

**For information
17 December 2012**

Legislative Council Panel on Constitutional Affairs

**Concluding Observations by the
United Nations Committee on the Rights of Persons with
Disabilities on the Initial Report of the Hong Kong Special
Administrative Region of the
People's Republic of China under the
Convention on the Rights of Persons with Disabilities**

Purpose

This paper informs Members of the outcome of the hearing by the United Nations Committee on the Rights of Persons with Disabilities (the Committee) on the initial report of the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China (PRC) under the United Nations Convention on the Rights of Persons with Disabilities (the HKSAR's initial report), and the Administration's initial views on the Committee's recommendations.

Background

2. The United Nations Convention on the Rights of Persons with Disabilities (the Convention) has entered into force for the PRC, 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.

3. Under the Convention, HKSAR is required to submit an initial report as part of a combined report of the PRC on the

implementation of the Convention to the Committee by 31 August 2010 and subsequent reports every four years. Following consultation with the Rehabilitation Advisory Committee (RAC) and a public consultation during the period from 17 February to 31 March 2010, the HKSAR's initial report was submitted to the Committee as part of the PRC's report in August 2010. The Legislative Council Panel on Constitutional Affairs also discussed the HKSAR's initial report and related issues with the Administration and deputations at the meetings held on 19 March 2010 and 18 June 2012.

4. The Committee considered the HKSAR's initial report, as part of the PRC's report, at its eighth session held in Geneva, Switzerland from 18 to 19 September 2012. The HKSAR team, comprising representatives from RAC, Labour and Welfare Bureau (LWB), Education Bureau, Food and Health Bureau, Department of Justice and Social Welfare Department, attended the hearing as part of the Chinese delegation to respond to questions raised by the Committee. The Hon Emily Lau and representatives of the Equal Opportunities Commission (EOC), the rehabilitation sector, groups of persons with disabilities and various sectors of the community attended the hearing as observers. The Committee published on 11 October 2012 its edited version of concluding observations on the report (copy at [Annex A](#)) which have also been uploaded onto the website of LWB.

Recommendations of the Committee and the Administration's Initial Views

5. The Committee welcomed the initial report of the PRC, including HKSAR, which was prepared in accordance with the Committee's reporting guidelines. It appreciated the written replies to the list of issues raised by the Committee and the constructive dialogue that took place at the hearing. In its concluding observations on HKSAR's initial report, the Committee in particular expressed its appreciation of the introduction of affirmative measures of action for persons with disabilities in HKSAR, such as the Disability Allowance. It also welcomed the

awarding of Learning Support Grants, under which schools receive a certain sum for each student with special educational needs. It further set out in paragraphs 53 to 84 of the concluding observations its principal areas of concern and recommendations. The Committee's recommendations, together with the Administration's initial responses, are set out at **Annex B**.

The Way Forward and Submission of the Administration's Full Response to the Committee

6. The HKSAR Government is committed to discharging its obligations under the Convention and will continue 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. Together with relevant government bureaux and departments, we are carefully considering the recommendations in the concluding observations and working out suitable follow-up action. We will continue our close partnership with RAC, EOC, groups of persons with disabilities, the rehabilitation sector and various sectors of the community with a view to building a caring, inclusive and equal society.

7. As requested by the Committee, we will provide a full response to the Committee's concluding observations in its second periodic report under the Convention, which is due for submission by 1 September 2014 as part of the PRC's report.

**Labour and Welfare Bureau
December 2012**



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 Educated 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.



**Convention on the Rights
of Persons with Disabilities**

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14 November 2012

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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)**

Corrigendum

1. Paragraph 69, first sentence

For shortage on sublet residential homes *read* shortage of subvented residential homes

2. Paragraph 70, first sentence

For sublet *read* subvented

**The Administration's Initial Response to the
Committee's Concerns and Recommendations**

General principles and obligations (paragraphs 53 and 54)

1. The Committee regrets the outdated eligibility standard in the Disability Allowance (DA) 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. It 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.

