

# **An Outline of the Topics to be Covered in the Second Report of the Hong Kong Special Administrative Region under the United Nations Convention on the Rights of Persons with Disabilities**

## **Introduction**

The Government is preparing for the submission of the second report of the Hong Kong Special Administrative Region (HKSAR) under the United Nations (UN) Convention on the Rights of Persons with Disabilities (the Convention). It will form part of the periodic report of the People's Republic of China under the Convention.

2. In accordance with the established practice, we have prepared at **Annex 1** an outline of the second report. It sets out the broad subject headings and individual topics that we plan to cover in the report. We invite members of the public to submit their views on the implementation of the Convention in respect of those topics, and to suggest any additional topics that should be included in the report.

3. We will consider carefully all the comments and suggestions that will be received. Any persons or organisations wishing to offer views are invited to send them to the Labour and Welfare Bureau (LWB) on or before **4 May 2018**:

By post: Rehabilitation Division, Labour and Welfare Bureau,  
11/F, West Wing, Central Government Offices,  
2 Tim Mei Avenue, Tamar, Hong Kong

By fax: 2543 0486

By email: [uncrpd\\_consultation@lwb.gov.hk](mailto:uncrpd_consultation@lwb.gov.hk)

4. It is voluntary for members of the public to supply their personal data upon providing views on this outline. The submissions and personal data collected may be transferred to the relevant Government bureaux and departments for purposes directly related to the preparation of the report and subsequent follow-up actions relevant to the report. The Government bureaux and departments receiving the data may only use the data for such purposes.

5. The names and views of individuals and organisations who/which put forth submissions in response to this outline (“senders”) may be published for public viewing or otherwise made available for public inspection, including being uploaded to the Internet. We may, either in discussion with others, whether privately or publicly, or in any subsequent report, cite comments submitted in response to this outline.

6. To safeguard senders’ data privacy, we will remove senders’ relevant data (other than names), such as residential/return addresses, email addresses, identity card numbers, telephone numbers, facsimile numbers and signatures, where provided, when publishing their submissions.

7. We will respect the wish of senders to remain anonymous and/or keep the views confidential in part or in whole. If senders request anonymity in the submissions, we will remove their names when publishing their views. If senders request confidentiality, their submissions will not be published. Otherwise, we may name and publish the views if need be.

8. Any sender providing personal data to this Bureau in the submission will have rights of access and correction with respect to such personal data. Any requests for data access or correction of personal data should be made in writing through the channels mentioned in paragraph 3 above to the Assistant Secretary for Labour and Welfare (Rehabilitation) Special Duties 2.

9. The text of the Convention is available on the LWB website : [http://www.lwb.gov.hk/UNCRPD/Publications/22072008\\_e.pdf](http://www.lwb.gov.hk/UNCRPD/Publications/22072008_e.pdf).

10. Reference to “the initial report” are to the report of the HKSAR submitted by the Central People’s Government to UN in August 2010 and heard by the UN Committee on the Rights of Persons with Disabilities (the Committee) in September 2012. A copy of the initial report is available on the LWB website: [http://www.lwb.gov.hk/UNCRPD/Publications/HKSAR's%20UNCRPD%20report\\_Eng%20\(version%20for%20publication\).pdf](http://www.lwb.gov.hk/UNCRPD/Publications/HKSAR's%20UNCRPD%20report_Eng%20(version%20for%20publication).pdf).

## **The Report**

11. The second report will consist mainly of –
- (a) information/explanations about any significant developments since the submission of the initial report in 2010;
  - (b) updates of developments that were ongoing at the time the Committee considered the initial report in 2012; and
  - (c) responses to the concerns and recommendations raised in the Committee’s Concluding Observations (the Concluding Observations) on the initial report (reproduced at the **Annex 2**).
12. In suggesting additional topics to be included in the report, please indicate why those issues are significant and relevant to the application of the Convention in Hong Kong. Respondents may also set out their views on the Government’s performance in handling such issues.

## **Outline of the Second Report under the Convention**

### **Preface**

We will highlight in the preface the major developments since the consideration by the UN Committee on the Rights of Persons with Disabilities (the Committee) of the initial report of the Hong Kong Special Administrative Region (HKSAR) submitted by the Government of the People's Republic of China under the Convention on the Rights of Persons with Disabilities (the Convention) in 2010.

### **Part I : Common Core Document of the HKSAR**

2. This part of the report contains information of a general and factual nature relating to the implementation of the human rights treaties applicable to the HKSAR.

### **Part II : Treaty-specific Document in relation to each of the Articles in the Convention**

3. This part, following an article-by-article sequence, contains specific information relating to the implementation of the substantive provisions of the Convention in the HKSAR. It also contains information on substantive measures taken and the progress achieved.

### **General Provisions**

#### **Articles 1 to 4**

4. We will inform the Committee of any new developments on this section and respond to paragraphs 53 and 54 of the Concluding Observations regarding the eligibility standard of the Disability Allowance and the different definitions of disability adopted.

