

**For discussion
on 19 March 2010**

Legislative Council Panel on Constitutional Affairs

**An outline of the topics in the initial report of the
Hong Kong Special Administrative Region under
the United Nations Convention on the Rights of Persons with Disabilities**

Purpose

This paper seeks Members' comments on the proposed outline of the topics to be included in the initial report of the Hong Kong Special Administrative Region (HKSAR) under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

Application of the UNCRPD

2. UNCRPD has entered into force for the People's Republic of China, including the HKSAR, since 31 August 2008. The purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Reporting Obligation under the UNCRPD

3. In accordance with Article 35 of the UNCRPD, each State Party undertakes to submit to the Secretary-General of the United Nations, for consideration by the Committee on the Rights of Persons with Disabilities, an initial report on measures taken to give effect to its obligations thereunder within two years after the entry into force of the UNCRPD for the State concerned.

4. The Central People's Government (CPG) is preparing its initial report under the UNCRPD. In this connection, the HKSAR Government will submit to the CPG a report which will set out in detail the administrative, legal and other measures taken by the HKSAR to implement

the Convention and the resulting progress achieved for incorporation into China's initial report.

Public Consultation

5. In line with the established practice, we have prepared for public consultation an outline of the topics for inclusion in the report at **Appendix**. The purpose of the consultation is to invite members of the public to submit views on the implementation of the UNCRPD in the HKSAR in respect of those topics and to suggest any additional topics that should be included in the report.

6. The six-week public consultation period, commencing on 17 February 2010, will close on 31 March 2010. We have issued the outline to relevant non-governmental organisations/groups of the rehabilitation sector to invite their views. The outline is also made available at all Public Enquiry Service Centres of District Offices, and uploaded to the website of the Labour and Welfare Bureau (LWB) at <http://www.lwb.gov.hk>. LWB, together with the Rehabilitation Advisory Committee, has convened a public consultation session at the Duke of Windsor Social Service Building on 12 March 2010 for interested parties to express their views.

Comments Sought

7. Members are invited to comment on the proposed outline. We will carefully consider all the comments received, including those of Panel Members and deputations, and try to address the concerns and incorporate the views so expressed as far as possible in preparing the content of the Hong Kong report. The report will be published for dissemination to the public and copies will be sent to Members.

Labour and Welfare Bureau
March 2010

**An Outline of the Initial Report of
the Hong Kong Special Administrative Region under
the United Nations Convention on the Rights of
Persons with Disabilities**

Introduction

The United Nations Convention on the Rights of Persons with Disabilities (the Convention) has entered into force for the People's Republic of China, including the Hong Kong Special Administrative Region (HKSAR), since 31 August 2008. The purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. For the full text of the Convention, please visit the website of the Labour and Welfare Bureau - http://www.lwb.gov.hk/UNCRPD/Publications/22072008_e.pdf.

2. In accordance with Article 35 of the Convention, each State Party undertakes to submit to the Secretary-General of the United Nations, for consideration by the Committee on the Rights of Persons with Disabilities (the Committee), an initial report on measures taken to give effect to its obligations under the Convention within two years after the entry into force of the Convention for the State concerned. Against this timetable, the Administration is preparing for the submission of the HKSAR's initial report. HKSAR's report will form part of the report of the People's Republic of China under the Convention.

3. In line with our usual practice for the preparation of reports under other United Nations (UN) conventions (e.g. Convention on the Rights of the Child, Convention on Elimination of All Forms of Discrimination Against Women, etc.), we have prepared at **Annex** an outline of the HKSAR's initial report on the basis of the relevant reporting guidelines issued by the Committee. It sets out the broad subject headings and individual topics that we plan to cover in the report. It serves as an invitation to all 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 they consider should be included in the report.

4. We will carefully consider all the comments we receive. Any persons or organisations wishing to offer views are invited to send them to the Labour and Welfare Bureau (LWB) on or before 31 March 2010:

By post: Rehabilitation Team, Labour and Welfare Bureau,
Rooms 1024, 10/F,
Citibank Tower, 3 Garden Road
Hong Kong

By fax: 2543 0486

By email: uncrpd_consultation@lwb.gov.hk

5. Submissions will normally be made available to the general public upon request, unless the contributors specifically ask us to keep their views confidential.

Outline of the Report

Part I: General Profile of the HKSAR

The “general profile” part follows the standard format, form and content as prescribed by the current reporting guidelines of the UN. It contains information of a general and factual nature relating to the implementation of the human right treaties applicable to the HKSAR.

Part II : Main Report

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

General Provisions

Articles 1 to 4

3. These articles establish the purpose, definitions, general principles and obligations of the Convention. We will report on the ways and means by which the law in the HKSAR defines and understands the concepts embedded in articles 1 and 2 of the Convention, including the definition of disability, and in what manner the general principles and obligations established under articles 3 and 4 of the Convention have been implemented.