1.1. The Administration's initial response: DA is a monthly cash allowance provided under the Social Security Allowance Scheme to help Hong Kong residents who have severe disability meet their special needs arising from that disabling condition. As DA is non-contributory and non-means-tested, to ensure the proper use of public funds, its target recipients are those medically assessed to have severe disability and hence in greater need of assistance. An applicant will be considered to be severely disabled for the purpose of DA if he/she is certified by a public medical officer as being in a position broadly equivalent to a person with a 100% loss of earning capacity according to the criteria in the First Schedule of the Employees' Compensation Ordinance (Cap. 282).

1.2. DA does not seek to meet in full the cost of living of the recipients. Persons with disabilities who cannot support themselves financially may apply for the means-tested Comprehensive Social Security Assistance (CSSA), which is a monthly cash payment to help needy families meet their basic needs. The CSSA Scheme takes into account the special needs of persons with disabilities, and sets higher payment rates for them. If a

CSSA applicant is a person with disability, the severity of his/her disability will be assessed by a public medical officer, and based on that assessment he/she will be given a standard rate, plus applicable special grants and supplements, at the appropriate level. Persons with different types of disabilities, irrespective of gender, can be assisted under the CSSA Scheme. Using the broad definition set out in article 1 of the Convention, persons with disabilities who are on CSSA may include those suffering from long-term physical, mental, intellectual, visual, hearing or visceral impairments etc.

1.3. The HKSAR Government has recently concluded a review on the implementation aspects of DA and will introduce improvement measures (see also s.14.3 below). It now plans to review the policy aspects, including the eligibility criteria of DA, having regard to changing circumstances and public expectation.

1.4. As regards the definition of disabilities adopted in different pieces of legislation and provision of services, government bureaux and departments generally make reference to the definition of disabilities under the Hong Kong Rehabilitation Programme Plan, which is in line with article 1 of the Convention, in formulating policies and services relating to persons with disabilities. That notwithstanding, given that service needs vary among persons with different category and severity of disabilities, it is necessary for various bureaux and departments to adopt different demarcation of target service users in formulating policies and service programmes in order to provide tailor-made and suitable support for persons in need.

Equality and non-discrimination (paragraphs 55 and 56)

2. The Committee is concerned about the rather passive role adopted by the Equal Opportunities Commission (EOC) which is responsible for monitoring and executing the Disability Discrimination Ordinance (DDO). It recommends that the EOC review its role and assume a more proactive part, especially when handling complaint cases.

2.1. The Administration's initial response: We note the Committee's comments and would like to clarify that EOC, apart from handling complaints in accordance with the DDO (Cap. 487), also proactively conducts regular self-initiated investigations. For the period from 20 September 1996 to 30 September 2012, about 12% of DDO-related investigations were initiated by EOC. Moreover, EOC has made proactive efforts to promote the rights of persons with disabilities on different fronts, such as initiating a formal investigation on the barrier-free access of the premises and facilities owned or managed by the public sector in 2006, resulting in the implementation of a comprehensive retrofitting programme to upgrade the barrier-free facilities in 3 500 government venues and 240 Housing Authority properties; participating actively in the Mental Health Month, a major public education programme, since 1999 and collaborating with the Government and stakeholders to promote mental health in the community; and commissioning a study on equal learning opportunities for students with disabilities under the integrated education system in 2009.

Women with disabilities (paragraphs 57 and 58)

3. 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. It is also troubled by the repeated occurrence of domestic violence against women and girls with disabilities. The Committee recommends that the Women's Commission (WoC) 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.

3.1. The Administration's initial response: Since 2002, the HKSAR Government has been applying gender mainstreaming which is aimed to ensure that gender needs and perspectives are taken into account in the formulation of legislation, policies or programmes so that women and men have equal access to and benefit from society's resources and opportunities, thus achieving gender equality in the long run.

3.2. The HKSAR Government set up the WoC in 2001 as a central mechanism to promote the well-being and interests of women in Hong Kong, regardless of their physical or mental status. WoC has been meeting with local women's groups (including concern groups on rights of women with disabilities) and related non-governmental organisations (NGOs) on a regular basis, and participating in regional and international conferences from time to time, with a view to understanding the needs of women (including women with disabilities) and to keeping abreast of the latest development of related issues. The HKSAR Government is actively considering the appointment of a woman with disabilities to WoC based on the ability, expertise, experience, integrity and commitment to public service of the candidates, as well as the principle of meritocracy.

