allowance has to be factored into the calculation of salaries tax for DC members. This would mean a heavier burden for DC members as the allowance will have to be spent entirely on the communities but, at the same time, they are required to pay tax for the allowance. A most typical example is, as the Secretary is believed to have heard about it, many DC members are public housing tenants. Owing to the calculation of this allowance as part of their salaries, they have suddenly become "well-off" public housing tenants and have to pay rent as such tenants. Owing to this allowance, they have to pay tax as well as double rent. These DC members really do not know whether they should laugh or cry. They can only lament helplessly that this allowance is like "chicken ribs" — tasteless to the tongue, but a bit of a waste to throw away. I hope the Government can conduct a review expeditiously to exempt the amount of allowance spent on the daily operating expenses of their offices from tax, so as to prevent DC members from losing more than they gain.

On the other hand, manpower shortage has been a long-standing problem facing the DC secretariats. Let me cite the Central and Western DC secretariat, with which I am most familiar, as an example. At present, each Secretary in the secretariat has to perform secretarial and administrative work for at least four to five committees or panels, which is basically far beyond their capacity. As the manpower resources of the secretariats have failed to keep pace with the continuously strengthening district administration and increasing funding available for use by DCs, some work has to be taken up by DC members themselves. Such an arrangement is absolutely unsatisfactory. The Government should enhance support for the secretariats and increase manpower suitably. On the other hand, I could observe when I attended the meetings held by the 18 DCs last year that the sizes of the meeting venues of the various DCs varied, with the conference rooms of some DCs being so small that the provision of a public gallery was out of the question. The quality of the meetings was adversely affected because of the very limited space available for the DC members and government officials attending the meetings. Of course, some relatively new meeting venues looked very impressive and were well appointed, comparable to the Legislative Council Chamber where we are sitting at the moment. Hence, I hope the Government can review the meeting venues of the

18 DCs throughout the territory to provide more comprehensive meeting equipment for the DCs in various districts.

President, one of the key points of the 2012 constitutional reform package proposed by the Government is to enhance the democratic elements of the elections by broadening the participation of DC members, who have an electorate base of 3.3 million, in the Chief Executive Election Committee and the functional constituencies of the Legislative Council. Therefore, the future constitutional role of both DCs and DC members will become even more important. It is thus imperative for the Government to strengthen support for DCs and DC members in concrete terms, in order to upgrade the standards of DCs and DC members in fulfilling their powers and responsibilities.

The DAB hopes that various political parties and groupings of the Legislative Council can support the Government's reform package. Many DC members are committed to serving the communities with great enthusiasm in the hope of accumulating experience through participation in district elections and public affairs in the communities to make good preparations for becoming Legislative Council Members in the future. As the present reform package will open a door to DC members aspiring to becoming politicians, many second echelons of political parties can finally see the light at the end of the tunnel. However, in the controversy surrounding this constitutional reform, I have heard individual Members criticizing DC members, accusing them of lacking vision, caring only about trivial matters in the districts, being unable to undertake territory-wide affairs, and protecting their own "kaifongs" only. All these accusations are actually unfair and not true. What is more, they are suspected of belittling and slandering the 500-odd DC members. I express strong dissatisfaction with this.

President, while the original motion of Prof Patrick LAU requests increasing the powers and responsibilities of DCs in district planning, the amendments proposed by Mr WONG Kwok-hing, Ms Miriam LAU and Mr Paul TSE and Dr Priscilla LEUNG's amendment to amendment have all requested further devolution of powers to DCs and DC members for the purpose of further giving play to the functions of DCs and DC members. The DAB supports all this.

The DAB considers it acceptable for the DCs, being district-based advisory organs, to appoint a small number of DC members to be members of representative councils to take care of the interests of the different strata of society. In fact, society should recognize the efforts made by a number of appointed members who have contributed a lot to the communities in terms of both money and efforts. However, with constitutional development and further democratization, more people from different strata will participate in DC elections, and the representatives of representative councils will become more and more extensive. As the consistent position of the DAB is to gradually reduce the number of appointed DC seats, the DAB (*The buzzer sounded*)

PRESIDENT (in Cantonese): Mr IP, your speaking time is up.

MR IP KWOK-HIM (in Cantonese): Thank you, President.

MR RONNY TONG (In Cantonese): President, by definition, community planning is definitely a relatively macroscopic undertaking. However, insofar as the composition of the DCs is concerned, DC members are indeed obligated to adopt a less macroscopic perspective because of the design of the system. Therefore, we can hardly expect DC members to deal with community planning from the macroscopic perspective. This explains why, President, the motion today actually has fundamental conflicts.

President, my speech contains three points in principle. The first point relates to the number of electors. Will the number of electors in each district be too small, thus resulting in the narrow perspective of DC members? Second, the scattering of constituencies has actually created disharmony, or even fundamental elements of conflict in many communities. Third, from the macroscopic perspective, the Government must allocate more basic and essential resources before we can achieve the goals outlined in the motion today, that is, giving play to the function of undertaking macroscopic planning.

President, regarding the number of electors, I actually asked the Government this question during a meeting yesterday: What was the average number of electors giving support to each DC member? According to the Government's official reply, the number was around 17 000. However, I have looked up the records and found that in each election, especially the most recent one, the average number of votes won by DC members throughout the territory ranged from 1 000 to 2 000 only. According to individual figures, we can see that the number of votes won by 21 existing elected DC members is less than 1 000. The DC member with the highest number of votes, Mr WU Chi-wai, a member of the Democratic Party serving the Wong Tai Sin Constituency, obtained 4 370 votes, also the highest number of votes. On the other hand, the DC member with the lowest number of votes, Mr Fergus FUNG, a member of the Bay Areas of the Southern District Council, won only 448 votes, but still he was elected a DC member.

President, I do not mean to downplay the standard of these DCs, only that their representativeness is very limited due to the constraints of the system. Of course, they do have representativeness, though their representativeness is very limited. This is precisely the first question I raised just now. When the number of electors is too small and when a candidate can be elected with just hundreds of votes or 1 000 votes, what methods should he use to make groups of electors vote for him? Actually, DC elections are quite different from the Legislative Council elections or other district elections. The size of the groups of electors faced by the candidates or the needs of the group he should satisfy actually has a direct impact on how he gives play to his function to influence the relatively macroscopic planning needs of the community as a whole after taking office as a DC member.

President, the second point relates to the delineation of constituencies. Actually, members of the public will find this most incomprehensible. For instance, there are many housing estates in New Territories East, and some of these housing estates are highly fragmented and comprise different constituencies. I cannot fully understand why a place can be represented by several District Council members because of the delineation of constituencies? I was talking about the same housing estates, including public and private housing estates. I have also seen some examples in which two blocks in a certain housing estate are placed in the same constituency. However, adjacent to these

two blocks in the same constituency, we can also find private buildings or housing estates, or even some village cottages or sky-high priced luxury flats. Therefore, Members can imagine the presence of only a small number of electors in a very small constituency, and yet it is the epitome of the entire Hong Kong society with an enormous class disparity. The huge conflicts in the constituency are thus imaginable. When this constituency is compared to other constituencies composed of other housing estates, we can even see more intensified conflicts. We may find a housing estate being served by three DC members from different political parties with entirely different political beliefs or views on planning. Such being the case, how can we expect them to give play to the function of DCs in a holistic manner while making efforts in undertaking planning for that particular community? I fail to figure this out despite repeated ponderings.

Another problem I wish to raise is that a member of the public has complained to me that he was assigned to different constituencies in several elections. Even though he has all along been living in the same place without moving elsewhere, he found himself in this constituency this time around but another one the next. It is therefore very difficult for him to identify with other electors in his constituency or develop a feeling of living harmoniously with his neighbours in the community, not to mention sharing the mainstream views simultaneously and reflecting such views to the DC members representing him.

President, we have seen many ridiculous circumstances as a result of the constraints imposed by this system. Let me cite a very simple incident as an example. For instance, there is a need for an additional zebra crossing to be placed near a housing estate. Even though a zebra crossing is a very simple matter, it could still lead to endless disputes. While some people suggest that the zebra crossing be placed at one end of a road, some suggest that it be placed at the other end, and some even suggest it be placed in the middle of the road. Even the placing of an additional zebra crossing may lead disputes that span two to three years. President, the situation will be even more alarming if a footbridge is to be built, for the dispute may even last five to seven years. While some people might suggest that the footbridge be built on the left, some might suggest it be built on the right. Should everyone agree that the footbridge be built one day, we might find in future that no one uses the footbridge after it is built. President, this issue has recently been discussed by the Public Accounts Committee (PAC) of the Legislative Council. It is found that a lot of money,

amounting to a dozen million dollars, was spent on building a footbridge. However, it was found that the footbridge was being used by no one. Why? Because there were indeed such demands during the initial construction period, but there has actually been a change in the needs of the community upon the completion of the footbridge after the Government really allocated funds to have it built after years of dispute in the community, with the nearby Mass Transit Railway exit having been probably moved elsewhere. Hence, the change in the direction of pedestrian flow has resulted in no one using the footbridge. This explains why the PAC has to hold meetings to study these issues: Why has the Hong Kong Government constructed so many footbridges and yet no one is using them? What are the functions of these footbridges? Should they be demolished? Apparently, these footbridges should not be demolished. This is really a waste of public money.

President, you can imagine that the scattering of districts and the narrow electorate bases have direct implications on whether the DCs can undertake district-based planning. President, the next issue I would like to raise relates to inadequate resources. This issue is a direct factor preventing DC members from giving play to their functions as district representatives. Insofar as this issue is concerned, I find it easier to resolve, so long as the Government is prepared to allocate funds. However, the delineation of the DC boundaries and the numbers of electors must be dealt with as longer-term issues. At present, this problem has become politicized and more complicated. Add to this the Government's constitutional reform package and the so-called DC proposal, it is difficult for this problem to be resolved in the short run.

Ms Miriam LAU is not in the Chamber at the moment. Just now, she queried why my amendment had failed to mention a solution to the problem. Frankly speaking, President, I do not know what solution I can propose. I think that a "major surgery" might be required to solve the problem. President, my amendment actually calls on the Government to "thoroughly consider expanding the constituencies of District Councils and allocate more resources". President, this request concerns the principle and direction. The problem cannot be resolved by simply saying a few words in this Chamber today. Actually, this problem has existed for a long time. The Government is also aware of the crux of the problem. Therefore, the Government and the Legislative Council must sit

down and carefully examine the existing DC system. Is there actually a need to review the delineation of districts and the numbers of electors again?

President, this is the main reason for me to propose the amendment today.

MR JAMES TO (in Cantonese): President, only the Legislative Council and DCs remained after the representative system was changed from three to two tiers with the abolition of the two Municipal Councils which held the most solid powers. Subsequently, all administrative power was held by the central authorities — of course, I am referring to the central authorities in Hong Kong.

I still recall that government officials undertook in this Chamber back then that, after the so-called "scrapping of the Municipal Councils", the functions and resources of the 18 DCs would be increased and consideration would be given to deepening the level of the DCs and enhancing their functions. However, with the passage of a decade, despite some reforms to district administration after 2006, the Government only allocated funds to DCs in 2008 to enable them to participate in the management of some district facilities as well as increasing the annual funding allocated to the DCs for injection into community engagement activities and district-based minor works, with a view to undertaking various events and projects proposed by the DCs. However, insofar as these reforms are concerned, not only is the scale too small, the pace is also too slow and effectiveness too little.

In order to make fundamental reform in district administration, the first step to take is to abolish the appointed and ex-officio seats. Unfortunately, despite the passage of 13 years since the reunification, such a third-world and backward political system still remains. What is more, it has even become a tool for defending the Government. While the appointed system ought to be abolished, it has, however, become one of the bargaining chips for the Government in its negotiations with political parties over the constitutional reform issue. Only through abolishing the appointment system can the constitutional system in Hong Kong move towards full democratization and constitutional reform be activated. Only through getting rid of all appointed DC seats and "bidding farewell" to ex-officio seats, which means that there is no need to take care of some of the vested interest of the Government, can fully elected

DCs be genuinely accountable to the public. It is only on this premise that increasing the powers and responsibilities of DCs can bring about greater well-being to people living in the districts.

With the introduction of full popular elections, the DCs should be given more powers and responsibilities, including the powers of appointment and dismissal, the power to manage district-based facilities, the power of policy making and the power of financial management. Of course, the powers and responsibilities of the DCs should not be unlimited. I think that the DCs should not be given the power to undertake planning of territory-wide facilities. With respect to this point, I will explain the views of the Democratic Party later.

First of all, with respect to the powers of appointment and dismissal, the Democratic Party calls on the Government to provide the DCs with independent secretariats that can employ staff independently and flexibly, assist the DCs in undertaking council business, study policy-related matters, co-ordinate projects decided by the DCs, and so on. The secretariats can provide the DCs with more professional services only when the need to rely on the Government's bureaucratic structure is obviated and unnecessary political interference from the Government denied.

As regards the powers and responsibilities of the DCs in undertaking planning, the motion proposed by Prof Patrick LAU today mainly seeks to upgrade the role played by DCs in district planning from a target for consultation by the Government to a decision-maker for districts. Of course, this idea seems quite good because since the "scrapping of the Municipal Councils", the Democratic Party has been calling on the Government to increase the functions, powers and responsibilities of the DCs. The motion today, if passed, and if the Government is willing to heed the views of this Council, can at least enable the DCs to start empowering themselves from undertaking planning of district facilities to becoming truly capable of being accountable to the public for decisions made in respect of district affairs. Furthermore, the importance of planning lies in the provision of suitable public facilities to meet the needs of the people, such as examining the adequacy of the land available in the districts for various usages and the facilities provided therein, and so on. All these are the elements required for improving the living environment of the communities. As

the DCs are accountable for the affairs of their respective districts, they are naturally duty-bound to understand the needs of the districts and offer feasible proposals on land use and facilities provided in the districts. In exercising their powers, the DCs have to be responsible for any mistake made in undertaking planning in future by allowing their seats to be returned by the public through direct elections, or allowing the public to choose their own representatives.

However, the Democratic Party holds that the authority of the DCs should be confined to district-based facilities, such as community halls, cultural and recreational facilities, open spaces, and so on. Some territory-wide facilities, such as public housing, refuse recovery yards, incinerators, and so on, will go beyond the authority we consider the DCs should carry. These territory-wide public facilities are not based on the people living in the respective districts. Instead, they should be considered as a territory-wide planning issue. For instance, the territory's largest landfill is located in Tuen Mun, and the Government has just planned to construct a major incineration facility in the district, alongside with other highly polluting and obnoxious facilities of various scales.

A survey conducted by the Hong Kong Environmental Protection Association has found that nearly 80% of the people think that it is unfair to Tuen Mun residents as the Government has often chosen Tuen Mun to accommodate polluting and obnoxious facilities, thereby affecting the environment of the district and the health of the residents therein. However, the Government has gone ahead despite opposition by forcibly placing all these facilities in Tuen Mun. All these issues are attributed to territory-wide planning. However, Members can imagine what will happen should the DCs become a decision-making organ. I am worried that the situation will only get even worse.

First of all, no DC or district representative council will be willing to accept these obnoxious facilities. In other words, this will only turn into political struggles among DCs in the end. Naturally, these facilities will end up being built in the DC with the least bargaining power. Having said that, considering that so many heavily polluting and obnoxious facilities have been built in Tuen Mun, the district will very easily become a sacrifice in the political struggles among DCs. Even though the residents in Tuen Mun have grievances, there is nowhere they can turn to for airing their grievances. By then, the

obnoxious facilities in Tuen Mun might further be increased, and pollution further aggravated.

Under the existing political system, the DCs are not required to be fully accountable to the people in their respective districts. Even if there are problems with district planning, such as those experienced in Tuen Mun or Tin Shui Wai, members of the public can still not reflect their views on DCs or DC members with their ballots, so long as the Government continues to appoint DC members and retain the ex-officio system.