Specific Rights

Article 5 - Equality and non-discrimination

4. This article recognises that all persons are equal before the law with entitlement to equal protection and benefit of the law on equal grounds without any discrimination. We will report on measures taken by the HKSAR to guarantee persons with disabilities equal and effective

legal protection against all types of discrimination, including the provision of reasonable accommodation, and policies and programmes to achieve the de facto equality of persons with disabilities, taking into account their diversity.

Article 8 - Awareness-raising

5. This article establishes the obligation to conduct effective awareness raising policies to promote a positive image of persons with disabilities. We will report on the measures taken by the HKSAR to raise awareness of persons with disabilities, to foster respect for their rights and dignity, their capabilities and contributions, and to combat stereotypes, and prejudices against them.

Article 9 - Accessibility

6. This article establishes the obligation to take appropriate measures to enable persons with disabilities to live independently as far as possible and to participate fully in all aspects of life. We will report on the legislative and other measures taken by the HKSAR to ensure, for persons with disabilities, access on an equal basis with others to the physical environment, to transportation, information and communications, and to other facilities and services provided to the public according to article 9, paragraphs 2 (b) to (h), of the Convention.

Article 10 - Right to life

7. This article reaffirms the inherent right to life of persons with disabilities on an equal basis with others. We will report on how our legislation recognises and protects the right to life and survival of persons with disabilities on an equal basis with others.

Article 11 - Situations of risk and humanitarian emergencies

8. This article is to ensure the protection and safety of persons with disabilities in situations of risk, such as situations resulting from armed conflicts, humanitarian emergencies or natural disasters. We will report on measures taken by the HKSAR to ensure their protection and

safety including measures taken to include persons with disabilities in emergency protocols.

Article 12 - Equal recognition before the law

9. This article reaffirms that persons with disabilities have the right to recognition as persons before the law. We will report on measures taken by the HKSAR 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

10. This article recognises the right of persons with disabilities to have effective access to justice on an equal basis to others, without being excluded from legal proceedings. We will report on measures taken by the HKSAR to ensure the effective access to justice at all stages of the legal process by all persons with disabilities.

Article 14 - Liberty and security of the person

11. This article ensures that persons with disabilities enjoy the right to liberty and personal security, and are not deprived of their liberty, unlawfully or arbitrarily, on the basis of the existence of a disability. We will report on measures taken by the HKSAR to ensure that all persons with all forms of disabilities enjoy the right to liberty and security of person and that no person is deprived of her/his liberty on the basis of her/his disability.

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

12. This article establishes the protection of persons with disabilities from being subjected to torture, cruel, inhuman and degrading treatment or punishment. We will report on measures taken by the HKSAR to protect 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

13. This article protects persons with disabilities from all forms of exploitation, violence and abuse, both within and outside the home, paying special attention to children and women with disabilities. We will report on legislative, administrative, social, educational and other measures taken by the HKSAR to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including the gender and child based aspects.

Article 17 - Protecting the integrity of the person

14. This article establishes the right to respect for the physical and mental integrity of persons with disabilities. We will report on measures taken by the HKSAR to protect persons with disabilities from medical (or other) treatment given without consent and measures taken to protect all persons with disabilities from forced sterilisation, and girls and women from forced abortions.

Article 18 - Liberty of movement and nationality

15. This article recognises the right of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality. We will report on the relevant legislative and administrative measures in this regard.

Article 19 - Living independently and being included in the community

16. This article recognises the right of persons with disabilities to live independently and to participate in the community. We will report on community support and residential services provided to persons with disabilities in need to facilitate their continued living in the community.

Article 20 - Personal mobility

17. This article recognises the right of persons with disabilities to move freely with the greatest possible independence. We will report

on measures taken by the HKSAR to facilitate the personal mobility of persons with disabilities.

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

18. This article recognises the rights of persons with disabilities to freedom of expression and opinions, including the freedom to seek, receive and impart information and ideas through all forms of communication of their choosing. We will report on measures taken by the HKSAR to ensure that information provided to the general public is accessible to persons with disabilities and that persons with disabilities can have suitable means of communication in official interaction and access to information.

Article 22 - Respect for privacy

19. This article recognises the right of all persons with disabilities to the protection of their private life, honour and reputation. We will report on the measures taken by the HKSAR to protect the privacy of personal information of persons with disabilities.

Article 23 - Respect for home and the family

20. This article recognises the right of persons with disabilities to marriage and to found a family, to decide freely on the number of children to have, and to retain their fertility on an equal basis to others. We will report on measures taken by the HKSAR to ensure that persons with disabilities may exercise the right to marry and to found a family on the basis of full and free consent and that parents with disabilities, who so require, are provided with the adequate support in their child-rearing responsibilities.