## **Specific Rights**

### **Article 5 - Equality and non-discrimination**

5. We will inform the Committee of any new developments in relation to the right to equality and the principle of non-discrimination; relevant legislation and administrative measures, and respond to paragraphs 55 and 56 of the Concluding Observations in respect of role adopted by the Equal Opportunities Commission.

### **Article 6 – Women with Disabilities**

6. We will respond to paragraphs 57 and 58 of the Concluding Observations regarding domestic violence against women with disabilities and the inclusion of a representative of women with disabilities in the Women’s Commission. We will also inform the Committee of any new developments in respect of general framework for protection of the rights of women and men; relevant legislation and administrative measures to promote the well-being and interests of women.

### **Article 7 – Children with Disabilities**

7. We will respond to paragraphs 59 and 60 of the Concluding Observations in respect of assessment and early education services for children with disabilities; and inform the committee of any new developments in respect of general framework for protection of the rights of children; relevant legislation; and administrative measures to cater for the needs of children with disabilities.

### **Article 8 - Awareness-raising**

8. We will inform the Committee of any new developments in respect of the administrative measures to raise public awareness on persons with disabilities.

### **Article 9 - Accessibility**

9. We will inform the Committee of any new developments in respect of enhancing the accessibility of physical environment, and respond to paragraphs 61 and 62 of the Concluding Observations regarding the “Design Manual – Barrier-Free Access” and the monitoring mechanism of accessibility of buildings.

## **Article 10 - Right to life**

10. We will respond to paragraphs 63 and 64 of the Concluding Observations in respect of the provision of psychological treatment based on free and informed consent of the person and counseling to these persons, as well as regular assessment of their suicide risk. We will update the Committee on information and statistics in respect of administrative measures to protect the right to life and prevent suicide.

## **Article 11 - Situations of risk and humanitarian emergencies**

11. We will inform the Committee of any new developments in relation to measures taken by the Government to ensure protection and safety of persons with disabilities, including measures taken to include them in emergency protocol.

## **Article 12 - Equal recognition before the law**

12. We will inform the Committee of any new developments in relation to the legal framework and administrative measures to ensure that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.

## **Article 13 - Access to justice**

13. We will inform the Committee of any updated position in relation to the legislative and administrative measures which enable persons with disabilities to enjoy effective access to justice.

## **Article 14 - Liberty and security of the person**

14. We will inform the Committee of any new developments in relation to legislative and administrative measures to ensure persons with disabilities enjoy the right to liberty and security of person on an equal basis with others.

## **Article 15 - Freedom from torture or cruel, inhuman or degrading treatment or punishment**

15. We will inform the Committee of any new developments in relation to protection of persons with disabilities from medical or

scientific experimentation without consent and the inclusion of persons with disabilities in strategies and mechanisms to prevent torture.

### **Article 16 - Freedom from exploitation, violence and abuse**

16. We will inform the Committee of any new developments in respect of relevant legislation; investigation of cases related to violence and abuse and administrative measures against domestic violence, and respond to paragraphs 65 to 66 of the Concluding Observations regarding the incidents of women and girls with intellectual disabilities being subjected to sexual violence, sex education for children and adolescents with intellectual disabilities and training for enforcement personnel handling violence against women and girls with disabilities. We will also respond to paragraphs 67 and 68 of the Concluding Observations on the issue of shelter workshops for persons with disabilities in sheltered workshops under Article 27.

### **Article 17 - Protecting the integrity of the person**

17. We will inform the Committee of any new developments in relation to protection of persons with disabilities from medical treatment given without consent, including protection from forced sterilization and forced abortions.

### **Article 18 - Liberty of movement and nationality**

18. We will inform the Committee of the general framework of protection of freedom of movement of persons with disabilities.

### **Article 19 - Living independently and being included in the community**

19. We will respond to paragraphs 69 and 70 of the Concluding Observations regarding residential care homes and District Support Centres for persons with disabilities, and inform the Committee of any new developments in respect of day care and community support services; residential care services; constraints in development of rehabilitation services; and relevant public housing policies.

### **Article 20 - Personal mobility**

20. We will inform the Committee of any new developments in respect of services and financial assistance for acquiring assistive device;

adaptation works in domestic flat; and rehabilitation engineering services.

### **Article 21 – Freedom of expression and opinion, and access to information**

21. We will respond to paragraphs 71 and 72 of the Concluding Observations on sign language, and inform the Committee of any new developments in respect of general framework to protect the freedom of expression and opinion; administrative measures to protect the freedom to seek and receive information and promotion of sign language.

### **Article 22 - Respect for privacy**

22. We will inform the Committee of any new developments in relation to the legislative and administrative measures for the protection of privacy and personal data.

### **Article 23 - Respect for home and the family**

23. We will inform the Committee of any new developments in respect of general framework to protect the right to marry and to found a family on the basis of full and free consent and policy and administrative measures to provide support for families with parents and/or children with disabilities.

### **Article 24 - Education**

24. We will respond to paragraphs 73 and 74 of the Concluding Observations on Integrated Education, and inform the Committee of any new developments in respect of Disability Discrimination Ordinance; administrative measures to assist children with special educational needs; further learning opportunities for persons with disabilities; and training for teachers and professionals in the education system.