Therefore, under a defective political system, any measure to upgrade the powers and responsibilities of DCs might, on the contrary, become a sharp blade that would jeopardize the living environment of the districts. Therefore, the Democratic Party cannot support any motion lacking the elements of democratizing the DCs. At the same time, we must take into account the impact of territory-wide obnoxious facilities on the districts. For this reason, the Democratic Party cannot support any amendment and motion supporting allowing the DCs to decide on territory-wide facilities.

MR PAUL TSE (in Cantonese): President, there is this Guangdong proverb that "ferocious tigers are not as good as worms in the local area". Many Honourable colleagues have earlier referred to some obnoxious facilities in the territory, and when we consider the matter, we will naturally look at it from the angle of Hong Kong as a whole. However, in proposing this amendment today, I actually want to consider whether consideration from the tourism angle can be made in the context of districts, that is, from the angle of worms in the local area — the term "worms" is not derogatory, and it is simply used to denote familiarity with the local area, that is, the worms know the area inside out. The proposal may not be less effective than our large tourism infrastructures constructed with thousands of million dollars; there may even be more characteristics. Moreover, this can also induce appropriate support for a lot of traditional social customs and practices, characteristics and local conventions that have been neglected, turning them into rich tourism resources.

The amendment I am going to move today is actually very similar to that proposed by Ms Miriam LAU; both of them discuss how the characteristics and resources for tourism could be developed in the local communities. But I would like to add some points: first, we very often have communication with DC members, and I have the impression that some DC members always said that some tourism facilities in their districts were outstanding in terms of historical heritage, characteristics and potentials for development. However, nothing would be done after they have raised the point, and I think that is really a waste because similar things have happened year after year.

I have found from some of my studies that the Government — especially the department responsible for the co-ordination and development of tourism resources, that is, the Tourism Commission — is responsible for the development of our tourism resources, but while it is busy undertaking large-scale infrastructural projects, I am afraid it may not be mentally and physically ready and it may not have mechanisms for closer, formal and more substantive communication or collaboration with DC members from different districts on a regular basis. More often than not, DC members only have the opportunities to express their views on tourism development in their respective districts during exchanges with Legislative Council Members. It is a pity that their views are very often not followed up in a concrete manner. I am afraid that even the Legislative Council Member representing the tourism sector may only refer to such matters in passing when he has the opportunities, or when he proposes formal motions and questions. Yet, I am afraid his role and capacity may serve limited functions in promoting community tourism in Hong Kong.

In my opinion, the motion moved by Prof Patrick LAU today contains very good proposals; it can increase the powers and responsibilities of District Councils (DCs) in district planning, and even increase their powers and responsibilities in the development of tourism in their districts. Let me give an example. In the last Legislative Session, there was a funding item for the districts — if my memory is correct, it should be a \$10 million funding for holding mega events. Nonetheless, since the earmarking of the funding, it appears that none of the districts has undertaken any projects or organized any mega events. Furthermore, we have not received any information from the media, the public or the reports to the Legislative Council, which is really a great pity.

Where circumstances permit, I think that DC members and DCs should be given the initiative and powers and responsibilities as far as possible so that they can give full play to resources in their respective districts which, in their opinion, offer the greatest potentials and value of appreciation. This is the first point.

On the second point, it is frequently the case that the Government certainly has other ideas and it has to thoroughly consider a lot of matters. In our complicated society nowadays, everything has its pros and cons; some people will certainly be supportive while some others will have objections. Therefore, even some simple matters such as street performances or open air food establishments would often arouse controversies among people with conflicting interests. Of course, the tourism sector wants there to be more roadside food establishments and street performances, but these may also bring more hygiene and noise problems to the residents in the local districts, causing unnecessary disputes. A pluralistic society will naturally face these problems. Yet, if the Government imposes too many restrictions, and even wants to deal with these matters through central co-ordination, it will often fail to get the desired results. For instance, insofar as street performances are concerned, I understand that the Government wants to select certain places and it is keen on developing these places into street performance venues; however, it actually gets half the result with twice the effort. This reliance on government promotion is very often less effective than capitalizing on the customs and habits accumulated and formed in the districts.

Another latest example relates to local flea markets and barbecue grounds. In this particular case, some entertainment activities have been developed at Lok On Pai, Tuen Mun, for more than 10 years. Everything has been running well, but, as the Government has recently planned to undertake some construction projects, it wants to resume the land for use as temporary transfer stations, and this aroused a lot of unnecessary controversies. The opportunity does not come by easily for the local district, and it can provide the local residents with entertainment and employment opportunities. However, I find it a shame that land resumption will deprive CSSA recipients and housewives of the opportunities to make some extra income.

All in all, on the premise of not violating the general principle, I hope that DC members could be given more powers and responsibilities in district planning, so that they can make more efforts in planning, and perform greater

functions in respect of tourism facilities. In fact, quite a number of DCs have utilized some resources to conduct studies on the respective districts, and they have also published publication and books on the history, customs and habits of the districts concerned. So long as we can bring their initiatives into better play, they can become very good tourism resources. I hope the authorities will give the districts more powers and responsibilities, thereby enabling these tourism resources to be fully utilized. Thank you, President.

DR PRISCILLA LEUNG (in Cantonese): President, my amendment today mainly seeks to amend part (d) of Ms Miriam LAU's amendment concerning the "(conference of) powers and responsibilities on District Councils to participate in the planning of the major community works and ancillary facilities required by the respective districts", and I request that priority should be given to consulting DCs and respecting their views on such planning as redevelopment of old districts, building safety, harbourfront sites, environmental protection, landfills, and so on.

I am a member of the Whampoa East sub-district of Kowloon City DC. I have only been in office for three years and I may not be as experienced as Mr WOMG Kwok-hing who spoke just now. But I do have some practical experience in the operation of DCs, and I know whether the views of DCs have been respected by the Government or not.

With the governance and political situation of Hong Kong becoming more and more open, the public expectations of DCs are also rising. Very often, the topics we discuss in DCs cover ideologies, politics or even economic policies. Thus, the purely advisory role of DC members in the past has changed; people now hope that DC members can have the power to participate in the building and management of communities. Some even hope that DC members can play a part in the constitutional and political aspects. This change is probably a major trend and the future is likely to develop in this direction.

Although the Government earmarked \$300 million for DCs in 2008 for tendering district minor works at their discretion, such works were limited to pavilions, parks, footpaths, libraries, swimming pools, and so on. Moreover, DCs do not have independent secretariats, and as a Member mentioned just now,

each district will count on the District Officer. The power that DCs can exercise is thus very limited.

Today I very much wish to share my practical experience with the Government so as to show whether it is true that the views of DCs lack vision, as pointed out by Members like Mr Ronny TONG, and need not be taken too seriously. Prof Patrick LAU sitting next to me often attends our breakfast meetings. He said that the series of resolutions were only reached by a small sub-district; the truth is that they were unanimously reached by DC members of a large district consisting of over 20 small sub-districts, but they were still not respected.

Mr WONG Kwok-hing just now displayed his sense of humour and quoted my words, saying that I have inadvertently become the "Rodent Queen". I noted recently that a foreign tourist had been bitten by a large rat and I said to my colleague that I very much wanted to be rid of this nickname, but here came this problem again. So I made a phone call. Back then, the Po On Road Market in Sham Shui Po, the Yau Tsim Mong District and Kowloon City District were heavily infested by rodents. We have made a lot of efforts to discuss this problem with the Food and Environmental Hygiene Department. We held that these were not individual problems and should be escalated to the level of overall public hygiene policy, and that this problem was related to red tape in policy enforcement. As no effort was made to dispense with the red tape, the rodent problem proliferates. Despite the fact that the Rodent Infestation Rate of Mong Kok had dropped, the rodents moved to Kwun Tong, that is, Kowloon East, in the next year. I wonder if rodents know how to cross the harbour tunnel, such that these large rodents have now reached Central.

How ironic this is I agree because these problems have been broadcasted on television. I have followed up this issue for so long. I have mentioned it in this Council for a number of times and brought this district problem to the Legislative Council, only to find that the issue is given little attention here. A vendor in the Po On Road Market, frightened at the sight of rodents, passed out and ultimately died after three months of hospitalization.

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

Deputy President, do these problems exist? They do. Then, are the views of DCs respected? I hold that on the whole most of them are not respected. When I said I was going to raise this issue, my DC colleague gave me a stack of promissory notes and asked me to urge the Government to honour its promises. The colleague also wished to tell Prof Patrick LAU that the resolution was not passed by a small sub-district, but by over 20 DC members representing a whole large area including Sham Shui Po, Kowloon City and Yau Tsim Mong districts with 22 votes for, one abstention and zero vote against the resolution.

The first issue raised in this stack of documents is the Whampoa harbourfront site. In July 2009, a motion was passed by a majority vote of Kowloon City DC, which only sought to because my original motion sought to remove the site from the Application List for land sale and it was unanimously passed after amendment The amended motion sought to lower the plot ratio of 1:4 at the harbourfront. We hope that the Government can honour its promise, but it ultimately has not shown its stance. Members of Kowloon City DC recently urged their Chairman to press the Government on their behalf for fulfilling its promises.

With respect to Site 6 in Sham Shui Po, all members of Sham Shui Po DC basically oppose constructing tall buildings at the waterfront. But the Housing Department has to go its own way and recently even coerced the appointed DC member (but he is the DC Chairman) into accepting the project, but the DC rejected it all the same.

Thus, I wish to come forth and say a few words for the appointed DC members. They have ironed out many antagonistic political relationships within DCs and they have also raised many requests on behalf of DCs with the Government. But from my own experience, the Government seems to not take these unanimous views — I do not have time to finish talking about these documents because I only have seven seconds left — reached by DCs seriously. I thus hold that Prof Patrick LAU today has given us an opportunity to discuss the role of DCs (*The buzzer sounded*)

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

DR PRISCILLA LEUNG (in Cantonese): I hope that the Government will truly respect the views of DCs more.

DEPUTY PRESIDENT (in Cantonese): Dr LEUNG, your speaking time is up.

DR PRISCILLA LEUNG (in Cantonese): Thank you.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Deputy President, the District Councils (DCs) are key partners of the Government in taking forward district administration. We hope the DCs can bring their functions into play effectively, fulfil their important role and serve members of the public on the community level. In 2006, the Government conducted a review of the role and functions of DCs, and it subsequently implemented various new arrangements to strengthen the role and functions of DCs in the 18 districts throughout Hong Kong at the beginning of the current term of the DCs in January 2008. These include participation of the DCs in the management of some district facilities, and allocation of more resources to take forward the development of district minor works and community involvement activities.

Now, the DCs of various districts have already participated in the management of the district facilities, including community halls, libraries, open spaces, sports venues, public swimming pools and beaches, and so on. Taking community halls as an example, among other things, matters relating to activity booking arrangements, priorities for facilities improvement works, design of refurbishment works, and measures to increase the utilization rate are now subject to discussion and approval by the DCs. With the participation of the DCs in management, we can see that the arrangements for district facilities can now better meet the needs of members of the public.

As for the district minor works, starting from the year 2008-2009, the Government has earmarked \$300 million each year in the form of designated

capital works funding for the DCs to carry out the district minor works proposed by the DCs with a view to improving the district facilities, beautifying the living environment, and enhancing the hygiene condition. Currently, the works projects carried out by DCs of various districts include the construction or enhancement of pedestrian walkways and footbridges, as well as the improvement of community halls and recreational, cultural and sports facilities.

In addition, the DCs have also carried out greening works in various districts. The DCs are responsible for collecting the views from their respective districts, putting forth the project plans, deciding on the scope and details of the projects, drawing up the priority and timetable for their implementation, and supervising the progress of the works. Through these district minor works projects, the facilities in many districts have been improved.

Citing the landscaping works project for the Kwun Tong Promenade (Phase I) as an example, the project only took three months from conceptualization to commencement of works, including the completion of all procedures of negotiation, design, approval and tender, thereby exemplifying the flexibility of district minor works projects. According to the views of the Kwun Tong DC, the project design had been co-ordinated, modified and optimized through the efforts of inter-departmental meetings with the full co-operation between various relevant government departments and the Home Affairs Department. Now, members of the public can have more activity space along the waterfront promenade and enjoy the splendid scenery across the Victory Harbour.

Besides, we have all along attached great importance to the active role played by the DCs in taking forward initiatives of community building. Beginning from the year 2008-2009, the DCs have increased the funding for community involvement activities to \$300 million every year for organizing activities with rich local characteristics, and for launching synergy projects with local organizations with a view to addressing the needs of residents in various districts. The activities organized in various districts include providing school-based after-school tuition service for children from socially disadvantaged families whose parents may have difficulty taking care of them, arranging the bulk purchase of daily necessities for low-income families, as well as organizing visits for people with disabilities and engaging them in performing in variety

shows, and so on. Some DCs have used the funding to organize reading schemes in partnership with the Leisure and Cultural Services Department (LCSD) and various local organizations, thus complementing the public library services. Through these livelihood-based community involvement activities, the DCs are able to build up a people-oriented, caring, and co-operative community network.

Let me cite a recent example for illustration. The four DCs on Hong Kong Island have jointly launched a project entitled "Community Performing Arts Programmes Pilot Scheme", whereby the DCs have used the funding for community minor works to upgrade the hardware of community halls such as the stages, lightings and sound effects to arrange, through the LCSD, for four local small- and medium-sized professional arts troupes to conduct tour performances in these four districts with each of these troupes stationing in each district for three months, and to organize some workshops, so as to give members of the public the opportunity to appreciate and experience personally different forms of arts performance. The Scheme adequately shows that the DCs are fully able to consider issues beyond their respective district boundaries.

In the light of the needs of various districts, the DCs will also provide funding to conduct surveys and researches for district projects. For instance, the Tuen Mun DC has engaged a consultant to undertake a study on the development of Tuen Mun district as a whole, whereas the Eastern DC has sponsored the North Point Harbour Conceptual Design Competition, in which the entries have been used not only for display in a public exhibition, but also for the relevant departments' reference. I believe the DCs will continue to use the increased resources to provide the Government with appropriate views on various measures and works projects.

In Hong Kong, different districts have different characteristics. The DCs can really play an important role in the development of district tourism. As Mr Paul TSE has asked about the provision of \$180 million approved by the Legislative Council early this year for organizing community activities, I would like to report on this. The increased resources are provided to the DCs for the promotion of tourist activities with rich local characteristics. For example, the Southern DC has earmarked \$3.4 million from the provision to organize the Southern District Tourism & Culture Festival with programmes including a summer beach party at Repulse Bay, tourism promotion activities at Pub Street,

Stanley, docent eco-tours, dragon boat race at Aberdeen, a mega land and water parade to pray for blessings, evening concerts, and so on.

I welcome the views put forth in the original motion and the various amendments, that the DCs can increase their participation in the management of some facilities such as refuse recovery yards, incinerators and columbarium niches, and I hope various districts will be prepared to proactively consider accepting these necessary facilities.

We are now making preparations for the 2010 Summit on District Administration. As regards the Summit this year, four district forums will be held this month, in which honest and sincere exchanges will be conducted with the DCs in regard to four areas, namely district facilities management, community involvement activities, building management and repairs, as well as district minor works. I believe this Summit will enable the DCs to effectively review the work of district administration, to exchange among themselves the experiences gained in the management of district facilities and other district affairs, and to participate earnestly in community planning.

I believe Members will feel that the role of the DCs is becoming increasingly important, and as Mr IP Kwok-him said earlier on, the work of the secretariats of DCs will become more onerous by the day. The Government has already commenced a review of the remuneration package of DC members. During the conduct of the review, we will take into account the current remuneration package for Legislative Council Members, including the provision of gratuity and medical benefits, and we will also consider the views put forward by the Independent Commission on Remuneration for Members of the DCs of the HKSAR and members of the DCs, as well as other related factors, so as to ensure that the remuneration package can be kept abreast of the times. As for the secretariats of DCs, we will provide the colleagues with befitting support in the light of actual needs, such as increased manpower.