Article 24 - Education

21. This article recognises the right of persons with disabilities to education on the basis of equal opportunity, ensuring an inclusive education system at all levels and the facilitation of access to lifelong learning. We will report on measures taken by the HKSAR to ensure

early identification of persons with disabilities and their education needs; that every child with disabilities has access to early-stage education, and mandatory primary, secondary and higher education; and that schools and materials are accessible and that individualised reasonable accommodation and support required by persons with disabilities is provided to ensure effective education and full inclusion.

Article 25 - Health

22. This article recognises that persons with disabilities have the right to the enjoyment of the highest attainable standard of health, ensuring access for persons with disabilities to health services, including health-related rehabilitation, that are gender-sensitive, in their community. We will report on measures taken by the HKSAR that ensure that persons with disabilities have the same access to quality health services, including access to disability-related health rehabilitation, and health services, early detection and intervention programmes, as appropriate, to prevent and minimise the emergence of secondary disabilities.

Article 26 - Habilitation and rehabilitation

23. This article establishes the measures to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life, through comprehensive habilitation and rehabilitation programmes, in the areas of health, employment, education and social services. We will report on general habilitation and rehabilitation programmes for persons with disabilities, in the areas of health, employment, education and social services.

Article 27 - Work and employment

24. This article recognises the right of persons with disabilities to work and to gain a living by participation in a labour market and work environment that is open, inclusive and accessible, including for those who acquire a disability during the course of employment. We will report on legislative measures taken by the HKSAR to ensure protection against discrimination in all stages of employment and in any form of employment and to recognise the right of persons with disabilities to

work on a basis of equality with others, in particular the right to equal pay for equal work, and targeted employment programmes and policies in place to achieve full and productive employment among persons with disabilities. In accordance with the clause A.11 of the Reporting Guidelines issued by UN, the report will also append the “Report on the Application of ILC 122” submitted by the Labour Department to the International Labour Organisation of UN in September 2009 which sets out, amongst other, the provision of support to employment for persons with disabilities.

Article 28 - Adequate standard of living and social protection

25. This article recognises the right of persons with disabilities to an adequate standard of living and to social protection. We will report on measures taken by the HKSAR to ensure access by persons with disabilities to services, devices and other appropriate assistance at affordable prices, including the availability of programmes that cover disability related extra financial costs.

Article 29 - Participation in political and public life

26. This article guarantees political rights to persons with disabilities. We will report on legislation and measures taken by the HKSAR to guarantee to persons with disabilities political rights, and measures taken to ensure the right to vote of all persons with disabilities, including the accessibility of the voting procedures, facilities and materials.

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

27. This article recognises the right of persons with disabilities to take part in cultural life, develop and utilise their creative, artistic and intellectual potential, recognition and support of their specific cultural and linguistic identity, and to participate in recreational, leisure and sporting activities on an equal basis with others. We will report on measures taken by the HKSAR to recognise and promote the right of persons with disabilities to take part on an equal basis with others in cultural life, including opportunities to develop and utilise their creative, artistic and intellectual potential; and measures taken to ensure that

cultural, leisure, tourism and sporting facilities are accessible to persons with disabilities.

Specific situation of boys, girls and women with disabilities

Article 6 - Women with disabilities

28. Although gender aspects should be mainstreamed in each of the articles where applicable, under this specific article the report will include information regarding measures taken by the HKSAR to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the Convention rights and fundamental freedoms, and the elimination of all forms of discrimination. We will report on whether gender inequality of women and girls with disabilities is recognised at legislative and policy levels, as well as within programme development; and whether girls and women with disabilities enjoy all human rights and fundamental freedoms on an equal basis with boys and men with disabilities.

Article 7 - Children with disabilities

29. We will report on supplementary information where applicable, regarding measures taken by the HKSAR to ensure the full enjoyment by children with disabilities of all Convention rights and fundamental freedoms.

E. Specific obligations

Article 31 - Statistics and data collection

30. This article regulates the process of collection of data. We will report on measures taken by the HKSAR to collect disaggregated appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the Convention.

Article 32 - International cooperation

31. This article recognises the importance of international cooperation in support of local efforts towards the realisation of the purpose and objectives of the Convention. We will report on the relevant programmes and projects.

Article 33 - Implementation and monitoring

32. This article regulates the application and follow-up of the Convention. We will report on the coordination mechanism within the Government relating to the implementation of the Convention; framework and measures taken to promote, protect and monitor implementation of the Convention; and measures taken to involve civil society, in particular persons with disabilities and their representative organisations, in the monitoring process and the preparation of the report.

Reservations and Declarations

33. HKSAR has entered a reservation that the application to the provisions regarding liberty of movement and nationality of the Convention (article 18) to the HKSAR shall not change the validity of relevant laws on immigration control and nationality application of the HKSAR. We will update the Committee on our latest position on the reservation.

Labour and Welfare Bureau
February 2010