3.3. The HKSAR Government strives to protect persons with disabilities (in particular women and children with disabilities) from all forms of exploitation, violence and abuse, both within and outside the home through legislative, administrative, social and educational measures. In particular, the Social Welfare Department (SWD) has formed a working group to devise procedural guidelines for reference by professionals in handling adult abuse cases involving persons with intellectual disability or mental illness. The guidelines aim to enhance the identification of risk factors, prevent the incidence of abuse, enhance inter-disciplinary cooperation, set out the intervention procedures for different professions and for reporting abuse cases, etc., so as to safeguard the welfare of persons with intellectual disability or mental illness. As for children, there is a set of "Procedural Guide

for Handling Child Abuse Cases” in place to provide reference to professionals and personnels engaged in different disciplines in handling child abuse cases.

3.4. SWD also launches publicity and public education programmes every year to enhance public awareness of the importance of family solidarity and prevention of domestic violence, and to encourage early help seeking. In addition, SWD and NGOs provide victims of domestic violence and their families with a range of services as needed, regardless of their health condition, age, gender, sexual orientation and race, including short-term accommodation and emotional support services. The “Support Programme for Victims of Family Violence” launched in June 2010 further strengthens support for the victims of domestic violence through the provision of information, emotional support and companion services.

3.5. As regards punishing the perpetrators, the Hong Kong Police Force handles all abuse reports professionally, and conducts thorough investigation according to the circumstances of each report. With sufficient evidence of an offence, the Police will take firm and decisive action to effect arrest and prosecution as appropriate.

Children with disabilities (paragraphs 59 and 60)

4. 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. It 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.

4.1. The Administration’s initial response: We have all along been striving to provide children with disabilities from birth to the age of six years with early intervention through pre-school rehabilitation services to enhance their physical, psychological and social developments, thereby improving their opportunities for

participating in ordinary schools and daily life activities, and helping their families meet their special needs.

4.2. Children suffering from developmental and behavioural problems are first assessed by the Child Assessment Centres of the Department of Health, and then referred to the Hospital Authority (HA) for further diagnosis and treatment, if necessary. At present, the majority of needy children being followed up by HA are suffering from autism or attention deficit / hyperactivity disorder. Against this background, HA has enhanced the professional team by an additional manpower of over 40 doctors, nurses and allied health practitioners in 2011-12 to follow up on these cases. This initiative is expected to benefit an additional 3 000 children each year.

4.3. We have also steadily increased the provision of pre-school rehabilitation services over the years. In the past five years (2007-08 to 2011-12), the HKSAR Government provided additional resources to increase 1 393 additional subsidised places in pre-school services, representing an increase of 26%. In the coming two years, we will provide a total of 607 additional places, representing about 11% of the number of children on the waiting list. Furthermore, we have launched an assistance programme under the Community Care Fund since December 2011 to subsidise eligible children to obtain training and therapy services provided by special child care workers, psychologists, occupational therapists, physiotherapists or speech therapists while waiting for subvented pre-school rehabilitation services. SWD is also reviewing the service delivery mode of pre-school rehabilitation service with a view to identifying further improvement measures.

Accessibility (paragraphs 61 and 62)

5. 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. It especially regrets that the building standards set out in the “Design Manual –

Barrier-Free Access” (DM) do not apply retroactively and that they are not applicable to premises under the management of the government or the housing authority. It 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. The Committee encourages Hong Kong, China, to continue reviewing the DM 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.

5.1. The Administration’s initial response: Regulation 72 of the Building (Planning) Regulations (B(P)R 72) under the Buildings Ordinance (BO) (Cap. 123) prescribes design requirements on barrier-free access and facilities to ensure that suitable barrier-free access and facilities are provided in private buildings to meet the needs of persons with disabilities. To supplement the B(P)R 72, a DM has been issued to provide guidelines on barrier-free access and facilities.

5.2. The DM was first published in 1984 and updated in 1997 and 2008. We will continue to review the DM in consultation with the stakeholders, including persons with disabilities, and introduce enhanced barrier-free design standards having regard to advancement in building technology and social development.