### **Article 25 - Health**

25. We will inform the Committee of any new developments in relation to health services for persons with disabilities, health education and training of health care professionals. We will also respond to the Committee's concerns about the high demand for public medical services and the lack of medical insurance at paragraphs 75 and 76 of the Concluding Observations.



## **Article 26 - Habilitation and rehabilitation**

26. We will provide updates for this Article under Article 19, 24, 25 and 27.

## **Article 27 - Work and employment**

27. We will respond to paragraphs 77 and 78 of the Concluding Observations with regard to the poverty alleviation policy of the HKSAR Government, measures to promote the employment of persons with disabilities; and paragraphs 67 and 68 of the Concluding Observations on the issue of sheltered workshops. We will also inform the Committee of any new developments in respect of relevant legislation, vocational rehabilitation and training services for persons with disabilities; and measures to promote employment opportunities of persons with disabilities, and provide the latest relevant statistics.

## **Article 28 - Adequate standard of living and social protection**

28. We will respond to paragraphs 79 and 80 of the Concluding Observations on Comprehensive Social Security Assistance and Disability Allowance, and inform the Committee of any new developments in respect of financial assistance; rehabilitation services; waiver of medical fee; and housing scheme.

## **Article 29 - Participation in political and public life**

29. We will respond to paragraphs 81 and 82 of the Concluding Observations on participation of persons with disabilities in public service and accessibility of voting stations, and inform the Committee of any new developments in respect of engagement of persons with disabilities in policy formulation; voting arrangement for persons with disabilities; and measures to promote the development of self-help organisations.

## **Article 30 - Participation in cultural life, recreation, leisure and sport**

30. We will inform the Committee of any new developments in respect of administrative measures to encourage participation in cultural life, including enhancing the accessibility of cultural and recreational venues and promote barrier-free tourism.

## **Specific Obligations**

### **Article 31 - Statistics and data collection**

31. We will inform the Committee of the latest surveys conducted that are related to persons with disabilities.

### **Article 32 - International cooperation**

32. We will inform the Committee of the latest information regarding regional co-operation and participation in international events on promoting the well-being of persons with disabilities, including our work on taking forward the United Nations Economic and Social Commission for Asia and the Pacific's "Incheon Strategy to Make the Right Real for Persons with Disabilities for the Decade of Persons with Disabilities, 2013-2022" and its "Beijing Declaration and Action Plan".

### **Article 33 - Implementation and monitoring**

33. We will respond to paragraphs 83 and 84 of the Concluding Observations regarding the monitoring mechanism involving participation of persons with disabilities.

### **Reservations and Declarations**

34. We will inform the Committee that the position in relation to the reservation entered in respect of Article 18 remains the same as set out in the initial report.

**Labour and Welfare Bureau**  
**March 2018**



## Convention on the Rights of Persons with Disabilities

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### Committee on the Rights of Persons with Disabilities

#### Concluding observations on the initial report of China, adopted by the Committee at its eighth session (17–28 September 2012)

##### I. Introduction

1. The Committee considered the initial report of China (CRPD/C/CHN/1), including Hong Kong, China (CRPD/C/CHN-HKG/1), and Macao, China (CRPD/C/CHN-MAC/1), at its 77th and 78th meetings, held on 18 and 19 September 2012, and adopted the following concluding observations at its 91st meeting, held on 27 September 2012.

2. The Committee welcomes the initial report of China, including Hong Kong, China, and Macao, China, which was prepared in accordance with the Committee's reporting guidelines (CRPD/C/2/3). It also appreciates the written replies to the list of issues raised by the Committee (CRPD/C/CHN/Q/1/Add.1).

3. The Committee expresses its appreciation for the constructive dialogue held between the State party's delegation and the members of the Committee. The Committee commends the State party for its high-ranking delegation, among which were members of Government ministries and experts with disabilities.

4. The Committee regrets the State party's failure to ratify the Optional Protocol to the Convention and invites the State party to reconsider its decision to abstain from signing the Optional Protocol.

##### II. Positive aspects

5. The Committee congratulates the State party on its achievements in terms of accessibility, such as the accessibility stipulations in the Law on the Protection of Persons with Disabilities, the Implementation Plan for Barrier-Free Construction in the Eleventh Five-Year Plan (2006-2010) or the standards facilitating the use of public facilities for persons with disabilities.

6. The Committee supports the legal protection of workers with disabilities from exploitation, violence and abuse, such as the relevant regulations in the Law on the Protection of Persons with Disabilities, the

Law on Public Security Administration Punishments and the Law on Employment Contracts.

7. The Committee welcomes the efforts made by the State party to implement the rights enshrined in the Convention for children with disabilities by upholding the principle of “children first” through the Programme for the Development of Chinese Children (2001–2010) and the prohibition of discrimination against children with disabilities in the Law on the Protection of Minors.

8. The Committee commends the poverty reduction efforts undertaken by the State party, especially regarding the poverty reduction of persons with disabilities.