Regarding the specific details involving other Policy Bureaux and government departments as mentioned in the motion and amendments, I will give a response to them in my concluding remarks after listening carefully to the views of Members.

Thank you, Deputy President.

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, district planning is mentioned in Prof Patrick LAU's motion on "Increasing the powers and responsibilities of District Councils in district planning" as well as the amendments proposed by eight other Members to the motion. Except for Prof Patrick LAU, who has specifically pointed out the different levels of town planning work and the work of the Planning Department (PD), I believe the district planning work mentioned by several other Members actually refers to planning in the wider sense, including local community economy, amenities and hygiene, and even public facilities, in addition to the work of the PD. In any case, development, planning, and land matters are key areas in district affairs affecting people's livelihood. Hence, I am very pleased to join the Secretary for Home Affairs in participating in the debate today to introduce to Honourable Members the concrete arrangements for collaboration between DCs and the Development Bureau and the departments under its ambit.

In terms of town planning, we have in recent years actively promoted public engagement, with a view to enhancing public acceptance of district planning and the proposed initiatives. The Development Bureau and the PD have been collaborating continuously with DCs in district planning and formulating proposals. DCs and members of the public have already had established channels to participate in our planning process. The authorities will take the initiative to consult the relevant DCs on planning initiatives.

I fully agree with the earlier remarks made by Prof LAU that the Government must take the initiative to consult, so to speak, at a very early stage, because only through consultation at a very stage can we have more room to accommodate the views of DC members. Actually, this has become our policy in recent years. For instance, the macroscopic planning work being undertaken currently, whether in the Frontier Closed Areas or new development areas, is still far from reaching the stage of formulating the Outline Zoning Plan (OZP). Yet, the relevant consultation and participation in the work by DCs have been underway for more than one year. All these processes enable us to undertake work to be commenced later according to the regional or thematic planning proposals put forth by DCs. In another example, the consultation on the planning of 14 sites in Tuen Mun East, which has just been concluded — Chairman Patrick LAU is present at the moment — has also taken onboard the views of the Tuen Mun DC, and the relevant OZPs will be submitted later.

These examples have all illustrated that DCs have been consulted well before the commencement of statutory planning.

During the process of formulating or revising statutory OZPs, the PD will, depending on the nature, consult the relevant DCs before the display of the OZPs in accordance with the Town Planning Ordinance and relay the views of the DCs to the Town Planning Board (TPB), so that the TPB can decide whether revisions should be made in the light of the views of the DCs. Alternatively, the PD will consult the DCs while the OZPs are on display and relay the views collected to the TPB.

In regard to planning applications, the Town Planning Ordinance has provided for a statutory consultation mechanism to collect public views through the publication of planning applications. In the meantime, the PD will submit the summary information on the relevant applications to DC members for reference. Should the relevant DC request discussion on an application at a meeting, the PD will consult the DC on the content of the application. The applicant will also be invited to attend the meeting to explain his development plan in detail. Furthermore, the PD will also consult the relevant DCs on the planning briefs proposed for comprehensive development areas and major development sites, and submit the views thus received to the TPB for consideration.

DCs are well versed in district affairs and concerned about community development. Under the present "people-oriented" planning approach, DCs actually play a very important role. I can say categorically that DCs do not exist in name only, as feared by Prof LAU. Instead, the role played by DCs is most concrete. Perhaps I should clarify here Prof LAU's allusion to some DC members having reflected to him that the Director of Planning has not visited their districts to listen to their views. Mr WONG Kwok-hing has also reflected that it appeared to him that no senior officials had ever attended DC meetings. This is far from the truth indeed.

During a review of the functions of DCs in 2006, the then Chief Executive required more senior government officials to attend the meetings of DCs. Today, there is an internal guideline requiring departmental heads (the head or director of a department) to visit the 18 DCs at least once during each term, that

is, during the 2008-2011 DC term. A total of 22 directors have to comply with this guideline. Among these directors, five are under the Development Bureau, including the Director of Lands, Director of Planning, Director of Civil Engineering and Development, Director of Drainage Services, and Director of Buildings. In addition to Directors of Departments, District Lands Officers and District Planning Officers have also frequently attended the meetings of the relevant DCs.

In addition to this guideline, we will also consult the DCs in our own way. For instance, in the past three years, I have personally visited 16 of the 18 DCs and listened to DC members' views in one session during each visit. We have also attended six regular meetings held by the Home Affairs Department and met with the Chairmen and Vice Chairmen of the 18 DCs. The seventh meeting will be held later this month to discuss the Urban Renewal Strategy (URS) review. The Development Bureau has also visited the 18 DCs once on two territory-wide topics, namely heritage conversation and the harbourfront. In other words, we have paid 36 visits to the DCs solely for the purpose of discussing these two topics. During the URS review, we invited seven DCs to become our partners to undertake District Aspirations Study in various districts.

Let me cite the planning for the Kai Tak Development as an example. Back then, the PD formulated a public engagement strategy comprising three stages for proposals to be raised on establishing the public's vision for Kai Tak, discussing various development concepts and even detailed land use initiatives. From 2004 to 2006, a major public engagement drive was held in an effort to implement the idea of "planning with the people". Throughout the public engagement programme, the PD joined the Kwun Tong DC, the Wong Tai Sin DC and the Kowloon City DC to organize a number of public forums and briefings and conducted site inspections, as well as organizing briefing sessions and consultative meetings for the DCs and listening to the views of DCs members. These views cover matters in various aspects, including traffic and transport, environmental protection, development density, height restrictions, and so on. All this work is very important to the PD in drafting development concepts and devising preliminary outline development plans.

Deputy President, this public engagement approach, which was a success with Kai Tak as mentioned by me earlier, was later applied to the URS review. Similarly, the review was structured into three stages, namely "Envisioning", "Public Engagement" and "Consensus Building", over a period of two years. At each stage, the Development Bureau would take the initiative to actively consult the DCs and further — as mentioned by me earlier — invited the seven DCs (the Central and Western DC, the Wan Chai DC, the Yau Tsim Mong DC, the Kowloon City DC, the Sham Shui Po DC, the Kwun Tong DC and the Tsuen Wan DC) in the target areas of the Urban Renewal Authority (URA) to undertake District Aspirations Study with a view to gaining an understanding of the renewal aspirations of various districts. The focus of the Study is to begin with the district to find out the characteristics of each district. Moreover, efforts were made to explore the specific aspirations of the district for the implementation of the four major renewal strategies, namely redevelopment, rehabilitation, revitalization and preservation, in the respective districts. The expenses on commissioning professional teams for the relevant Study were borne by the URA. Perhaps this approach coincides with one of the proposals raised by Prof Patrick LAU in the motion.

The proposals submitted by Members reflect that Members attach importance to the local characteristics of various districts and thus consider that DCs can play a more important role by putting forth "community-based" and practicable improvement plans, with a view to better answering the aspirations of the public for quality urban life. As Members may recall, the "bottom-up" and "community-based" approaches are precisely the directions proposed by us in the current URS review. The future establishment of advisory platforms for revitalization of old areas, comprising professionals, DC members and members of the community, can precisely promote district planning work for revitalization of old areas. Under our current proposal, although these advisory platforms should not become part of DCs or one of the committees established under them, the participation of DC members and interactive discussions between DC members and the DCs of their respective districts play a key role in the conceived specific operation of these platforms. In fact, we are currently studying whether these advisory platforms should be bigger or smaller than the delineation of DCs.

Therefore, with respect to this point, I will give full consideration to the fact that — as pointed out by Mr Ronny TONG just now — a larger scope may sometimes be more beneficial to the balanced development of the district as a whole.

The biggest achievement of planning work is the implementation of plans. This explains why a number of Members stated in their speeches earlier that, apart from undertaking district planning, they also hope to see these plans implemented. Therefore, the Development Bureau attaches great importance to the implementation of initiatives or projects proposed in consultation with the DCs, or even inviting DCs to become our partners through the allocation of funding to district-based minor works and district programmes.

One of the policy areas in which continued collaboration has been forged with DCs is harbourfront enhancement. During the development of harbourfront sites, we will consult DCs at different stages. During the initial planning period, we will consult DCs on such matters as the preliminary development proposals, whether the development complements the harbourfront, and how to link up with the adjoining areas to enhance connectivity and accessibility to the harbourfront, and so on. The Hong Kong Island East Harbourfront Study currently undertaken by the PD is a case in point. In fact, the Eastern DC very actively participates in the Study. The DC is of the view that, in order to give full play to the characteristics of the Victoria Harbour, we should not give up exploring practicable enhancement proposals just because the Eastern Corridor has taken up some space of the harbourfront. I admire the enthusiastic devotion of the DC, and am very pleased to find that the Study has really put forth some practicable options.

During the implementation of proposals, we will continue to consult the DCs on the design of individual development projects and the implementation of details. For instance, we consulted the Kowloon City DC and the Yau Tsim Mong DC in June and July last year respectively on the design concept and proposed content of the Initial Development of Hung Hom Waterfront Promenade. The Central and Western DC was also consulted in May this year on the advance works of the new Central harbourfront promenade. We have also worked jointly with the DC to enhance and vitalize the waterfront. In order

to complement the Stage I development of the waterfront promenade along Kwun Tong undertaken by the Civil Engineering and Development Department, the Kwun Tong DC undertook a district-based minor works project to enable the promenade to provide more open space for public use.

It is very common for DCs to commission professionals and non-governmental organizations to undertake planning study and preparing urban design proposals for consideration by the authorities, as mentioned by Secretary TSANG Tak-sing earlier. In fact, studies and work of this nature have been and are being undertaken currently. Examples are the study completed by the Southern DC in 2007 on "Towards Sustainable Tourism Development in Southern District: The Role of Wong Chuk Hang and its Adjoining Areas" and the "North Point Harbour Conceptual Design Competition" organized by the Eastern DC last year. The Development Bureau welcomes DCs to undertake studies of this kind and will make reference to the reports prepared by them.

In his motion, Prof Patrick LAU has made special reference to greening work. I have also noticed that the Deputy President is also concerned about the greening work undertaken in districts. In fact, the Government is committed to implementing diversified greening work, with emphasis being placed on both quality and quantity. In addition to massive planting, we also attach importance to greening, landscape planning and design quality. DCs are precisely one of our key partners in undertaking greening work. During the implementation of general public works projects, the relevant government departments will definitely consult DCs, particularly prior to applying to the Legislative Council for funding. As for public works projects undertaken particularly for greening programmes with an estimated expenditure of more than \$3 million, the relevant departments will consult the relevant DCs on matters such as the proposed landscape master plan, the handling of the existing trees on the construction sites, and so on. Relatively recent examples include the District open space in Area 18, Tung Chung, Lantau, the Aldrich Bay Park, the recreational development project at North Ap Lei Chau Reclamation and the playground in Ngau Chi Wan, Wong Tai Sin.

The Greening Master Plans are one of the Government's major initiatives in promoting greening work. In the course of formulating the Greening Master

Plans, the Civil Engineering and Development Department will adopt the approach of enhancing district engagement by inviting various DCs to set up district engagement groups to jointly study the characteristics and unique needs of various districts, prepare an overall greening outline plan, and identify greening themes, planting species and proposed greening measures. Members who are interested may refer to the pamphlet entitled "Greening Master Plan" published recently by the Civil Engineering and Development Department for detailed information on collaboration between the Government and DCs.

Mr WONG Kwok-hing's amendment has also mentioned conservation and revitalization of relics and monuments. Since the establishment of the Commissioner for Heritage's Office, the Commissioner for Heritage has been actively presenting reports to various DCs and listening to the proposals raised by various DC members. He has also visited the 18 DCs all over the territory within two years. Apart from presenting reports and holding consultations on various kinds of work on heritage conservation, we will also consult the relevant DCs on every Revitalising Historic Buildings Through Partnership Scheme. All participants of the Scheme must maintain close liaison with the DCs of the respective districts to continuously absorb their views to enable the revitalization projects to better manifest the characteristics of the districts. In this area, the Sham Shui Po DC is our closest partner because three revitalization projects, including Mei Ho House, the former Lai Chi Kok Hospital and the North Kowloon Magistracy, are all situated in Sham Shui Po District.

The Development Bureau is well aware that various DCs, being well versed in the circumstances of their respective districts, are our partners in undertaking district planning, revitalization of old areas, heritage conservation, harbourfront enhancement, and cityscape greening. I am pleased to listen to the views expressed by Members on how we can enhance collaboration with DCs. Thank you, Deputy President.

MR CHEUNG KWOK-CHE (in Cantonese): Deputy President, DCs are a structure representing public opinions, and in principle, the voices in these councils should reflect the aspirations of the people. Unfortunately, there is not only an appointment system under the DC structure, in a DC, divergent views

among voters of different constituencies may emerge as the size of a constituency is too small. It becomes difficult for the Government to make proper policy planning. Some community facilities would probably end up being useless white elephants wasting enormous social resources.

There have long been voices in society commenting that the current electorate base of some 10 000 to 20 000 voters for a constituency is too small. For that reason, DCs tend to "sacrifice the common good for oneself" in the sense that they would put the interests of the respective constituencies before everything else and overlook the well-being of Hong Kong or all people in the district as a whole. On issues such as determining the sites for constructing refuse collection points or mental rehabilitation facilities, hot and prolonged debates would easily arise in DCs. Also, the construction schedules of some community facilities labelled as "negative" is prone to continuous postponement.

We can take a look at our 18 DCs at present. They cover about 405 sub-constituencies and 3.3 million voters, meaning that each DC member needs to be accountable to an average of some 8 000 voters. Whether he can win the election is purely determined by several thousands of voters. As such, no matter how capable he is, nor what macro perspectives he may have in making plans for district development, he has no choice but to give priority to the interests of the local voters.

I hold that if the existing 18 DCs are streamlined to five major districts with expanded boundaries similar to the five geographical constituencies of the Legislative Council, the electorate base for each DC member will be substantially expanded as each district will cover about 600 000 voters and serve around 1.5 million people. Besides, they will need to consider district affairs from deeper, wider and macro perspectives. This will certainly help reduce some unnecessary arguments at the local level in the process of district planning. Also, this will enable an appropriate reduction in the number of DC members, and an increase in the resources allocated to each DC member accordingly. In this way, DC members will have greater room for development during their term of office, and more aspiring and capable people will be attracted to participate in politics.

In addition to enlarging the size of the constituencies, I hold that the DC appointment system should be abolished. At present, there are about 130 appointed members and ex officio members from the Heung Yee Kuk. The number is not very large, but unfairness is unfairness, why do taxpayers have to offer "free lunches" to these people who have not gone through the baptism of democracy?

The Government often says that appointed DC members have made enormous contribution to the community, hence they are not paid remunerations and allowances for doing nothing. Our focus is not on individual members, but on the unfairness of the appointment system. In essence, appointed DC members should be accountable to the Government instead of the voters, and this cripples DCs' original function of reflecting public opinions. Some appointed members do make great efforts to serve the local people. If their work is recognized by the people, they should not be afraid of going through the baptism of election.

After solving the existing problems relating to the structure of DCs, the authorities should also enhance the responsibilities and functions of DCs with a view to planning effectively the future development of the districts. It is undeniable that in recent years, the Government has enhanced the responsibilities and functions of DCs gradually. For example, the 18 DCs are allowed to participate in the management of some community facilities, and over \$300 million of funds are allocated to DCs annually so that they can implement some district minor works independently for the purpose of improving the community environment.