5.3. We note the Committee’s suggestion on applying the latest barrier-free design standards retrospectively to existing buildings. We wish to point out that all new buildings and alterations and additions to existing private buildings have already been required to comply with the latest barrier-free design standards. Financial subsidies may also be provided under various public funds to encourage private property owners to upgrade barrier-free access of their premises. In tandem, as noted by the Committee, the Government and the Housing Authority have taken forward a comprehensive retrofitting programme to upgrade the barrier-free access and facilities in over 3 500 existing government venues and

240 Housing Authority properties, and retrofitting works in around 90% of these premises and facilities have already been completed in end-June 2012. Furthermore, under the DDO which is applicable to all buildings irrespective of their year of construction, EOC can take enforcement action for non-provision of reasonable access to persons with disabilities. We need to carefully assess the feasibility of the suggestion which involves wide-ranging and complex issues, and will have profound legal, social and financial implications. In particular, some existing buildings are unable to meet the latest barrier-free design standards owing to technical constraints.

5.4. While the B(P)R 72 is not applicable to premises owned by the Government and the Housing Authority, under the DDO which is binding on the Government and the Housing Authority, a public authority shall not approve building plans for building works unless it is satisfied that reasonable access will be provided for persons with disabilities. It is also unlawful under the DDO to discriminate against persons with disabilities in relation to the provision of means of access to any premises that the public is entitled to enter or use.

5.5. Hence, it is already the established policy of the Government and the Housing Authority to comply with prevailing requirements in DM, and where practicable, achieve standards beyond the statutory requirements in the provision of barrier-free facilities. The Government and the Housing Authority have also put in place a vetting mechanism to ensure that all their newly constructed buildings or alterations and additions to existing buildings meet the latest barrier-free design standards.

5.6. As regards the monitoring mechanism, the Buildings Department (BD) will continue to step up enforcement actions on unauthorised removal or alteration of approved access or facilities for persons with disabilities in private buildings in accordance with the BO and the enforcement policy on unauthorised building works. If an owner does not carry out the rectification works upon receipt of a statutory order issued under the BO, he/she may be liable on

conviction to imprisonment for one year and a fine of HK\$200,000. For continuing offences, there is a further daily fine of HK\$20,000.

5.7. As an effort to arouse building owners' awareness of their obligation to maintain suitable barrier-free access and facilities in their buildings, BD has since 1997 conducted the "Operation Check Walk" to inspect the approved access and facilities for persons with disabilities in commercial buildings. Where irregularities are found, BD will issue a statutory order under the BO to require the concerned owner to rectify the situation. BD will prosecute any owner who fails to comply with the order within the specified period.

5.8. Since April 2011, the HKSAR Government has also designated an Access Co-ordinator in individual bureaux and departments to co-ordinate accessibility issues within the bureau and department, and appointed an Access Officer for each government venue to enhance the day-to-day management of accessibility issues at the venue.

Right to life (paragraphs 63 and 64)

6. 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). It 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.

6.1. The Administration's initial response: We note the Committee's concern about the suicide risk among persons with intellectual or psycho-social disabilities. The HKSAR Government has all along attached great importance to ensuring that people identified to have suicide risk receive adequate specialist healthcare services. The HKSAR Government is committed to working closely with different sectors including NGOs, medical and

healthcare professionals, and academics by adopting a multi-pronged and cross-disciplinary approach to tackling the suicidal risk factors of persons with disabilities and promoting suicide prevention in the community.

6.2. HA provides comprehensive suicide risk assessment and follow-up support for both outpatients and inpatients who are diagnosed to be at risk of suicide. The psychiatric specialist outpatient clinic has a triage mechanism in place to ensure individuals at risk could receive appropriate and timely specialist care. As to psychiatric in-patients, HA closely follows up their recovery and rehabilitation progress in the hospital setting through a wide range of assessments, including the assessment of their suicide risk.