### **III. Principle areas of concern and recommendations**

#### **A. General principles and obligations (arts. 1–4)**

9. The Committee takes note of the prevalence of the medical model of disability in both the definition of disability and the enduring terminology and language of the discourse on the status of persons with disabilities. Therefore, the Committee is concerned about the lack of a coherent and comprehensive disability strategy to implement the human rights model of disability that the Convention establishes to achieve the de facto equality of persons with disabilities and implement the rights enshrined in the Convention at all levels. The Committee is concerned that organizations of persons with disabilities outside of the China Disabled Persons’ Federation are not included in the implementation of the Convention.

**10. The Committee urges the introduction of a comprehensive and inclusive national plan of action, which includes full participation of all representatives of persons with disabilities in China, to introduce the human rights model of disability into Chinese disability policy.**

#### **B. Specific rights (arts. 5–30)**

##### **Equality and non-discrimination (art. 5)**

11. While commending the legal prohibition of disability-based discrimination in the State party, the Committee is concerned about the lack of a comprehensive definition of discrimination against persons with disabilities. The Committee also worries about the contradictions between many local law regulations and the national law with regard to the prohibition of discrimination. The Committee is concerned that the State party does not consistently apply the concept of reasonable accommodation in relation to the principle of non-discrimination.

**12. The Committee expressly encourages the State party to provide a legal definition of discrimination against persons with disabilities and include in such a definition the prohibition of indirect discrimination. The Committee suggests including a definition of reasonable accommodation in Chinese law which reflects the Convention definition covering necessary and appropriate modification and adjustment applicable in a particular case beyond general accessibility. Furthermore, the State party should ensure that the law explicitly recognizes the refusal of reasonable accommodation constitutes disability-based discrimination.**

#### **Children with disabilities (art. 7)**

13. The Committee fears that children with disabilities in the State party are at a high risk of abandonment by their parents and are often placed in isolated institutions. For those children with disabilities living at home in rural areas, the Committee is concerned at the lack of community-based services and assistance.

**14. The Committee urges the State party to take measures to fight the widespread stigma in relation to boys and girls with disabilities and revise their strict family planning policy, so as to combat the root causes for the abandonment of boys and girls with disabilities. It asks the State party to provide sufficient community-based services and assistance also in rural areas.**

#### **Awareness-raising (art. 8)**

15. The Committee is concerned that the medical model of disability prevails in the awareness-raising attempts of the State party, which is not in accordance with the spirit of the Convention. It is especially concerned with awareness-raising events such as the “All-China Occupational Skills Contest for Persons with Disabilities” and the “Million Young Volunteers to Help Persons with Disabilities” programme that depict persons with disabilities as helpless and dependent human beings segregated from the rest of society.

**16. The Committee wishes to again remind the State party of the Convention’s human rights model of disability and asks the State party to promote this concept of persons with disabilities as independent and autonomous rights holders in its awareness-raising programmes. It urges the State party to inform all persons with disabilities, especially those living in rural areas, of their rights, specifically the right to receive minimum welfare subsidies and the right to attend school. The Committee recommends the State party introduce an awareness-raising programme that shows the society positive perceptions of persons with disabilities.**

#### **Accessibility (art. 9)**

17. While appreciating the State party’s advancements concerning accessibility in urban areas, the Committee takes note of the lack of information concerning both the accessibility in rural areas and the effects of non-compliance with accessibility measures and monitoring and evaluating accessibility

**18. The Committee asks the State party to provide such information in its next report. Considering the large proportion of persons with disabilities who live in rural areas (75 per cent), it specifically urges the State party to ensure that accessibility is guaranteed not only in urban, but also in rural areas. It also asks the State party not to restrict the barrier-free infrastructure to environments often frequented by persons with disabilities.**

#### **Right to life (art. 10)**

19. The Committee expresses its utmost concern about the abduction of persons with intellectual disabilities, most of them children, and the staging of “mining accidents” in Hebei, Fujian, Liaoning and Sichuan, resulting in the victim’s death in order to claim compensation from the mine owners.

20. **The Committee strongly urges the State party to continue investigating these incidents and prosecute all those responsible, and impose appropriate sanctions. It also asks the State party to implement comprehensive measures to prevent further abductions of boys with intellectual disabilities and provide remedies to the victims.**

**Equal recognition before the law (art. 12)**

21. The Committee is concerned about the system for establishing legal guardianship, which is not in compliance with article 12 of the Convention. It takes note of the complete absence of a system of supported decision-making measures which recognize the rights of persons with disabilities to make their own decisions and to have their autonomy, will and preferences respected.