However, these responsibilities and functions have nothing to do with overall district planning. DCs' work in this regard is still nominal, without any substance. Even if there are opinions, usually they can be expressed only after the release of the relevant plans. Public opinions and views cannot directly reach the authorities in a bottom-up manner during the inception of planning.

Hence I agree that DCs should participate in the planning of district land use, and it would be all the more better if DCs can have a say in addition to offering opinions. We have to understand that land use of a district should be perceived in the interest of the local residents. Policies without public

participation would inevitably be criticized for being unrealistic and outdated when they are rolled out. I cannot think of any harms such an approach will do to the Government and the people.

I believe that an optimized structure of DCs with suitable powers and responsibilities will help reduce blunders in administration by the Government. More importantly, it will improve people's livelihood and thereby benefit the development of Hong Kong as a whole.

Deputy President, I so submit.

MR CHEUNG HOK-MING (in Cantonese): Deputy President, first of all, I have to make a declaration, I am the Chairman of Tai Po DC. From 1982 to 2007, DCs have been organs of a purely advisory nature with no solid powers and responsibilities. Since 2008, the Government has enhanced the functions of DCs to allow DCs to participate in the management of district facilities and grant approval for minor works. At the same time, DCs have been allocated \$30 million each for the implementation of the two tasks mentioned. The Administration has fulfilled the pledge of enhancing the functions of DCs made at the dissolution of the two former Municipal Councils, and it should be commended for that. However, there are many inadequacies with the arrangement, leaving much room for improvement in devolving powers and responsibilities to DCs.

In respect of the approval of district minor works, it is only reasonable for DCs to play a significant role in the process of planning, approving funding and monitoring the works. Regrettably, the Government adopts a fossilized system and complicated administrative procedures for the handling of works projects. It requires technical assessments to be conducted by consultancies on all works projects, but such assessments take time and the consultancy fees are expensive. Therefore, the Government should examine the possibility of granting exemption to certain simple works below a specified cost, so that DCs do not have to employ consultancies to conduct assessments for these works, thus enhancing the efficiency of approving works projects.

Moreover, sometimes, government departments will lack communication and suffer from unclear distribution of responsibilities. When a minor works project involves several departments, and if the departments concerned fail to work together and co-ordinate themselves effectively, the works projects will be dragged on and delayed. Take the installation of LED television screens on the external walls of community halls as an example. First, the installation has to be approved by the DC concerned. Then, since the installation involves works on external walls, approval of the Architectural Services Department has to be sought. As the installation also involves electricity supply, it eventually has to wait for the approval from the Electrical and Mechanical Services Department. Hence, the works project may not be ready for tender even several months after the DC concerned has granted the approval.

Besides, many DC members are dissatisfied with the limited power devolved for approving minor works at present, for they cannot participate in the approval of tenders and selection of consultancies, and in the event of delay in projects, they are not empowered to take follow-up actions.

Deputy President, apart from the problems relating to the powers and responsibilities of DCs in approving minor works projects, I would like to express my concern for district planning. In the past, in planning many large-scale infrastructure projects, the authorities failed to conduct extensive consultation at the district level in advance, resulting in continuing disputes. Moreover, society always has a strong aspiration for maintaining good air ventilation in the community and an overall harmonious urban landscape. Despite that, screen-like buildings continue to be built in new development areas and redevelopment projects in urban areas, which is against the will of the public.

The Chief Executive did promise to lower development density as appropriate in the policy address in 2007. However, if my memory has not failed me, among the 109 Outline Zoning Plans (OZP) of the territory at present, 58 OZPs are not subject to comprehensive development restrictions. Moreover, since 2007, the Planning Department has been making slow progress, for it has reviewed only 10 of those OZPs so far. According to the existing procedure, upon the completion of the review of OZPs, the OZPs will be open for public inspection by notices, while DCs will be consulted perfunctorily. The views

received will be submitted to the Town Planning Board for scrutiny, but whether the views of DCs will be accepted is unknown.

Deputy President, DCs have a better and deeper understanding of the actual situation of local districts than the departments concerned. Why do the authorities not listen to the views of DCs beforehand in the course of reviewing those plans? Why are DCs not allowed to participate in such work direct? This will facilitate the formulation of planning policies that better answer the aspirations of the people, pre-empting deadlocks that may arise from future disputes and thereby minimizing the grievances in society. The crux of the problem lies in DCs actually lacking solid powers and responsibilities in their participation in district planning, where the actual situation of the districts and views of residents cannot be conveyed to the top level. As time passes, the relation between the executive and the public becomes tense.

Deputy President, to enhance the effectiveness of district planning, the authorities should provide additional resource to DCs for the conduct of professional studies on district planning, and enhance the manpower support and resources for secretariats of DCs. The present staff establishment of secretariats of DCs is inadequate. Take Tai Po DC, which I am familiar with, as an example. Colleagues designated for the work of the secretariat of the DC only include: five Executive Officers, one Official Languages Officer and one Clerical Assistant. They are responsible for the work related to the many committees under the DC, as well as the ten-odd working groups. Their workload is extremely heavy. For this reason, to enhance the operation of DCs and to allow staff of secretariats to concentrate on respective work, the establishment and manpower of secretariats must be expanded appropriately, so that secretariats can assist DCs to discharge their functions effectively.

Deputy President, I so submit.

MR LAU WONG-FAT (in Cantonese): Deputy President, I have to make a declaration, I am the Chairman of Tuen Mun DC.

Thanks to the efforts made by members of society over the years, in 2008, the Government at last enhanced the functions of DCs in certain aspects, to allow DCs to participate in the management of certain district facilities. The fact proves that DCs are not only fully capable of fulfilling the new task, but also undertaking greater responsibilities.

Today, Prof Patrick LAU proposed the motion on "Increasing the powers and responsibilities of District Councils in district planning", which is a wholly rational act at the right timing. By now, DCs have been established for 30 years, and their contribution to society is obvious to all. I once likened the 18 DCs of Hong Kong to a "Treasure Bowl". But whether this Treasure Bowl will play a major or minor role, and whether its influence will be extensive or limited, it all depends on the attitude and stance of the Government.

Prof LAU's proposal of conferring DCs with powers and responsibilities for participating in district planning is good intentioned, and it is a feasible proposal. The Panel on Development of this Council visited the Netherlands some years ago to pay site visits, conduct interviews and learn from their experience. I was greatly impressed by one point, namely the country adopts a bottom-up approach in district planning. The merit of such an approach is that the views and creative ideas of the public, who understand the actual situation of the districts, can be conveyed to the central government promptly. This will reduce the possibilities of causing disputes, misunderstandings and confrontations between the two sides, while enhancing the efficiency of and adding characteristics to planning work. Above all, it can ensure that the planning can suit the needs of local residents.

If the proposal to allow DCs to participate in district planning is accepted by the authorities, the Government will provide additional resources to DCs for engagement of professionals to conduct various thematic planning studies and urban design, which will be an essential complementary arrangement.

Deputy President, as I said just now, the content of this motion is proposed at a perfect timing, for one of the major points in the constitutional reform proposal put forth by the Government currently is to increase significantly the

opportunities for DC members to enter the Legislative Council to participate in politics. I think the proposal complies fully with the actual situation in Hong Kong. No matter what the voting result on the proposal of the constitutional reform is, the Government should continue implementing and enhancing the powers and responsibilities of DCs further and provide additional resources to DCs, so that DCs can serve all the districts better and fulfil the important role of nurturing talents for participation in politics.

With these remarks, Deputy President, I support the motion moved by Prof Patrick LAU.

MR WONG YUNG-KAN (in Cantonese): Deputy President, I would like to declare my interest first. I have been a member of Tai Po DC since 1991; it has been 19 years by now. As an insider, I would comment that the importance of DCs has never been recognized by the Government. When the two former Municipal Councils were abolished in 2000, the Government indicated that some of the powers of the two Municipal Councils would be devolved to DCs. By 2006, the Government expanded the powers and responsibilities of DCs, but there was no significant breakthrough, and DCs were still playing an advisory role. It is stipulated in Article 97 of the Basic Law that district organizations which are not organs of political power may be consulted by the Government on district administration and other affairs, or to be responsible for providing services in such fields as culture, recreation and environmental sanitation. But as the present situation stands, in the provision of services in culture, recreation and environmental sanitation, DCs are still playing an advisory role as in the past. For DCs to provide these services, they must first be given the powers and responsibilities in planning. No wonder Mr WONG Kwok-hing uses this as the opening of his amendment.

Today, Prof Patrick LAU has proposed a very good question and some of the amendments are constructive. Among them is the proposal from Mr IP Kwok-him. He proposes enhancing the manpower and financial support for DC members and secretariats of DCs, which is essential to the proper discharge of powers and responsibilities in planning by DCs. Regarding the proposals from

Ms Miriam LAU and Mr Paul TSE, which specify the enhancement of planning and development of tourism resources featuring local characteristics, they sound good to me, as I am serving the Agriculture and Fisheries sector. There are a lot of cultural resources of the agricultural and fishery sectors worthy of conservation and further exploration in various districts in the territory. These resources are the major components of eco-tourism and the leisure agricultural and fishery trade. With extensive exploration and utilization of these resources, more employment opportunities will be created for members of the agricultural and fishery sector upon restructuring. Regrettably, the proposal of constructing a fishermen's wharf has been voted down by the Southern DC.

Regarding Mr Ronny TONG's proposal of expanding DC constituencies, I think the proposal of dividing Hong Kong into several major communities, in respect of which DCs should collaborate with the Planning Department, or even the Legislative Council, as proposed by Mr WONG Kwok-hing, should be able to ease the worry of Mr Ronny TONG. Actually, with the expansion of the powers and responsibilities of DCs, the demand for talents will be keen, whereas the proposal of Mr Ronny TONG will mean a reduction in the number of DC members, which can backfire.

Deputy President, initially, my speech should just end here. However, the amendments of Mr Frederick FUNG and Mr James TO advocate the complete abolition of all appointed seats in DCs, while Mr TO fervently demands the abolition of ex officio seats. Actually, they are making use of this motion, which is completely irrelevant to the constitutional reform, to peddle the idea of abolishing the appointed seats in DCs. What they are doing is undoubtedly a misuse of debate time. This will do no good to the discussion on the main subject, and will also be useless in settling the constitutional reform issue. Hence, I cannot help saying some more about this.

That the functions of DCs have not been brought into full play is not because of the existence of appointed seats or ex officio seats. If the Government does attach importance to DCs sincerely, even if all DC members were returned by direct elections, the planning powers and responsibilities of

DCs would still not be enhanced. Practice is the sole criterion for testing truth. In 1994, the last term of district boards under the British-Hong Kong Government saw the complete abolition of appointed seats. During that term, district boards of urban districts were all returned by direct elections. The political party of the two Members concerned had won all the say in individual district boards, and those districts became the utopia of the two Members. However, will the two Members tell this Council whether the powers and responsibilities in district planning possessed by the district boards of that term can be described as unprecedented?

As for ex officio members, meaning members of DCs returned in their capacity as Chairmen of the Rural Committees of the New Territories — colleagues of this Council, Mr LAU Wong-fat and Mr CHEUNG Hok-ming, and Mr Daniel LAM, a former Member of this Council of the previous term, are or have been ex officio members of DCs in their capacity as Chairmen of the Rural Committees — everyone knows that though they are called "ex officio" members, it does not mean that they can take it for granted that they will get the seats. They too have to undergo the democratic procedure of election to be elected members of DCs. Planning will inevitably link with land use. In terms of land resources, with the exception of the several rural areas on Lantau Island, the zones represented by ex officio DC members will always be larger than those represented by directly-elected DC members. One can hardly imagine that district planning in the New Territories can be implemented without the participation of Chairmen of Rural Committees.

In the development history of district administration in Hong Kong, there was a very short period when ex officio seats were included in the district boards of urban districts, and this responsibility was shared among all members of the Urban Council. Mr Frederick FUNG is the only survivor in this Council who has had the precious opportunity to be an ex officio member of Sham Shui Po District Board in his capacity as member of the Urban Council for five years. If Mr James TO considers that ex officio members are obstacles to the increase of powers and responsibilities of DCs in district planning. Mr FUNG, basing on your experience, will you clarify that for the failure to enhance the district

planning powers and responsibilities of Shum Shui Po District Board under the Government back then, whether you and appointed District Board members should bear the same share of blame?

Deputy President, I so submit.

DR PAN PEY-CHYOU (in Cantonese): Deputy President, today, Prof Patrick LAU has moved a motion on "Increasing the powers and responsibilities of District Councils in district planning", hoping that the Government will increase the powers of and resources for DCs, so that the facilities and planning at the district level can be improved. I very much agree with this. DCs are in the front line in district administration. All along, they have acted as a bridge for communication with the public and gauging public opinions. Hence, I consider that the Government should implement various measures to strengthen the roles and functions of DCs, so that they may play a bigger role in addressing the needs of various districts in terms of their environment and people's livelihood.

Since the abolition of the two Municipal Councils in 1999, many people think that the functions of DCs will be enhanced to form a cornerstone of the representative government framework of Hong Kong and play an important role. However, today, the power of DCs is seriously inadequate in planning large-scale facilities and even certain minor works, though we know that DCs now have a little bit power over certain minor works. When it comes to the planning of relatively large-scale facilities, as well as the formulation of policies, the role of DCs is fundamentally advisory in nature, merely for compliance with the principle of "Hong Kong people ruling Hong Kong". The Government will only listen to their views at will. The executive-led approach is adopted in making final decisions and the implementation of policies, where the power of policymaking is vested completely in the Government. I think the present situation can be likened to a lady with bound feet in the past, for she can neither take a big step forward nor walk freely around.

Recently, the Government promotes the theme of "Act Now", saying that the constitutional reform should be taken forward. However, I think all DCs can

now be compared to a boat sailing with its anchor dropped, where it cannot set sail in actuality. In my view, if the Government claims that it will devolve power to DCs, it should stop sitting idle and paying lip-service only. Rather, it should take actions to give DCs more say. For many issues relating to the livelihood of the community, such as transport, cultural conservation, housing and even constitutional reform, DCs should have their part to play in making decisions instead of playing a purely advisory role. This will enable DC members to bring their knowledge and district network into full play, and the decisions thus made will be closer to the views of the people.

At present, many policies and measures of the Government, though passed by the executive and the legislature, are opposed at the district level. The construction of the MTR West Island Line and South Island Line sometime ago is a case in point. This is certainly a good policy from the overall perspective, but at the district level, it brings about many practical problems, and problems come one after another. For instance, there are problems with the impact on the stratum, the siting of stations, the locations of exits, the locations of ventilation openings, the closeness between rails and certain sensitive facilities, say rehabilitation facilities, and so on. Many such similar problems remain unsolved at present. Take the reorganization of bus routes as another example. This measure is indeed beneficial to the environment. The streamlining of bus routes will benefit everyone and should have gained support at the district level. However, since the Government does not allow DCs to participate in it, nor does it listen to the views of members, but just rides roughshod over their views, the proposal meets with opposition at the district level. Actually, many members of the community are willing to put forth objective and practical proposals. For instance, some DC members and Community Officers of the Hong Kong Federation of Trade Unions (FTU) have put forth proposals to optimize the bus routes of Hong Kong Island, complemented by interchange concessions, to minimize the inconvenience caused to the public by the reorganization of bus routes. But the Government remains indifferent to these proposals. This is undoubtedly throwing a wet blanket on enthusiastic members of the community.

Actually, DCs are most familiar with members in the community, hence, it is most appropriate for them to follow up certain policies and make relevant

decisions. Take the conservation of historic monuments as an example. Members of the community are most familiar with the culture, history and customs of their own districts, so it is most desirable to let them follow up and promote the conservation of historic monuments. Sometime ago, the FTU put forth a proposal on the conservation and revitalization of historic monuments focusing on a community-based approach and the livelihood of the grassroots, hoping that through the participation of the community, the history and culture of wage earners could be preserved. At that time, we proposed the participation of district organizations in conservation undertakings of historic monuments, so that civil organizations and district organizations may make undertakings on the conservation of historic monuments. It is hoped that historic monuments, the districts and the community would be linked closely together, achieving the integration of historic monuments with the community. I believe DCs can play a significant role in this.

Hence, I believe the motion proposed by Prof LAU and the amendments proposed by certain colleagues today will very likely be passed. I hope that upon the passage of the motion, the Government will consider seriously how the functions of DCs can be strengthened. It should by all means enhance the functions and roles of DCs in the implementation of overall policies and community development, so that the Government, the Legislative Council and DCs will develop a closer and organic tripartite integration. This will not only tie in with the present constitutional reform proposal, but also facilitate the co-operation and division of work among the various councils in serving the people of Hong Kong.

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

MRS REGINA IP (in Cantonese): Deputy President, first, I have to thank Prof Patrick LAU for proposing the motion on "Increasing the powers and responsibilities of District Councils in district planning" today, and I appreciate his speech.

I think this motion debate has come at the right timing, for it is really necessary to enhance the role of DCs in district planning. Though Hong Kong is a small place with an area of only 1 078 sq km, but this tiny piece of land

includes all the necessities, and individual districts have their own characteristics. For instance, some districts have geological parks. As for the Southern District, since it used to be a fishing port where many fishermen resided there, some heritage of fishing villages has been conserved. Sai Kung also has its own characteristics. Hence, in the course of planning, due regard should be given to the characteristics of individual districts, putting the "bottom-up" approach into actual practice. It is essential to do so.

Surely, I know that the Government has pointed out in the URS review that a bottom-up approach will be adopted to consult the views of various districts. However, this consultation approach is only applicable to development projects introduced by the Urban Renewal Authority, but the majority of residents are concerned about the planning of private development projects. The Deputy President must be aware of this.

We understand that we have to promote employment through economic development. But today, why does the Government still allow developers to build skyscrapers of several dozens storeys at the Mid-Levels? Why the only access road to the conference hotel concerned is not built along the Queen's Road East but the extremely narrow Kennedy Road, and why does the middle class have to be sacrificed for the sake of development? Besides, a lot of old trees have to be felled. Though new trees will be planted, we all know that newly planted trees can in no way be comparable to old trees. How can the authorities accept such kind of development? In no way can I see that the Government has given due regard to the needs of individual districts in approving private development projects. Residents of Kennedy Road at the Mid-Levels have complained to the government departments and their DC repeatedly, but the DC has not reflected their aspiration.

On the other hand, I agree with Prof Patrick LAU that the existing three-tier planning procedure is already outdated and exists only in name with no actual function. The first tier is the territory-wide comprehensive planning; the second tier is the sub-regional planning and the third tier is the OZP. Prof LAU knows this better than me. Apart from the problem of existing in name with no actual function, the lead time for planning is too long under the current procedure. Surely, I have heard government officials say that they have done a lot of consultation work. But sometimes, have the authorities gone overboard in

conducting consultations? Take the planning of the closed area at Lok Ma Chau Loop mentioned by government officials earlier as an example. Discussions on the development of Lok Ma Chau Loop started since the reunification in 1997, and I was one of the attendants of the Hong Kong/ Guangdong Co-operation Joint Conference. But to date, the Government still says that fundamental infrastructure facilities, like water and electricity supply, will only be completed by 2020, and there is a long way to go for planning specific development.

Since I am particularly concerned about the development of Lok Ma Chau Loop, I notice that the Government has indeed conducted two to three rounds of consultation. But should it conduct consultations endlessly? As in the case of the West Kowloon Cultural District project, rounds after rounds of consultation have been conducted. I recalled reading an authoritative magazine on the Mainland named Bauhinia (紫荊). There was an article titled: "West Kowloon, an eternal topic in Hong Kong" (西九，香港永恆的話題). In other words, the project will forever remain at the stage of "all talk but no action". Even when we have grown old, we may not see the development in West Kowloon. Hence, the Government must strike a balance between consultation and development.

The Government should set its own direction, and in deciding the development direction of individual districts, it must incorporate the views of the public. However, once the direction is set, it should review whether it is necessary to conduct repeated consultations. Besides, the planning procedures really take too long. I have received a complaint about the illegal occupation of Government land, where the site was used for the disposal of rubbish and construction waste. If we lodge a complaint to the Planning Department, it will say that it can do nothing due to many technical reasons, citing the excuse that the absence of OZPs has resulted in the unjustified occupation of Government land in the New Territories by the public. Hence, the planning procedures must be reviewed, and DCs should be given a more significant part to play.

Deputy President, a number of colleagues have proposed amendments, and I agree with a great many of their content. However, I disagree with the abolition of all appointed DC seats in one go. I know many elected and appointed DC members. From my personal experience, many appointed DC

members work very hard and they are well versed in the situation of their districts. They do not only serve their districts but also make monetary contributions, thus, they are undoubtedly assets to the DCs. I understand the aspiration of many colleagues to enhancing the representativeness of DCs, but I think that appointed seats should not be abolished in one go, lest the feelings of members in the community will be hurt.

I agree with the amendment proposed by Mr IP Kwok-him on providing additional resources to DC members, including support and resource for the secretariats, as well as end-of-service gratuities and medical benefits for DC members. In my view, an increase of the remuneration of DC members is long overdue. In 1981, they were paid \$1,500 purely for advisory work. But with increasing powers and responsibilities today, DC members, who may take part in the election of Chief Executive or Members of the Legislative Council, are only paid \$19,000, even less than the pay of a Liaison Officer II. It is ridiculous. The Government is paying \$9,000 to a Clerical Assistant, but a DC member is only given a remuneration of \$19,000. This is outrageous. As a result, elected DC members are often involved in scandals relating to frauds in claims for allowances and hence imprisonment.

I agree also with the amendment proposed by Mr Ronny TONG. In the long term, we should review the problem of the constituencies of DCs being too small, for this will make many DC members *de facto* guardians of their districts, serving only residents of a number of buildings. At the district level, DC members of different constituencies will try to oppose the setting up of a dumping site or a ventilation shaft in their own constituencies, which will provoke disputes among different districts. We notice that due to the small coverage of the constituencies, the problem of over protection of an insular interest is found in many districts (*The buzzer sounded*)

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

MRS REGINA IP (in Cantonese): Thank you, Deputy President.

DR RAYMOND HO (in Cantonese): Deputy President, over the years, DCs have been playing an extremely active role in promoting recreational and cultural activities and environmental improvement work. However, during my contacts with DC members, many of them complained about very limited participation of DCs in district planning, which is mainly of an advisory nature on site identification for relevant projects or on proposals presented by the Government. It is only logical that DCs should have greater participation in district planning, so that district planning and facilities can better meet the needs in reality.

(THE PRESIDENT resumed the Chair)

DCs being a district institution, are familiar with the situation of their respective districts and the pulse and aspirations of local residents. Their participation in district planning is most suitable, and this will also realize the spirit of public participation. With the participation of DCs in district planning, the needs of residents will be fully considered and taken care of in the relevant projects. This will also help mustering support from members of the community, which will be conducive to the implementation of the projects. However, to bring the functions of DCs into full play, the authorities concerned must provide additional resources to DCs, so that they can carry out relevant planning studies and make recommendations, and may even appoint some professionals to provide assistance when necessary.

At present, DCs will participate in some beautification and environmental improvement works, which are usually smaller in scale, such as the installation of small planters on roadside railings, improvement works of hiking trails and the construction of rain shelters, and so on. With the increase of powers and responsibilities of DCs in district planning, it will facilitate the establishment of district facilities with more local characteristics, which include community halls and recreational and cultural venues, as well as unique designs of street lamps or pedestrian facilities. As a result, more residents may be attracted to use the

facilities and their sense of belonging and identification enhanced. Naturally, facilities with local characteristic will help attract people from other districts or even tourists to visit the districts. On the other hand, through the participation in district planning, DCs will be in a better position to promote larger-scale greening and environmental improvement projects in their districts, which will bring overall improvement to the living standard and environment of such districts.

Definitely, we have to give due regard to certain related factors at the same time. Hong Kong is relatively small in terms of area, and the division into 18 districts has all along been queried by many members of society. As far as I understand it, many projects, including many minor works, may involve cross-district arrangements, and more often than not, the DCs concerned will have to effect co-ordination and co-operation in those projects. This will definitely affect in some measure the introduction and implementation of those projects. Hence, the demarcation of boundaries of DCs is an issue that warrants examination, study and extensive consultation.

As for the abolition or otherwise of the appointed seats in DCs, this is a topic causing great concern in society. Many appointed DC members have been playing a proactive role in the business of DCs and performing very well. Many of them being professionals have provided valuable opinions to DCs on subjects related to their professions. However, in the Package of Proposals for the Methods for Selecting the Chief Executive and for the Forming of the Legislative Council in 2012 ("the Package of Proposals"), it seems that their contribution has been given no recognition. Under the Package of Proposal, the representatives of DCs in the Election Committee and the five new functional constituency seats in the Legislative Council to be included under the DC constituency will be elected by DC members from among themselves, but appointed DC members will have no right to stand for election, no right to nominate and no right to vote. The Package of Proposals disallows these members to compete for the seats. While I consider it understandable, I do not think it is appropriate to deny them the right to nominate and to vote, which is unfair. On the abolition or otherwise of appointed seats in DCs, we should continue to examine the issue till a consensus is reached in society.

President, DCs, as district organs, should be allowed greater participation in district planning, so that opinions of local residents can be reflected effectively and support from residents consolidated.

I so submit. Thank you, President.

DR LAM TAI-FAI (in Cantonese): President, Hong Kong has developed into an international cosmopolitan city. Its population has increased substantially compared with the past, and the businesses and aspirations of society have become more complicated than before. At present, Hong Kong is fraught with many livelihood problems. The disparity between the rich and the poor is serious, social conflicts are becoming more and more intense, and many people complain about the Government being slow in action in administration and failing to fulfil the aspiration of the public. I think the crux of the problem lies in the Government failing to pay full heed to the sentiments and opinions of the people in the formulation of policies, thus the failure to keep tab on the pulse of society rightly. If the policies cannot address the actual needs, it is only natural that effective implementation will be impossible. Hence, more often than not, efforts made will only end in vain, and may lead to grievances and dissatisfactions among the public.

Secretary Carrie LAM was right in saying earlier that the bottom-up approach should be adopted in policy formulation, for only people-oriented and community-based policies will help the public and win the support of society. If the Government intends to do a good job in district development, it must consult people familiar with the situation of respective districts. Who are most familiar with the situation of districts, who understand the sentiments and opinions of the public best and who have the best relationship with the residents? DC members are surely the answer. Hence, I am sure that if the Government can provide a proper platform for DC members to participate in social affairs and bring their functions of monitoring, management and co-ordination into full play, the Government will get twice the result with half the efforts in policy implementation, and things will go smoothly. On the contrary, if DC members are only given limited powers and responsibilities, as well as inadequate support, this will absolutely affect their discharge of functions and quality of work, and naturally, the Government will not be able to deliver policy enforcement smoothly.

Actually, the work of DC members is very demanding, heavy and cumbersome. They work round the clock in hot weather and rainy days to serve the residents. They have to co-ordinate district affairs, significant or trivial. More often than not, in order to get their job done, that is to serve the community and organize residents' activities, they may subsidize the events from their own pockets. In terms of workload, their pay is extremely unfair. They are only earning a monthly salary of \$20,000 without any fringe benefits. They live on this salary. It is not easy to support their wives and children and even their parents, let alone purchasing their own home. This is most ironical indeed. Hence, in order to earn a living, they often have to take up part-time jobs and cannot work as full-time DC members. The Government must increase their benefits as soon as possible. End-of-contract gratuities, medical benefits and retirement benefits must be offered to attract more aspiring and quality persons to participate in politics and serve the community. Secretary TSANG Tak-sing said earlier that he would consider these aspects. I hope he will act expeditiously.

President, sometimes I would wonder whether the Government is capable of governing every district properly without the support of this group of selfless and hardworking community workers. Failing this, all districts may slide into complete chaos.

President, I very much agree with the proposals of Ms Miriam LAU and Mr Paul TSE on developing local community economy and tourism facilities. Every district has its own characteristics, for instance, in Sha Tin, there are horse racing and cycling facilities and in Yau Tsim Mong District, there are Temple Street and "Women's Street" (Tung Choi Street). If the Government can provide more resources to these districts for further development of their characteristics and allow DCs greater participation in the development of district facilities, it will enhance the vitality of various districts, thereby creating more employment opportunities and improving people's livelihood.

President, I also support very much the amendment proposed by Mr WONG Kwok-hing, in which he demands the Government to complete early various outstanding public works projects of the two former Municipal Councils. Since the dissolution of the two former Municipal Councils, the Leisure and Cultural Services Department has taken up those work projects. Now that 10

years have passed, but many projects have yet to commence still. This is really disappointing. Let me cite an example. A dozens of work projects in Sha Tin are waiting to be processed. The site Lot 14B beside Lam Tai Fai College is a case in point. I believe the Secretary is familiar with the case, for I have mentioned it a number of times. The site was originally set aside for use as a complex with an indoor recreation centre, a library and a community hall, but the delay lasted for 15 years. My school has already been completed and operating for six years, but that construction site is still being used as a temporary carpark. Secretary, really, you should think about how this case should be handled.

President, Secretary, I can tell you all that not every citizen is interested in who will be the Chief Executive, nor are they concerned about whether the constitutional reform proposals will be passed, but they will surely be concerned about the completion dates of facilities and equipment in community, which they may use. The residents have been waiting for 15 years for the construction of the library and the indoor recreation centre on Lot 14B, do they really have to wait for two generations to see the completion of the project? No wonder there are grievances and dissatisfactions in society. Since the outstanding projects have not yet been completed, new projects will surely be delayed. In what way is this a community-based approach? I earnestly hope that the co-operation between the Government and DCs can be stepped up, so that outstanding projects can be completed as soon as possible. The Government should not only focus on promoting the constitutional reform proposal. It should instead put in more efforts to address livelihood issues.

As for the amendments proposed by Mr Frederick FUNG and Mr James TO, honestly, I completely disagree with their amendments. Frederick is an incumbent member of Sham Shui Po DC and he has been an ex officio member since 1983. As for Mr James TO, he has also been a member of Yau Tsim Mong DC for many years. Both of them are veteran DC members. By all common sense, they should be quite familiar with the operation of district affairs. But I do not understand why they will depict appointed and ex officio DC members as completely useless in this debate, saying that they "fundamentally lack recognition" and that they should be "abolished completely", "so that District Councils can comprehensively and truly represent the wishes of the residents of

the respective districts". I think this is downright exaggeration. Many residents in Sham Shui Po District and Yau Tsim Mong District are engaged in the commercial and industrial sectors and professional trades. Among the appointed members of the two DCs, many are engaged in these trades, who are either members of the commercial and industrial sectors or professions. May I ask the two Members how they came to the judgment that appointed DC members cannot represent the wishes of residents? Are the two Members so omnipotent that they know everything? Can they represent the commercial and industrial sectors and professionals?

I know that Frederick has applied for subsidies from the Government for running social enterprises. Had he been willing to spend time to seek the advice of appointed DC members with business experience, his business could have fared better, and the loss might have been turned into profit. I believe Mr James TO must have visited the villages, but I doubt whether he understands village life and the habits and customs of villagers? In this debate, he said that ex officio DC seats should be abolished for he considers those members lack recognition. Actually, village representatives are elected by villagers. Does Mr TO have a better understanding of village affairs than "Uncle Fat"? If so, next time when "Uncle Fat" works on the affairs of Fairview Park or Choi Yuen Tsuen, he should ask Mr TO to help out. However, do you think the villagers will agree that outsiders can really represent them? If anyone says so, they will be mocked by the villagers.