22. **The Committee urges the State party to adopt measures to repeal the laws, policies and practices which permit guardianship and trusteeship for adults and take legislative action to replace regimes of substituted decision-making by supported decision making, which respects the person's autonomy, will and preferences, in the exercise of one's legal capacity in accordance with article 12 of the Convention. In addition, the Committee recommends that the State party, in consultation with organizations of persons with disabilities, prepare, legislate and implement a blueprint for a system of supported decision-making, which includes:**

(a) **Recognition of all persons' legal capacity and right to exercise it;**

(b) **Accommodations and access to support where necessary to exercise legal capacity;**

(c) **Regulations to ensure that support respects the person's autonomy, will and preferences and establishment of feedback mechanisms to ensure that support is meeting the person's needs;**

(d) **Arrangements for the promotion and establishment of supported decision-making.**

**Access to justice (art. 13)**

23. While appreciating the establishment of legal aid service centres for persons with disabilities, the Committee notes that these service centres often lack the necessary resources and do not operate on an independent basis. The Committee is concerned that neither the criminal nor the civil procedure laws in China are accessible for the use of persons with disabilities on an equal basis with others and, instead, patronizing measures are put into place, such as the designation of public defenders that treat the person concerned as if they lacked legal capacity.

24. **The Committee suggests that the State party allocate the necessary human and financial resources to the legal aid service centres. It asks the State party to ensure that these centres safeguard the access to justice of persons with disabilities independently and in practice, including below the county level. The Committee suggests that the State party reviews its procedural civil and criminal laws in order to make mandatory the necessity to establish procedural accommodation for those persons with disabilities who intervene in the judicial system can do it as subject of rights and not as objects of protection.**

#### **Liberty and security of the person (art. 14)**

25. The Committee is concerned that the deprivation of liberty on the grounds of disability is allowed in the State party, and that involuntary civil commitment is perceived as a tool to maintain the public order. In this context, the Committee finds it disturbing that many persons with actual or perceived impairments are involuntarily committed to psychiatric institutions for various reasons, such as being petitioners. In addition, the Committee is concerned that many persons who indeed live with intellectual and psychosocial impairments and require a high level of support lack the adequate resources for their medical and social care and are thus permanently confined at home.

**26. The Committee recommends the abolishment of the practice of involuntary civil commitment based on actual or perceived impairment. In addition, the Committee asks the State party to allocate more financial resources to persons with intellectual and psychosocial disabilities who require a high level of support, in order to ensure social support and medical treatment outside their own home when necessary.**

#### **Freedom from torture (art. 15)**

27. For those involuntarily committed persons with actual or perceived intellectual and psychosocial impairments, the Committee is concerned that the “correctional therapy” offered at psychiatric institutions represents inhuman and degrading treatment. Further, the Committee is concerned that not all medical experimentation without free and informed consent is prohibited by Chinese law.

**28. The Committee urges the State party to cease its policy of subjecting persons with actual or perceived impairments to such therapies and abstain from involuntarily committing them to institutions. Further it urges the State party to abolish laws which allow for medical experimentation on persons with disabilities without their free and informed consent.**

#### **Freedom from exploitation, violence, and abuse (art. 16)**

29. The Committee is deeply troubled by the reported incidents of abduction and forced labour of thousands of persons with intellectual disabilities, especially children, such as the occurrence of slave labour in Shanxi and Henan.

**30. The Committee strongly urges the State party to continue investigating these incidents and prosecute the perpetrators. The Committee asks the State party to implement comprehensive measures to prevent further abductions of persons with intellectual disabilities and provide remedies to the victims, by including data collection on the prevalence of exploitation, abuse and violence against persons with disabilities.**

#### **Right to live independently and live in the community (art. 19)**

31. The Committee is concerned about the high number of persons with disabilities living in institutions and about the fact that China maintains institutions with up to 2,000 residents. Such institutions are not in compliance with article 19 of the Convention. The Committee is further concerned about the existence of lepers colonies, where people with leprosy live in isolation

32. **The Committee recommends taking immediate steps to phase out and eliminate institutional-based care for people with disabilities. Further, the Committee recommends that State party consult with organizations of persons with disabilities on developing support services for persons with disabilities to live independently in accordance with their own choice. Support services should also be provided to persons with a high level of support needs. In addition, the Committee suggests that the State party undertake all necessary measures to grant people with leprosy the medical treatment needed and to reintegrate them into the community, thereby eliminating the existence of such lepers' colonies.**

#### **Respect for home and the family (art. 23)**

33. The Committee is deeply concerned that both the State party's laws and its society accept the practice of forced sterilization and forced abortion on women with disabilities without free and informed consent

34. **The Committee calls upon the State party to revise its laws and policies in order to prohibit compulsory sterilization and forced abortion on women with disabilities.**

#### **Education (art. 24)**

35. The Committee is concerned about the high number of special schools and the State party's policy of actively developing these schools. The Committee is especially worried that in practice only students with certain kinds of impairments (physical disabilities or mild visual disabilities) are able to attend mainstream education, while all other children with disabilities are forced to either enrol in a special school or drop out altogether.

36. **The Committee wishes to remind the State party that the concept of inclusion is one of the key notions of the Convention and should be especially adhered to in the field of education. In this regard, the Committee recommends that the State party reallocate resources from the special education system to promote the inclusive education in mainstream schools, so as to ensure that more children with disabilities can attend mainstream education.**

#### **Right to health (art. 25)**

37. The Committee is concerned about the current involuntary commitment system in the State party. It takes note of the Draft Mental Health Act and the ordinances of six major cities in the State party on mental health which do not respect the individual will of persons with disabilities.