I think they are taking part for all, obstinately asserting their own opinions as truth. They are veteran DC members, so they should not have made those comments by all common sense. Yet, no one knows why they have done so. Actually, both appointed and elected DC members are working wholeheartedly to serve the community and promote the development of the community. They carry representation and they wish to have room for survival. I hope Members will not try to wipe them out by demanding the complete abolition of the seats concerned. They should stop saying, as they always do, that they are the genuine representatives who can fully represent the residents. I think this smacks of arrogance.

President, I so submit.

MR LEE WING-TAT (in Cantonese): President, I am not supposed to respond to Dr LAM Tai-fai according to the original plan, but since he mentioned my "brothers" earlier, I have to rise and speak in response.

Actually, they were not saying that those DC members are performing poorly. As in the discussion on functional constituencies, we are not saying that colleagues of functional constituencies are late for meetings and leave early, or that they fail to attend meetings. No, this is not the point. However, when it comes to mandate, we know that there is a process. For instance, the mandate of appointed members comes from the Government. But for me, I will by all means contest in an election. Though I may only get 800 votes, 1 000 votes or 2 000 votes, my mandate comes from an election and I become a Member by election. This is the crucial difference. So, Tai-fai, do not presume that we are criticizing those members for failing to perform whenever we talk about appointed members or Members of functional constituencies. This is not a question of whether they are performing well or not; the crux of the problem lies in the system.

As I give my remarks on this issue, I can feel a conflict in my heart. From the perspective of the democrats, I should support the devolution of powers by the Government to allow DC members to participate in planning. But in reality, existing DCs are not mini-governments, and in certain ways, they are neither fish nor fowl. We do not have a system similar to the so-called local governments in Western society, where heads of local governments are returned by election and have to be held accountable. Take Tuen Mun District as an example. Under that system, "Uncle Fat" will be the mayor of Tuen Mun, and if his performance is good, the public will elect him. But if his performance is unsatisfactory, he will have to step down. The merit of this system is that he has to do his level best in every issue related to his constituency. For instance, if someone complains of the offensive smell of Tuen Mun River, he has to address the issue properly. If he fails to find a solution, he may have to mobilize his family members to dredge the river every day till the river is clean. Otherwise, how can he be accountable to the public? But the system in Hong Kong is really strange, for the Government with political and executive power lacks the mandate of the people. This is a queer system.

Insofar as DCs are concerned, I have told Mr IP Kwok-him many times that the greatest problem with the system is that the constituencies are too small. A DC member will regard the 17 000 people in his district as his life. I will not blame colleagues from other political parties, be they from the Hong Kong Federation of Trade Unions, the DAB or the Democratic Party. You want to persuade them to relocate a bus stop? Today, even colleagues in the Democratic Party will not listen to me, though not many people use that bus stops nowadays. In 1998, when I was the Chairman of a DC, I fought for a bus terminus on Tsing Yi, but my attempt ended in vain after a fight of three years when my term was over. Disputes are sparked off when different DC members have to fight for the residents they represent in determining the location of facilities. When it comes to planning, say on the construction of refuse depots, there is the question of in which area should the facilities be built. The Democratic Party will naturally say that it should better be built in the area represented by the DAB. By the same token, the DAB will surely say that the location in the area represented by the Democratic Party is more desirable. I will not be biased in favour of members of my political party, for I am aware that they too have some problems and I fail to convince them. Hence, the present problem is not whether they should be allowed to carry out work in this respect, but that fundamentally, DC members are not properly empowered under the existing system. They are thus unable to adopt a holistic perspective to take account of the overall situation instead of only focusing on their small constituency with a population of 17 000. Regrettably, Mr IP Kwok-him refuses to accept this. I often tell him that the DC election should be changed and a proportional representation system be adopted. If so, he will no longer be dictated by the residents of six buildings in making his choices.

When we discuss these issues, we may keep an open mind and be receptive. But when it comes to actual implementation, this cannot be carried through. Last Friday, when we discussed the question of removing and merging bus routes, I noticed that a number of colleagues in this Council opposed the proposal, but I agreed with it. I agreed because I thought that a yardstick or a benchmark must be set, and exceptional arrangement can be made for certain bus routes, which may be open to further discussion. But once the benchmark is set, when the patronage of a certain bus route falls below the specified level, the route should be cut or reorganized, no matter the bus terminus of the route concerned is located in the area represented by the DAB, the FTU, the Liberal Party or the

Democratic Party. Will they agree to such a proposal? I will, and this is the meaning of planning. If a bus route running areas represented by the FTU has to be cut, they will make an all-out effort to oppose the proposal. Discussion is out of the question. When it comes to cutting bus routes running in areas represented by the Democratic Party, they will stage opposition by sleeping on the streets. Again, discussion is out of the question.

Hence, when we make a grand call for participation in planning, it means that sacrifices have to be made in certain aspects. The veteran DC members like Mr IP Kwok-him, Mr WONG Kwok-hing, and so on, can no longer fight for the interest of their own political parties on every issue. They have to understand that the interest of certain areas will be reduced in the distribution of interest, and they have to sort things out through discussions among themselves. The FTU, the DAB, the Liberal Party, the Democratic Party, the Civic Party, the League of Social Democrats and the Hong Kong Association for Democracy and People's Livelihood, and so on, have to work out an objective criterion together. The proposal should be implemented once the decision is made. DC members cannot only focus on the interest of the areas represented by them, for planning of this nature is undesirable. The present problem is that DC members are unwilling to do so. Why? I think it is because the constituencies are too small.

Last year, when I talked to Permanent Secretary MAK Chai-kwong, I told him that if the existing system remained unchanged, I did not see How will the Government devolve the powers it has taken back? I know that the Government definitely will make no change. The only thing we can do is to participate more in planning and enhance the transparency of planning. In my case, I asked MAK Chai-kwong last year to upload the particulars of works projects onto the Internet, stating the commencement dates and completion dates of those works and the reasons for the change of schedule, to let the public understand the situation. I know that certain DC members do not even know the commencement dates and completion dates of those works. Last year, I made such a request and the authorities did something about it. In respect of certain works, the authorities do not even provide the reasons for the change of scheduled dates, but improvements can be made on these issues.

Moreover, Secretary Carrie LAM or Secretary TSANG Tak-sing may devolve the power on developing district facilities, where the facilities will not affect the overall planning of the district, for I think this power should be devolved. Take Tuen Mun as an example — I seem to know more about Tuen Mun District than Kwai Tsing District. A harbourfront corridor is now under construction in Tuen Mun, Uncle Fat, am I right? The corridor runs from Gold Coast to a certain place. Such works will not affect the overall planning of Hong Kong, and the Secretary should let the DC concerned to take over the project. The Government should grant a lump sum to the DC, say \$10 million, for the completion of the project. The project can be carried out by a committee composed of Mr LAU Wong-fat, the Chairman of the DC concerned, and other interested parties, and they will be accountable to residents of Tuen Mun District. The committee cannot just instruct government officials to do the job, and they themselves have to shoulder the responsibilities. In this world, powers and responsibilities should be clearly defined now and then. For when a person is given the power, he has to be accountable. He cannot just say that "these facilities are built by the Government, and if anything goes wrong, I have nothing to do with it." I know that government officials sometimes are also upset by these scenarios. Hence, the authorities should make it clear to the persons concerned that it is their responsibility, and then give them the funds to carry out those works. This should then be announced to the public that if the outcome of the project is not satisfactory, those DC members have to come forward to face censure and criticisms.

Actually, I have no expectation for the sharing and devolution of power, for the Government utterly has no intention to do so. Hence, we can only strive for improvements in the nuances of matters now. Thank you, President.

MR ALBERT CHAN (in Cantonese): President, I did not intend to speak on this motion originally, for the people of Hong Kong have been deceived repeatedly. They have been deceived and fooled by the Government time and again. However, at hearing the speech from LAM Tai-fai, I cannot help rising to speak, otherwise, I am not being faithful to myself. For his attitude of being "a donkey in a lion's hide" makes people choked with rage.

He is already a Member of the Legislative Council and an appointed DC member, too. But still, he sings praise of appointed DC members in this Council. It is evident that the political system is experiencing a democratic regression. On the one hand, he enjoys a free lunch and takes advantage of the situation, and on the other, he does boot-licking to "Grandpa". The people of Hong Kong feel discontented at the very sight of this type of political judgment. He is a Member of the Legislative Council from the industrial sector, but he still receives more than \$40,000 monthly from the Government, which is calculated at a rate of 30% of the remuneration of incumbent Members of the Legislative Council. This appointment by the Government is utterly ridiculous. For what reason should a Member of the Legislative Council be appointed as a DC member? If he is so outstanding, why does he not come forward to stand in the election and become a DC member? Why does he have to sing praises of this? He even criticizes "Bow-tie TSANG" by saying that the public is not very much concerned about the present constitutional reform proposal. Now, he even dares to insult the Chief Executive. He is appointed by the Government as a DC member, but now in this Chamber, he insults the ruling party, the present Government, saying that the public is not very much concerned about the constitutional reform proposal. Had this not been a concern of the public, why would so many senior government officials go to various districts to visit the public? Had this not been an important issue, why would they have to go to different districts to distribute leaflets? He should help distributing those leaflets in various districts, protecting and supporting the Government. He should tell his subordinates to surround "Bow-tie TSANG" to vie for the leaflets, why is he denigrating the Government here? We can see the ugly sides of incumbent appointed members. Despite getting the advantages, they denigrate the authorities. Perhaps he has to support "TANG TANG", and he thus has to denigrate the current SAR Government headed by Donald TSANG to create objective conditions favourable to "TANG TANG", the Chief Secretary for Administration "dangling in the air". He has to denigrate the TSANG team to boost the popularity rating of "TANG TANG".

President, the overall problem of DCs has been discussed for more than two decades, though many people may not be quite clear about this. I have been a DC member for 25 years, that is, one fourth of a century. For as long as one fourth of a century, I have been an elected member. In 1985, I proposed the abolition of the appointment system in my platform. LAM Tai-fai, I won the

third largest number of votes in the territory at that time. The second point stated in my platform was the introduction of independent operation for secretariats of DCs. Again, this proposal has been talked about for 25 years. In 2000, the Government appeased the DAB Where is WONG Yung-kan? At that time, the authorities intended to dissolve the two former Municipal Councils, and it thus said that it would devolve substantive powers to DCs. But after the authorities had got what they wanted, they just kicked down the ladder. Members in this Chamber have all been appeased or cheated, or dealt with in other ways, by the Government, and they will at most be given some appointed seats. Then, the authorities will continue to deceive them that powers will be devolved. But what powers have been devolved? They are given the power to manage community halls, but not the funding to recruit staff or introduce development projects. They are only responsible for managing the activities carried out in community halls. In other words, they can decide which activities should be approved, or apply to DCs for \$100,000 or \$80,000 from time to time to organize activities for the Mid-Autumn Festival, and so on. The power devolved to them is only limited to this scope. The authorities then say that the power of managing recreational facilities will be devolved, and that DCs will be consulted on the programmes to be staged in town halls. But DCs can only give views like staging Beijing Opera instead of Cantonese opera, and that is all. So, will the pro-government camp please show some sense of dignity. Back then, the Government promised that powers would be devolved to them, so they betrayed the public opinion and scrapped the two Municipal Councils. Now, they should stand fast and make every effort to press the Government to devolve some powers to DCs. Ten years have passed in the blink of an eye, but they continue to act like a "quail", continue proposing arrangements that claim to devolve powers but not so in actuality.

When we look at the local councils around the world, be it the council of a city, a town or a village, those local councils must be given the power of local administration in actuality, including the use of land. In those places, school boards responsible for school management are elected by the local government, and the local government will be responsible for managing the school network, as well as the use of land and development projects.

For 10-odd years in this Council, I have been urging the Government to consider devolving powers to DCs to allow them to operate open air cafes or set

up some unique tourist spots, so as to create some employment opportunities. I have proposed to LAU Wong-fat a number of times about the possibility of setting up a Hakka village somewhere in Tuen Mun as a special tourist spot. The Bao Mo Yuen in Panyu on the Mainland has created employment opportunities and promoted local tourism for some 20 years. However, in Hong Kong, if we want to carry out a similar plan, the Government will in no way approve of it. If any, it would be the Disneyland, for projects are only carried out according to the instructions of senior officials of the Government, and the operation of open air cafes at the district level will not be approved. So, by all accounts, it is ridiculous. The Government still adopts the approach of concentration of powers, toeing the line of the Communist Party of China in power control. Besides, since it disallows development at the district level, the local community economy has been stifled.

The present situation at the district level in Hong Kong is disastrous. People can hardly find a job. Take Tin Shui Wai as an example. Had a local government been established in Tin Shui Wai, the local government might have brought the potential of the sites in the district into full play to attract and stimulate investment. But the officials in the central administration adopt a "couldn't-care-less" attitude. During the four to five years between 2000 and 2004 or 2005, the Government adopted an "all-cut" approach because of the deficit. As a result, all projects in Tin Shui Wai and Tung Chung, including libraries, swimming pools, games halls, and so on, were scrapped, leaving Tin Shui Wai and Tung Chung in a sorry state. Now, the construction work of these projects eventually commences. Had the two former Municipal Councils not been dissolved, these projects should have been completed in 2004 and 2005. These are the damages done by the dissolution of the two former Municipal Councils. Residents of Tin Shui Wai and Tung Chung have nowhere to go, and their lives become unhappy and boring. Many family tragedies should be attributed to the dissolution of the two former Municipal Councils by the Government back then, which called to a halt of the construction of community facilities. Since the Government does not respect district development and refuses to devolve the power on district development, residents of the districts concerned have to suffer, but officials in the central administration just turn a blind eye to the situation. This is the root of the problem.

Hence, in the case of the Mainland, if a village government carries out certain development projects, other villages will also compete in carrying out similar projects or developments, which will bring in creativity and vigour. But this is not the case in Hong Kong. Officials of district administration will only

sit idle, while Administrative Officers and District Officers will only wait for their turns of transfer and promotion. District Officers are deployed to district administration to receive training. After three years of training, they will be transferred to the central administration and continue to be promoted to higher positions. A majority of them are Administrative Officers. Hence, unless the system is changed, district administration in Hong Kong will remain in stale like a pool of stagnant water, allowing people who want political free lunches to continue occupying a place and taking advantages (*The buzzer sounded*)

PRESIDENT (in Cantonese): Mr CHAN, your speaking time is up.

MISS TANYA CHAN (in Cantonese): Upon its inception, the Civic Party published a submission on the "Review on the Role, Functions and Composition of District Councils" conducted by the Government in 2006, a copy of which I am holding in my hand. I remember Secretary Carrie LAM was still serving as Permanent Secretary for Home Affairs back then, and the incumbent Secretary General of our Party, Kenneth CHAN, had an opportunity to engage in a brief debate on this submission with her. The incumbent Secretary for Development, Ms Carrie LAM, commented then that we were too theoretical and idealistic. Coincidentally, however, the amendments moved by many Honourable colleagues and the original motion moved by Prof Patrick LAU today also urge the Government to devolve its powers. What is our greatest hope? We hope various districts will be allowed to take charge of their respective administration in relation to five aspects, namely, democracy, management, accountability, participation and creativity.

Regarding the various amendments today, we very much hope to render them our support because they are actually in line with our idea of a "bottom-up" approach. Unfortunately, however, many amendments have left out the point proposed by Mr James TO, which is the most important point of all, and that is, to abolish the appointed and ex-officio seats in DCs.