38. **The Committee advises the State party to adopt measures to ensure that all health care and services provided to persons with disabilities, including all mental health care and services, is based on the free and informed consent of the individual concerned, and that laws permitting involuntary treatment and confinement, including upon the authorization of third party decision-makers such as family members or guardians, are repealed. It recommends that the State party develop a wide range of community-based services and supports that respond to needs expressed by persons with disabilities, and respect the person's autonomy, choices, dignity and privacy, including peer support and other alternatives to the medical model of mental health**



#### **Rehabilitation and habilitation (art. 26)**

39. The Committee is concerned with the imposition of rehabilitation and habilitation measures on persons with disabilities, especially persons with psychosocial or intellectual disabilities, without their informed consent.

**40. The Committee recommends that rights based approach to rehabilitation and habilitation be put in place and ensure that such programmes promote the informed consent of individuals with disabilities and respects their autonomy, integrity, will and preference.**

#### **Work and employment (art. 27)**

41. While observing the existence of a quota system, the Committee worries that this system does not effectively address the chronic problem of unemployment among persons with disabilities or the deep-rooted causes of discrimination in employment. Specifically, the Committee is concerned that often the employment offered is only of symbolic value or that companies and Government bodies frequently opt to pay the employment levy rather than employing persons with disabilities. The Committee is also concerned about the practice of reserved employment (such as the field of “blind massage”), which discriminates against persons with disabilities in their vocational and career choices.

**42. The Committee recommends that the State party undertake all necessary measures to ensure the persons with disabilities freedom of choice to pursue vocations according to their preferences. It suggests that the State party create more working opportunities and enact legislature, so that companies and State organs employ more persons with disabilities.**

#### **Adequate standard of living and social protection (art. 28)**

43. While appreciating the existence of a policy of poverty reduction and providing benefits and subsidies, the Committee is concerned about the gap in receiving such benefits between the persons with disabilities living in rural and urban areas.

**44. The Committee recommends that the State party increase measures to remedy the gap for the awarding of benefits between rural and urban areas and take steps to ensure that persons with disabilities – regardless of how they acquire their disability – have immediate access to certification and benefits. It asks the State party to specifically inform persons with disabilities in rural areas of their right to benefits and develop a system to prevent the corruption in the context of allocation and distribution of welfare benefits by local officials.**

#### **Participation in political and public life (art. 29)**

45. The Committee is concerned with article 26 of the Election Law, which excludes citizens with intellectual and psychosocial impairments from the voting process.

**46. The Committee recommends that the State party revise article 26 of the Election Law to ensure that all persons with disabilities have the right to vote on an equal basis with others.**

## **C. Specific obligations (arts. 31–33)**

### **Statistics and data (art. 31)**

47. The Committee takes note that disaggregated appropriate information, including statistical and research data which enables the State party to formulate and implement policies to give effect to the Convention, is often not available due to laws and regulations on guarding State's secrets as revised in 2010.

48. **The Committee recommends reviewing the secrecy laws and appropriately revising them so that information on issues and problems regarding the implementation of the Convention – e.g. the number of sterilized women with disabilities or the number of involuntary commitments to institutions – can be publicly discussed. The Committee reminds the State party that this information should be accessible to persons with disabilities.**

### **National implementation and monitoring (art. 33)**

49. The Committee is concerned at the overall absence of independent bodies and organizations of persons with disabilities systematically involved in the process of implementing the Convention. Considering that the China Disabled Persons' Federation remains the sole official representative of persons with disabilities in the State party, the Committee is concerned about the participation of civil society. In addition, the Committee wonders which body or organization in China is designated the independent national monitoring mechanism as required by article 33, paragraph 2, of the Convention.

50. **The Committee strongly recommends that the State party revise article 8 of the Law on the Protection of Disabled Persons, thus allowing non-governmental organizations other than the China Disabled Persons' Federation to represent the interests of disabled people in the State party and be involved in the monitoring process. It further recommends the establishment of an independent national monitoring mechanism in line with article 33, paragraph 2, of the Convention and in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).**

## **IV. Hong Kong, China**

### **A. Positive aspects**

51. The Committee appreciates the introduction of affirmative measures of action for persons with disabilities in Hong Kong, China, such as the Disability Allowance.

52. The Committee welcomes the awarding of Learning Support Grants, under which schools receive a certain sum for each student with "special educational needs".

### **B. Principle areas of concern and recommendations**

#### **1. General principles and obligations (arts. 1–4)**

53. The Committee regrets the outdated eligibility standard in the Disability Allowance Scheme and lack of unity in the various definitions

of disability that have been adopted in different pieces of legislation and by Government bureaux and departments.

54. **The Committee encourages Hong Kong, China, to revise the inappropriate eligibility standard and to adopt definition of persons with disabilities that adequately reflects article 1 and the human rights model of the Convention.**

## 2. Specific rights (arts. 5–30)

### **Equality and non-discrimination (art. 5)**

55. The Committee is concerned about the rather passive role adopted by the Equal Opportunities Commission, which is responsible for monitoring and executing the Disability Discrimination Ordinance.

56. **The Committee recommends that the Equal Opportunities Commission review its role and assume a more proactive part, especially when handling complaint cases.**

### **Women with disabilities (art. 6)**

57. The Committee is concerned about the discrimination faced by women and girls with disabilities and the lack of action of the government of Hong Kong, China, to reduce the occurrence of discrimination, such as neglecting article 6 in the promotion of the Convention. The Committee is also troubled by the repeated occurrence of domestic violence against women and girls with disabilities.

58. **The Committee recommends that the Women’s Commission of Hong Kong, China, should integrate the amelioration of the living situation of women and girls with disabilities into their mandate and include a representative of women with disabilities in its Commission. It also asks Hong Kong, China, to raise awareness on article 6 of the Convention, so as to ensure that women with disabilities enjoy their rights on an equal basis with men. In addition, the Committee calls upon Hong Kong, China, to prevent domestic violence against women with disabilities and to prosecute and punish the perpetrators and all those responsible.**

### **Children with disabilities (art. 7)**

59. While commending the assessment and early education service offered by the government of Hong Kong, China, the Committee is concerned that the services provided are not sufficient to match the overwhelming demand.

60. **The Committee recommends that Hong Kong, China, allocate more resources to the services provided for children with disabilities in order to ensure that they are able to develop to their full potential.**

### **Accessibility (art. 9)**

61. While noting that Hong Kong, China, has improved the barrier-free access of government buildings, leisure and cultural facilities and public housings in recent years, the Committee is concerned that persons with disabilities still face difficulties in terms of accessibility. The Committee especially regrets that the building standards set out in the “Design Manual – Barrier-Free Access” do not apply retroactively and that they are not applicable to premises under the management of the government or the housing authority. The Committee is concerned that the monitoring mechanism to evaluate the accessibility of buildings is insufficient, thus

restricting the ability of persons with disabilities to live independently in the community.

**62. The Committee encourages Hong Kong, China, to continue reviewing the “Design Manual – Barrier-Free Access” and apply these standards retroactively to premises under the management of the government or the housing authority as well. It recommends that Hong Kong, China, strengthen the monitoring process of accessibility.**

#### **Right to life (art. 10)**

63. The Committee is concerned about the heightened suicide risk among persons with intellectual or psychosocial disabilities (35 per cent of the overall suicide rate in Hong Kong, China).

**64. The Committee calls upon Hong Kong, China, to provide the necessary psychological treatment based on free and informed consent of the person and counselling to these persons. The Committee recommends a regular assessment of their suicide risk.**

#### **Freedom from exploitation, violence, and abuse (art. 16)**

65. The Committee is concerned about the incidents of women and girls with intellectual disabilities being subjected to sexual violence.

**66. The Committee suggests that Hong Kong, China, continue investigating these incidents and prosecute the perpetrators and all those responsible. It also recommends that sex education be taught to children and adolescents with intellectual disabilities and that the law enforcement personnel be trained on handling violence against women and girls with disabilities.**

67. In addition, while the Committee does not consider shelter workshops as a good way to implement the Convention, it also finds the daily allowance for persons with disabilities in shelter workshops to be too low and bordering exploitation.

**68. The Committee recommends that Hong Kong, China, enact legislation to raise the daily allowance for persons with disabilities in shelter workshops, so as to prevent their exploitation.**

#### **Right to live independently and live in the community (art. 19)**

69. The Committee is concerned about the shortage on sublet residential homes. It is also worried about the lack of premises for District Support Centres, whose aim is to strengthen the ability of persons with disabilities to live at home in their own community and be integrated into society.

**70. The Committee suggests that Hong Kong, China, allocate more resources to setting up more sublet mainstream residential homes and strengthening policies promoting establishment of accessible living facilities to secure the de facto possibility of free choice of accommodation. It calls upon Hong Kong, China, to ensure that the District Support Centres receive the necessary funds and premises in order to enable persons with disabilities to live in the community.**

#### **Freedom of expression and opinion, and access to information (art. 21)**

71. The Committee takes note of the difficult situation of persons with hearing impairments in accessing information due to lack of official recognition of the significance of sign language by Hong Kong, China.

The Committee is concerned about the lack of training for and services provided by sign-language interpreters.

**72. The Committee recommends that Hong Kong, China, increase training for and the services provided by sign-language interpreters. It should also recognize the public examination and assessment of such interpreters.**

#### **Education (art. 24)**

73. While commending the Integrated Education Plan to help students with disabilities study in mainstream schools, the Committee is concerned about its implementation. The Committee worries that the teacher-student ratio is too high and that the training for teachers in special education needs is inadequate. In addition, the Committee is troubled by the low number of students with disability in tertiary education, due to lack of a coherent education policy.