Why do we say so? At present, many developed places similar to Hong Kong are developing towards what is known as regional democratic governance, which allows for greater transparency in district governance and a non-centralized

power structure. Although the Government conducted the review and introduced slight changes in 2007 and 2008 for implementation in 2008, some core issues, such as abolishing the appointed seats or enhancing the system of the District Facilities Management Committee (DFMC), have not seen any improvement. We can see that the powers of the DFMC are still subject to restrictions. Why do I know this so well? Because I am a member of the Central and Western DC, and I know genuine devolution of power is still limited.

Many of the proposals contained in the Civic Party's submission have not been realized yet. Since democracy is essential to regional democratic governance, our primary request is, as I said just now, that all members be returned by elections. Yet, we are still fighting for it.

As for management, we proposed that in addition to providing more resources to DC secretariats, the secretariats should also be made independent of the Government, as in the case of the Legislative Council — the Legislative Council Secretariat is independent — in the hope that they can better utilize their resources.

Certainly the remuneration package for DC members should also be reviewed. The monthly salary for DC members at the rate of \$19,000 is probably equivalent to that of junior-to-middle-ranking employees in the private sector. Apart from the prospect of serving in the Legislative Council or joining the Government through other connections, DC members' capability of providing financial support to their families or prospects for promotion are incomparable with those engaged in other jobs or fields. Therefore, we hope the authorities will improve the remuneration package for DC members.

Besides, we also stated in the document that we hope there would be closer liaison between DCs and the Legislative Council, and we even hoped the authorities would give consideration to setting up a standing mechanism, such as a standing committee, in this Council to enhance the liaison between this Council and DCs, which is vitally important. Just now many Honourable colleagues have raised some cross-district issues like bus routes. As a bus route normally covers two to three districts, cross-district discussions are indeed required before the relevant bus services are reduced or any re-routing is implemented. It is probably inadequate just to conduct an annual meeting and take follow-up actions

afterwards. I hope the authorities will give consideration to establishing such a standing mechanism.

The most important aspect is accountability. DCs can actually perform the function of monitoring the operation of government departments at the district level. I hope a fair, just and objective mechanism will be established to enable every DC to monitor the performance of the relevant government departments in serving the districts. Certainly, we consider it most important to enable public participation. Why would some discussion items of this Council, in particular, items on works projects, arouse great repercussions or even strong oppositions from Honourable Members who concurrently serve as members of the relevant DCs? Because transparency is low, and DCs would often receive the relevant information at a late stage, and even residents would only be consulted at a very late stage. We consider resident and public participation very important, and it would even be better if such participation comes in a creative manner.

I remember that when I served as a DC member, we tried to adopt a rather novel approach in conducting consultation on Project H19, that is, the Staunton Street/Wing Lee Street redevelopment project — Secretary Carrie LAM may be very familiar with it. We invited representatives from the Urban Renewal Authority (URA) and government departments to attend a town hall meeting so that the public could express their views face to face with government officials and representatives of the relevant quasi-government organizations. Many members of the public welcomed this approach. We hope the public will maintain their participation. I know the URA also wishes to strengthen this aspect through the proposed review on the Urban Renewal Strategy, and I hope it can do so.

The last aspect is creativity. It is not only about creativity in consultation. Actually, there are many ways to enable public participation and enable members of the public to give play to their potentials, particularly in relation to improving the environment and cultural and recreational facilities as well as district issues. Perhaps we need the help of Secretary TSANG Tak-sing in these areas.

Regarding the original motion and all the amendments, we will support Mr James TO's amendment and abstain from voting on Mr Frederick FUNG's amendment. As for the other amendments, we will vote against them. Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): President, the history of DCs is a subject of mockery. Back then, the British Hong Kong Government established district boards in order to obtain bargaining chips in the Sino-British negotiations, and there were appointed district board members at the beginning. Let us leave aside whether the British had any conspiracy, but as the district board system evolved, the appointed seats were abolished. Nevertheless, we do not need to thank the British for it. When there were no more appointed seats, district boards have become the common asset of Hong Kong people.

After the reunification, TUNG Chee-hwa reintroduced appointed seats in DCs in order to make use of them. Is it not ridiculous? The British certainly acted in their own interest, and so did Chris PATTEN. Yet, he had the courage and guts to engage in gambling by consulting public opinion back then. The SAR Government also wished to bet on it, but it would not tolerate losing, just as in the case of the Chinese communist Government, which would allow for elections only if it could be certain of the results. The crux of the problem lies in introducing appointed membership for 20% of the DC seats. In other words, the minority could override the majority.

When the scrapping of the two Municipal Councils was discussed, I was not a Member of this Council. While I was taking turns to stage a demonstration in the public gallery of the Chamber, Secretary Michael SUEN was dragging on with his speech here in order to wait for the royalists to come back to cast their votes of support. What does this period of history tell us? It tells us that the then TUNG Chee-hwa Administration made the undertaking that after the abolition of two Municipal Councils, DCs would become the stepmother's son. That is to say, they would be the organizations to inherit the powers and financial resources of the Municipal Councils. However, a decade has passed and this undertaking has yet to be honoured. This is a disgrace to this Council and the Government.

Everyone talks about democracy. The beginning of bourgeois democracy was autonomy, which is not a grand democratic notion at all. For example, once the people of a certain city considered that as the revenue of the city came from the people themselves, there was no need for them to obey the instructions of the Pope. This marked the beginning of Venice's refusal to receive instructions from Vatican. Another example was when the local councils of the United

Kingdom applied to the central government for additional resources, Mrs Margaret THATCHER came up with a so-called "witty plan" and said, "No problem, I can provide you with additional funding as long as you charge people a poll tax." As a result of this, riots occurred and the central government collapsed. This was an incident in which a central government ultimately collapsed because it intended to manipulate the local governments. Unfortunately, however, such incidents would not happen in Hong Kong because under the existing system, DCs would not be able to exercise autonomy.

The motion today is even more distressing because it reveals that DCs can only offer very little input in the planning of Hong Kong. Members of the Town Planning Board (TPB) are appointed by the Government, and we have no idea how the appointments are made. We do not know how many offices the appointees are concurrently holding, and neither do we know whether there is any conflict of interests among the offices they hold. The Government has also sent a corresponding Permanent Secretary into the TPB for drawing up agendas for its meetings. This organization is in itself very bureaucratic and involves transfer of benefits. The current call for DCs to be dedicated in discharging their powers and responsibilities may be well-intentioned, but it is definitely impracticable in reality. Prof Patrick LAU should know the problems of the TPB very well.

Therefore, what are we discussing here today? We are saying that the district administrations do not have sufficient powers and financial resources to enable the people returned in DC elections to exercise autonomy. The structure of DCs was established only for the sake of elections. This is true both for the British Hong Kong Government back then and the SAR Government now. The constituencies of DCs are very small, and in dividing up the territory into districts, political interests have to be given full regard. If a certain member from the pan-democratic camp is elected as a member for a district, part of the votes in that district would be diverted to other districts. This is a process of political manipulation over administration, as in the case of the seizure of the "Goddess of Democracy" statue by invoking a particular on entertainment. I do not know whether the Secretary was involved in it, but it is related to the Home Affairs Bureau.

We have been discussing this issue here in this Council for almost a decade now. Do Members think the SAR Government should transfer the powers and

resources to DCs? Should it do so? Can the two Secretaries present today answer this question? If they cannot, they had better go home and go to bed! To date, the Government is still unable to honour its undertaking made a decade ago, and it is still adopting the DC system implemented by TUNG Chee-hwa because by doing so, it can manipulate DC members through appointed membership and then make them elect a group of people to run for the seats for DC representatives in the Legislative Council. It would honour people to its liking and elect people of its choice. In that case, what is the difference between these people and servants in the ancient times? They are only the Government's toys and its toilet paper after it has used the toilet, which is completely at its disposal. Yet, they have still taken great pride in speaking here in this Council.

May I ask the two Secretaries once again whether the SAR Government will honour its undertaking? Do not "act foul", and do not bustle about. All it needs to do is to honour its undertaking, although I was not deceived back then

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Prof Patrick LAU, you may now speak on the amendments. You may speak for up to five minutes.

PROF PATRICK LAU (in Cantonese): President, I would like to thank the eight Members for moving amendments to this motion, especially when most of them are experienced DC members. The discussion today has proved that the points raised by me are worth discussing.

I agree to Mr WONG Kwok-hing's amendment, which proposes to give play to the participatory and supervisory functions of DCs and urge the Government to speed up the progress of various community projects and expeditiously complete the necessary public works projects in the districts.

Mr Frederick FUNG's proposal mainly seeks to enable DCs to relay the wishes of the people to the authorities. Actually, all DC members, whether elected or appointed, can implement the planning and land policies, promote the development of district planning, balance the overall interests between the districts and society and jointly enhance the living environment of various districts, as long as they have the resolve to serve the community in accordance with the principle of sustainable development.

Certainly, each district has to conduct its own planning studies. If each district can engage an experienced planning architect to provide objective advice from the professional angle and incorporate the local characteristics of the district into urban planning, as proposed by Ms Miriam LAU, it is actually feasible to develop community tourism, promote the development of local community economy and boost the employment of the local communities. Besides, I also hope to give Priscilla LEUNG this opportunity to request the Government to provide replies to some unanswered questions about her district.

I very much agree to Mr IP Kwok-him's proposal on enhancing the support for DCs and their members. In order to increase the powers and responsibilities of DCs, we need to provide their secretariats with more funding or enable them to engage professionals to assist them in conducting district studies and implementing measures in the light of the findings. All these can improve the living environment of the districts.

Mr Ronny TONG considers the existing constituencies of DCs too small, and therefore DC members have often overlooked the overall development needs of society when they strive for the benefits of the local communities. I agree to this argument and Mr James TO has also expressed concern about it. Actually, I have also proposed to divide Hong Kong into several major communities, which is precisely one of the most significant notions in planning. Each district should examine whether it can be self-sufficient instead of only focusing on the benefits of its small constituencies. If this view is taken on board, DC members will be able to work together to tender appropriate advice on the planning of the district.

Mr James TO has also highlighted this conflict. As I said just now, it is also very important for the planning of various districts to bring benefits not only to the local communities but also to Hong Kong as a whole. Powers come with, rather than preclude, responsibilities.

Mr Paul TSE proposed to enhance the role of DCs in planning and promoting the development of community tourism. I greatly support this proposal because it is in line with my proposal of conducting district planning according to the respective local characteristics of the 18 districts. Most importantly, we have to enable DCs to give full play to their strength in understanding the respective local characteristics of the districts as this can effectively promote community tourism and the development of the overall economy.

President, I so submit. I will make further elaboration should there be a chance later.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I would like to thank Members for their views today. I shall now give a brief response to some parts of the motion and the amendments involving the Home Affairs Bureau and other departments.

We have all along attached great importance to the role of DCs in district administration. Various government departments have always consulted the respective DCs on major community works and community and ancillary facilities in the districts, key district issues that may affect local residents' livelihood, living environment and well-being, and even territory-wide issues.

On the planning of public housing, for instance, in order to ensure that public housing developments will better meet district needs, the Housing Authority (HA) and the Housing Department (HD) will arrange for a series of liaison meetings with the relevant DC members and members of the communities during the planning process to enhance their communication with the community, thereby achieving better planning. For example, the HD conducted a number of consultations with the Sai Kung DC and its Housing and Environmental Hygiene Committee between 2008 and 2009 on the public housing developments in Tseung Kwan O. The DC members reflected the community's views on the layout designs of the relevant projects and the number of flats to be built, and the HD responded positively to the proposals put forward by the DC members by improving the design proposals to meet the needs of the people.

As for the issue of waste treatment projects, such as landfills and integrated waste management facilities, mentioned by a number of Members, the Government has to conduct comprehensive studies and assessments on the long-term overall waste management needs and development of Hong Kong, identify appropriate and effective technology and decide on the types, distribution and sites of strategic facilities in the light of various environmental factors at the district level. The Government has all along been conducting adequate consultation on different plans with DCs of the affected communities to actively understand and positively respond to the demands of members of the communities.

The Environmental Protection Department will continue to work with various District Offices to implement continuous public involvement measures to actively understand the concerns of members of the communities.

Regarding public health, at present, district offices of the Food and Environmental Hygiene Department (FEHD) organize annual briefings to inform DCs of the strategies and district operations to maintain and improve the environmental hygiene of Hong Kong and seek their members' advice on various service arrangements. They also brief DC members on details of the annual Anti-mosquito and Anti-rodent Campaigns, and invite them to participate in the relevant activities, co-ordinate publicity work and give advice on mosquito and rodent control. The FEHD will continue to maintain close liaison with DCs on environmental hygiene services in the districts, actively participate in public activities concerning public health or assist DCs to organize such activities, and submit reports on its work to DCs on a regular basis.

As for other public health facilities mentioned by Mr WONG Kwok-hing, the FEHD consults DCs on the additions, renovations, alterations or demolitions of these facilities and briefs them regularly on the progress of such works.

Mr WONG Kwok-hing and Dr LAM Tai-fai raised the issue of the various outstanding public works projects of the two former Municipal Councils. Insofar as environmental hygiene facilities are concerned, 12 projects have been completed; two projects are under active planning; and for the remaining four projects, reviews of their actual needs have to be conducted. Besides, 12 projects have been deleted without any objection from the relevant DCs and the Legislative Council.

Over the years, the achievements made by the appointed and ex officio members of DCs on district issues and Council-related work are evident to all. Therefore, I cannot agree to Mr Frederick FUNG's amendment that the appointed members of DCs lack recognition. The system of appointed DC membership has provided an avenue for individuals who are concerned about district issues and possess expertise and experience to serve the community. Actually, the appointed DC members have played an important role in DCs and complemented elected members. The SAR Government fully recognizes the contribution made by appointed DC members in district administration.

President, I will relay the valuable views expressed by various Members to the relevant Policy Bureaux. As I said in my previous speech, we will organize four regional forums this month and invite the attendance of the relevant Directors of Bureaux and heads of government departments to thoroughly discuss with DC members issues which are closely related to the daily operation of DCs and people's livelihood and compile a report from the outcome of the forums for submission to the Chief Executive. We hope various DCs will make good use of this communication platform to exchange their experiences obtained through their practical work over the past two years and express their views on the further development of district administration directly to the higher echelons of the Government.

President, I so submit.

SECRETARY FOR DEVELOPMENT (in Cantonese): President, as Miss Tanya CHAN rightly recalled, I was the Permanent Secretary for Home Affairs before serving as Secretary for Development, and I was involved in the review on the role, functions and composition of DCs back then. Probably because of this, and coupled with the fact that I had worked with the 18 DCs for one and a half years during that time, I admire DC members for their familiarity with district issues and their spirit of putting words into actions. Therefore, in conducting the work of the Development Bureau over the past three years, I have required myself and my colleagues to respect DCs. With DCs still only playing an advisory role, we have striven to co-operate with them to enable their involvement in the work of the Development Bureau.

In my first speech, I spent some time to quantify as much as possible our effort in this respect. However, many Members have cited some actual instances, pointing out that we did not listen all the time to the views of DCs and still had some conflicts with them, and such conflicts might have been minimized if we could listen to more opinions. Members have also cited some situations in which we did not respond positively to all the views of DCs, even though certain motions had been passed unanimously by them. I am afraid the instances cited by the Members are true. In my day-to-day work, I always face situations in which I am unable to fully satisfy the demands of individual DCs. On analysis, I found that there is a reason for these conflicts and discrepancies, and this reason may also apply in this Council. Very often, when this Council requests the SAR Government to take certain initiatives, which may well be the common aspiration of most Members, the SAR Government may still face certain difficulties, unable to implement the initiatives. Being the Government, we must balance the different needs in society, thereby enabling society to move forward and continue with its development.