**74. The Committee recommends a review of the effectiveness of the Integrated Education Plan and the improvement of the teacher-student ratio, as well as the training of teachers in special education needs and reasonable accommodation. The Committee urges Hong Kong, China, to provide sufficient resources to ensure the accessibility in tertiary education.**

#### **Right to health (art. 25)**

75. The Committee is troubled by the fact that the demand for public medical services is higher than the supply. The Committee is also concerned about the fact that many insurance companies reject the applications of persons with disabilities, thus leaving them unable to pay the medical fees.

**76. The Committee suggests that Hong Kong, China, allocate more human and financial resources to the public medical services and arrange the cooperation of the insurance companies.**

#### **Work and employment (art. 27)**

77. The Committee is concerned about the high unemployment rate of persons with disabilities in Hong Kong, China, and that their average salary ranks well below that of persons without disabilities. The Committee is also troubled by the low number of civil servants with disabilities.

**78. The Committee recommends that Hong Kong, China, introduce affirmative actions to promote the employment of persons with disabilities, inter alia, to prioritize the employment of persons with disabilities as civil servants.**

#### **Adequate standard of living and social protection (art. 28)**

79. The Committee is concerned about the family-based assessment for application and eligibility to receive the Comprehensive Social Security Assistance. In addition, the Committee is worried about the different standards employed by doctors in approving the disability allowance.

**80. The Committee suggests that Hong Kong, China, replace the family-based assessment with an individual-based one in order to determine the eligibility to receive the Comprehensive Social Security Assistance. The Committee also recommends that Hong Kong, China, introduce uniform standards for approving the disability allowance.**

### **Participation in political and public life (art. 29)**

81. The Committee is concerned about the low number of persons with disabilities holding public offices and the inaccessibility of some polling stations for voters with disabilities.

82. **The Committee urges Hong Kong, China, to enhance the active participation of persons with disabilities in politics through affirmative action and ensure the accessibility of all voting stations.**

### **3. Specific obligations (arts. 31–33)**

#### **National implementation and monitoring (art. 33)**

83. The Committee is worried by the low rank of the focal point, the Commissioner for Rehabilitation and the lack of an independent monitoring mechanism according to article 33, paragraph 2.

84. **The Committee recommends that Hong Kong, China, strengthen the authority of the Commissioner for Rehabilitation and set up an independent monitoring mechanism that involves the active participation of persons with disabilities and their representative organizations.**

## **V. Macao, China**

### **A. Positive aspects**

85. The Committee welcomes the establishment of the Commission against Corruption, which has Ombudsman functions for the rights of persons with disabilities.

86. The Committee appreciates that persons with disabilities in Macao, China, are able to receive several subsidies as social protection.

87. The Committee commends article 5 (f) of Decree-Law 33/99/M, which stipulates the mandatory information of persons with disabilities of their rights and the existing structures assigned to provide them assistance.

### **B. Principle areas of concern and recommendations**

#### **1. Specific rights (arts. 5–30)**

##### **Equality and non-discrimination (art. 5)**

88. The Committee is concerned about the existence of de facto inequality in Macao, China.

89. **The Committee recommends that Macao, China, continue its efforts to ensure equality for persons with disabilities, so as to ensure the implementation of the spirit of the Convention.**

##### **Freedom from exploitation, violence and abuse (art. 16)**

90. The Committee is concerned about the heightened risk of violence against women and girls with disabilities becoming victims of domestic violence and abuse.

91. **The Committee recommends that services and information are made accessible to these victims. It specifically encourages Macao,**

**China, to set up a complaint mechanism and conduct mandatory training for the police force on this issue.**

**Right to live independently and live in the community (art. 19)**

92. The Committee is concerned that the right to live independently and in the community has not yet been fully achieved in Macao, China.

**93. The Committee urges Macao, China, to prioritize the implementation of this right and shift from institutionalization to in-home or residential living, as well as provide other community support services.**

**Education (art. 24)**

94. The Committee is concerned that the number of students with special educational needs in a non-inclusive environment is higher than that in an inclusive one. The Committee is also troubled by the low number of students with disabilities attending tertiary education.

**95. The Committee wishes to remind Macao, China, that the concept of inclusive education is essential to the implementation of article 24 and should be the rule rather than an exception. The Committee calls upon Macao, China, to continue making tertiary education more accessible to students with disabilities.**

**Work and employment (art. 27)**

96. The Committee is concerned that employees with disabilities only account for 0.3 per cent of the total employed population.

**97. The Committee recommends Macao, China, to introduce more affirmative action to enable persons with disabilities to find employment.**

## **VI. Follow-up and dissemination**

98. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. The Committee recommends that the State party transmit them for consideration and action to members of the Government and the National People's Congress, officials in the relevant ministries, members of relevant professional groups, such as education, medical and legal professionals, as well as local authorities and the media, using modern accessible social communication strategies.

99. The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its second periodic report.

100. The Committee requests the State party to disseminate these concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in accessible formats.

101. The Committee requests that the State party to submit within 12 months information, in writing, on the measures adopted in order to meet the recommendations set out in paragraphs 20 and 50.

## **VII. Next report**

102. The Committee requests the State party to submit its second periodic report by no later than 1 September 2014, and to include therein information on the implementation of the present concluding observations.

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