In the work of the Development Bureau, particularly in the interaction with various districts, we indeed face some difficulties in land use planning. Actually, I have a list of views — but I have not brought it with me today — on land use planning submitted by various DCs over the past couple of years. In gist, while some of them agree to our direction of reducing development density by imposing building height restrictions, others consider that we have not made adequate effort in this regard. Therefore, they often hope that land in their respective districts currently designated for development purposes, particularly housing developments, will be re-designated for developing open space. Another phenomenon we notice in recent years is that many DCs do not welcome land for public housing developments. However, I believe if a motion debate on housing policy is conducted in the same DC tomorrow, there may be a demand for the Government to build more public housing and identify more sites for housing developments to increase the supply of flats.

A number of Members have also mentioned another phenomenon. In society, there are bound to be unwelcome or unwanted but necessary facilities, such as waste treatment or columbarium facilities. The "not in my backyard"

syndrome is often the problem we face in land use planning. The land area of Hong Kong is approximately 1 100 sq km, and as Members may know, we have vast country parks and green belts, and thus available land is very limited. It is indeed very difficult to balance the land use planning at the district level to satisfy different demands. As my retired colleague questioned with regret in his article: given that we are not allowed to reclaim land, demolish buildings, resume land and fell trees now, how can we get adequate land to satisfy the different needs in Hong Kong? Anyhow, we will maintain the attitude I have mentioned just now, hoping that we can strive to forge a consensus with DCs. In this regard, I am rather optimistic because despite the difficulties in the past, we could work out solutions through mutual understanding and accommodation with the relevant DCs.

Although Mr Frederick FUNG still takes exception to the development at the Nam Cheong Station, in any case we only conducted the tender exercise after the proposal for the Nam Cheong Station development project with a reduction of development density by 18% was passed with the support of the Sham Shui Po DC. Another example, as the Central and Western DC has been hoping all the time that the Central Market will not be developed into a 40-plus-storey commercial building, we have excluded the commercial site of the Central Market from the Conserving Central initiatives. The Yuen Long DC has all along held different views from us on the ex-Yuen Long Estate site near the Long Ping Station. It considers that the site should be used for private development projects instead of solely for public housing development. In this connection, we have reached a consensus: two thirds of the site will be used for private housing development while one third of it will be used for public housing development, and in this way, the site is made available for development. Regarding the view of the Yau Tsim Mong DC that the office of the New Territories West section of the Water Supplies Department under my purview has occupied a valuable site in Mong Kok, and has thus hindered the development of the district, I have made use of the opportunity arising from the revitalization of industrial buildings and announced that the relevant office of the Water Supplies Department will be relocated to an industrial building to vacate the site to facilitate the development of Mong Kok. These examples have shown that as long as we have the sincerity and resolve to co-operate with DCs, there are still examples of success.

Finally, President, let me respond to a point made by Mr LEUNG Kwok-hung on the composition and work of the Town Planning Board (TPB). It is true that the TPB is still an important statutory body appointed by the Chief Executive and chaired by a Permanent Secretary for Development, but this does not mean the TPB is not impartial and independent. Over the past few years, the TPB has actually established considerable credibility, and starting from 2005, we have held the meetings of the TPB in public to enhance transparency. The mover of today's motion, Prof Patrick LAU, was the first non-official Vice-chairman of the TPB, and I think no one would query whether Vice-chairman Patrick LAU had done anything involving transfer of benefits during his term of office. Therefore, I wish to do justice to members of the TPB here because among the various statutory bodies and committees I have contacted, members of the TPB need to put in the most effort in the urban planning of Hong Kong.

Finally, I would like to reiterate that we will strive to co-operate with various DCs, in the hope of developing Hong Kong into a quality city.

Thank you, President.

PRESIDENT (in Cantonese): I now call upon Mr Frederick FUNG to move his amendment to the motion.

MR FREDERICK FUNG (in Cantonese): President, I move that Prof Patrick LAU's motion be amended.

Mr Frederick FUNG moved the following amendment: (Translation)

"To add "with the continuously rising aspirations of the public for quality city life, and" after "That,"; to add "coupled with the fact that the existing appointed members of District Councils fundamentally lack recognition," after "defined,"; to add "the tilted planning and land policies, as well as" after "due to"; to add "reform the existing planning and land policies based on the concept of sustainable development and the primary

principle of public engagement and, at the same time," after "urges the Government to"; to add "(a) to completely abolish District Council appointment system, so that District Councils can comprehensively and truly represent the wishes of the residents of the respective districts;" after "district planning, including:"; to delete the original "(a)" and substitute with "(b)"; to delete the original "(b)" and substitute with "(c)"; to add ", as well as through the process of public engagement," after "the relevant policy departments"; to add "balanced" after "as well as for the"; to add "individual districts and" after "benefit of"; to delete the original "(c)" and substitute with "(d)"; to add "and civic society organizations" after "engage professionals"; and to delete the original "(d)" and substitute with "(e)".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Frederick FUNG to Prof Patrick LAU's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Frederick FUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Frederick FUNG has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Kwok-him and Dr Samson TAM voted against the amendment.

Dr Raymond HO, Dr Margaret NG, Mr CHEUNG Man-kwong, Ms LI Fung-ying, Prof Patrick LAU, Mr Paul CHAN, Mr IP Wai-ming, Dr PAN Pey-chyou and Mr Paul TSE abstained.

Geographical Constituencies:

Mr Frederick FUNG voted for the amendment.

Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Mr CHAN Hak-kan and Mrs Regina IP voted against the amendment.

Mr Fred LI, Mr James TO, 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, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN and Mr Albert CHAN 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, two were in favour of the amendment, 12 against it and nine abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, one was in favour of the amendment, five against it and 17 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 "Increasing the powers and responsibilities of District Councils in district planning" 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 "Increasing the powers and responsibilities of District Councils in district planning" 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 WONG Kwok-hing, you may move your amendment.

MR WONG KWOK-HING (in Cantonese): President, I move that Prof Patrick LAU's motion be amended.

Mr WONG Kwok-hing moved the following amendment: (Translation)

"To delete "as the current" after "That," and substitute with "after the abolition of the two former Municipal Councils in 1999, the Government undertook to devolve part of their powers and responsibilities, yet the expansion of the powers and responsibilities of District Councils has not been fully accomplished to date, and the"; to add "still" after "District Councils is"; to add "to start from the foundation of society and adopt a community-based approach" after "(a)"; to add ", public health," after "greening"; to add "enable extensive public engagement and" after "competitions to"; to add "the Legislative Council," after "which"; to delete "; and" after "consideration" and substitute with ", so as to improve the design work of government departments during the initial planning stage;"; to add "and community centres, public markets, libraries" after "community halls"; to delete "refuse recovery yards" after "open spaces," and substitute with "conservation and revitalization of relics and monuments, public health facilities, public toilets and bathhouses, refuse collection points, waste separation and recycling facilities, sewage

treatment works"; and to add "; (e) to give play to the participatory and supervisory functions of District Councils, and prompt the relevant government departments to submit timetables for early completion of various outstanding public projects of the two former Municipal Councils; and (f) to further enhance the communication and co-operation among the Legislative Council, government departments and various District Councils so that they can collaborate comprehensively to achieve synergy, thereby optimizing the effective use of public resources, minimizing duplication and internal discord to the fullest extent possible, and improving the standard of services delivered to the people of Hong Kong" after "comprehensive community".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Kwok-hing to Prof Patrick LAU's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr 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, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted against the amendment.

Geographical Constituencies:

Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted for the amendment.

Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, 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, Miss Tanya CHAN and Mr Albert CHAN voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 19 were in favour of the amendment and four against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, nine were in favour of the amendment and 14 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Ms Miriam LAU, you may move your amendment.

MS MIRIAM LAU (in Cantonese): President, I move that Prof Patrick LAU's motion be amended.

Ms Miriam LAU moved the following amendment: (Translation)

"To delete "as the current" after "That," and substitute with "since the implementation of the system of representative government, the"; to delete "is mainly" after "role of District Councils" and substitute with "has mainly been"; to add "as a result, the views of District Councils on the planning of the respective districts have often been overlooked, and" after "defined,"; to delete "during the planning process" after "manner" and substitute with "in most cases"; to delete "and" after "consideration,"; to add "and fully consult District Councils on the planning of other facilities that affect the residents of the respective districts, such as landfills," after "columbarium niches, etc.,"; and to add "; and (e) to actively support various districts in developing community economy according to their respective local characteristics, such as undertaking appropriate planning for the districts' tourism resources to develop community tourism, and studying the establishment of unique and attractive culinary zones or open-air bazaars, so as to boost employment in the local communities" after "comprehensive community"."

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

PRESIDENT (in Cantonese): I now call upon Dr Priscilla LEUNG to move her amendment to Ms Miriam LAU's amendment.

DR PRISCILLA LEUNG (in Cantonese): President, I move that Ms Miriam LAU's amendment be amended.

Dr Priscilla LEUNG moved the following amendment to Ms Miriam LAU's amendment: (Translation)

"To delete "fully consult District Councils" before "on the planning of" and substitute with "give priority to consulting District Councils and respect their views"; to delete "other facilities" before "that affect" and substitute with "issues"; and to add "redevelopment of old districts, building safety, harbourfront sites, environmental protection and" after "districts, such as"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr Priscilla LEUNG to Ms Miriam LAU's amendment, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr 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, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted against the amendment.

Geographical Constituencies:

Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted for the amendment.

Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, 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, Miss Tanya CHAN and Mr Albert CHAN voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 19 were in favour of the amendment and four against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, nine were in favour of the amendment and 14 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment moved by Ms Miriam LAU to Prof Patrick LAU's motion, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Ms Miriam LAU rose to claim a division.

PRESIDENT (in Cantonese): Ms Miriam LAU 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, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted against the amendment.

Geographical Constituencies:

Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted for the amendment.

Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, 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, Miss Tanya CHAN and Mr Albert CHAN voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 19 were in favour of the amendment and four against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, nine were in favour of the amendment and 14 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr IP Kwok-him, you may move your amendment.

MR IP KWOK-HIM (in Cantonese): President, I move that Prof Patrick LAU's motion be amended.

Mr IP Kwok-him moved the following amendment: (Translation)

"To delete "as" after "That," and substitute with "although"; to delete "and" after "in nature,"; to add "and correspondingly enhance the support for District Councils and their members," after "in district planning,"; to delete "and" after "consideration,"; to add "; (e) to enhance the manpower support and resources for the secretariats of District Councils; and (f) to provide District Council members with end-of-service gratuity and medical benefits, and abolish the arrangement whereby District Council members' Miscellaneous Expenses Allowance is taxable" after "comprehensive community"; and to add "enhancing the standard of performance of District Councils in discharging their powers and responsibilities, and" after "thereby"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr IP Kwok-him to Prof Patrick LAU's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr 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): Mr Paul TSE, have you cast your vote?

(Mr Paul TSE pressed the button to vote)

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr

LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted against the amendment.

Geographical Constituencies:

Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted for the amendment.

Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, 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, Miss Tanya CHAN and Mr Albert CHAN voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 19 were in favour of the amendment and four against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, nine were in favour of the amendment and 14 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Ronny TONG, you may move your amendment.

MR RONNY TONG (in Cantonese): President, a point of order. I think there may be some mistakes with the script. I have told my assistant to inform the Secretariat that I will withdraw my amendment, unless Mr Frederick FUNG's amendment is passed. For reasons unknown, however, this is not the case now. President, can I withdraw my amendment now?

PRESIDENT (in Cantonese): Mr Ronny TONG, as you have not moved your amendment yet, you may withdraw it.

MR RONNY TONG (in Cantonese): In that case, President, I withdraw my amendment.

PRESIDENT (in Cantonese): Mr James TO, you may move your amendment.

MR JAMES TO (in Cantonese): President, I insist on moving that Prof Patrick LAU's motion be amended.

Mr James TO moved the following amendment: (Translation)

"To delete "the current" after "That, as" and substitute with "currently not all seats of District Councils are returned by general elections, and the"; to add "implement full democratization of District Councils, and" after "urges the Government to"; to add "(a) to completely abolish the appointed and ex-officio seats in District Councils, so that all seats of District Councils will be returned by direct elections, and District Councils can comprehensively and truly represent the wishes of residents of the respective districts;" after "district planning, including:"; to delete the original "(a)" and substitute with "(b)"; to delete the original "(b)" and substitute with "(c)"; to delete the original "(c)" and substitute with "(d)"; to delete "and" after "consideration;"; to delete the original "(d)" and substitute with "(e)"; to delete "major" after "planning of the" and substitute with "regional"; to delete "public housing," after "the respective

districts, including"; to delete "refuse recovery yards, incinerators, columbarium niches," after "open spaces,"; and to add "; and (f) the Government must consult District Councils on the planning of territory-wide essential facilities, including public housing, refuse recovery yards, incinerators, columbarium niches, etc., so as to enable District Councils to give views to the Government on such areas, and the Government must provide District Councils with the necessary information and responses, so that the Government can take into account the views of District Councils when undertaking territory-wide planning" after "comprehensive community".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved with insistence by Mr James TO to Prof Patrick LAU's motion, be passed. *(Laughter)*

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

(Members raised their hands)

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

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted against the amendment.

Dr Raymond HO, Prof Patrick LAU, Mr Paul CHAN and Mr Paul TSE abstained.

Geographical Constituencies:

Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN and Mr Albert CHAN voted for the amendment.

Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr CHAN Hak-kan, Mr WONG Kwok-kin and Mrs Regina IP voted against the amendment.

Dr Priscilla LEUNG abstained.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, four were in favour of the amendment, 15 against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 15 were in favour of the amendment, seven against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Paul TSE, you may move your amendment.

MR PAUL TSE (in Cantonese): President, I move that Prof Patrick LAU's motion be amended.

Mr Paul TSE moved the following amendment: (Translation)

"To delete "and" after "consideration;"; and to add "; and (e) through exploring, conserving and enhancing tourism resources with historical, local or cultural characteristics and developing additional tourism infrastructure to enhance the role of District Councils in planning and promoting the development of community tourism" after "comprehensive community"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Paul TSE to Prof Patrick LAU's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr 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, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted against the amendment.

Geographical Constituencies:

Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted for the amendment.

Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, 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, Miss Tanya CHAN and Mr Albert CHAN voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 19 were in favour of the amendment and four against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, nine were in favour of the amendment and 14 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Prof Patrick LAU, you may now reply and you have 54 seconds.

PROF PATRICK LAU (in Cantonese): President, I would like to thank the 20 Honourable colleagues for speaking on this motion, and I have listened to their speeches very carefully. While they may oppose my motion, it does not matter because what matters most is that many of them have given an account of the actual situation, which has proved the importance of my views. After listening carefully to Members' remarks, I know they agree that planning should be conducted in a "bottom-up" manner, and it is vitally important.

President, I am also grateful to the two Secretaries for agreeing to this direction, which is very important. The motion may not have any legislative effect, but I think each of them has provided valuable food for our thought (*The buzzer sounded*)

PRESIDENT (in Cantonese): Prof LAU, your speaking time is up.

PROF PATRICK LAU (in Cantonese): and then continue to move forward. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Prof Patrick LAU be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

PRESIDENT (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the motion.

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted against the motion.

Geographical Constituencies:

Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted for the motion.

Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, 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, Miss Tanya CHAN and Mr Albert CHAN voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 19 were in favour of the motion and four against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, nine were in favour of the motion and 14 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negated.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 9 June 2010.

Adjourned accordingly at five minutes past Nine o'clock.

Appendix 1**REQUEST FOR POST-MEETING AMENDMENT**

The Secretary for Financial Services and the Treasury requested the following post-meeting amendment in respect of a supplementary question to Question 5

Line 1, first paragraph, page 45 of the Confirmed version

To amend "Currently there are six insurance companies in Hong Kong providing insurance services for taxis." as "Currently there are nine insurance companies in Hong Kong providing insurance services for taxis." (Translation)

(Please refer to line 1 to 2, second paragraph, page 9009 of this Translated version)