6.3. We also have in place measures including collection and analysis of suicide data; provision of preventive, supportive and remedial services; as well as public education and training for frontline professionals on identifying and managing persons with suicide risks. In addition, there are a number of mainstream services targeting mental wellness promotion and identification of high-risk cases. These include a wide array of programmes and services from telephone hotlines, outreaching services, immediate intervention and intensive counselling services provided on a territorial or district basis to help young people, families and other vulnerable groups (including persons with disabilities) with suicide risk to cope with adversities, and to strengthen their support network. Suicide risk assessment is incorporated into the case assessment by social workers. Multi-disciplinary approach with regular case review is also adopted in case management for high risk mental patients including persons with suicidal tendency.

6.4. Since 2002, dedicated services have been provided through subventing the Samaritan Befrienders Hong Kong, an NGO operating a Suicide Crisis Intervention Centre, to provide outreaching, immediate intervention and intensive counselling services for persons in need. Since then, SWD has also launched a publicity campaign on “Strengthening Families and Combating

Violence”, with suicide prevention as one of the themes. In addition, a number of dedicated hotline services are provided by NGOs and SWD for those who may be contemplating suicide or are suffering other forms of stress.

Freedom from exploitation, violence, and abuse (paragraphs 65 to 68)

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

7.1. The Administration’s initial response: The HKSAR Government is committed to ensuring that children and adolescents with intellectual disabilities are equipped with appropriate sexual awareness and knowledge through education. The Education Bureau (EDB) strives to promote sex education in primary and secondary schools, including special schools, through a holistic school curriculum which instills in the personal growth of students an understanding of sex-related issues (e.g. self-protection, gender equality and relationship with the opposite sex). For teachers of both ordinary and special schools, EDB organises various professional development programmes on sex education throughout the school year.

7.2. In addition, the Department of Health provides “Sex Education Workshops” to secondary school students. Students with special educational needs studying in ordinary public-sector schools have equal opportunities to benefit from the Department’s sex education workshops. Upon request by special schools, the Department would provide professional input for curriculum adaptation for students with intellectual disabilities.

7.3. Meanwhile, HA provides persons with intellectual disabilities or severe mental illness with social skill training which covers various issues on correct attitude towards sex and sexual harassment, on individual and group basis. HA also renders support and education for families and carers to enhance their understanding of the needs of individual patients in respect of sex.

7.4. In general, SWD-subsidised NGOs have the responsibility to ensure that service users are free from verbal, physical and sexual abuse when they are receiving service. NGOs providing rehabilitation services offer appropriate guidance, including sex education, to service users with intellectual disabilities or mental illness according to their needs. In this regard, SWD produced a sex education package in 2010 for distribution to rehabilitation agencies to assist their front-line professionals (e.g. social workers, psychologists and counsellors) in providing sex education for adults with intellectual disabilities, with a view to protecting these persons from sexual abuse.

7.5. Moreover, SWD has drawn up the “Guidelines for Handling Mentally Handicapped / Mentally Ill Adult Abuse Cases” for reference by rehabilitation agencies and casework units in handling these cases. The “Procedural Guidelines for Handling Adult Sexual Violence Cases” has also set out specific guidelines on how to help mentally incapacitated victims.

7.6. Regular training on the identification and handling of suspected child abuse and sexual abuse cases has been organised by SWD for social workers and related professionals.

7.7. For criminal investigation on child abuse and sexual violence cases, there are specific training sessions for investigating officers from SWD and the Hong Kong Police Force on conducting video-recorded interviews for mentally incapacitated persons and other child witnesses with disabilities.

8. The Committee does not consider shelter workshops (SWs) as a good way to implement the Convention and finds the

daily allowance for persons with disabilities in shelter workshops to be too low and bordering exploitation. It 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.

8.1. The Administration's initial response: We would like to point out that there is no question of exploitation of service users of SWs. SWs provide persons with disabilities who are not able to take up employment in the open market with appropriate vocational training in a specially designed environment in order to help them develop their social and economic potential to the fullest extent; and to enhance their working capacity so that they may move on to supported or open employment as far as possible.

8.2. Incentive payment for SW users is a non-means-tested allowance to encourage them to attend SWs for their own benefit from the training. It is not a form of salary nor financial assistance to supplement the living expenses of service users with financial difficulty. Those service users with financial hardship may apply for financial assistance such as the CSSA Scheme.

8.3. The HKSAR Government will continue to keep in view the need for adjusting the incentive payment after taking into consideration changes in the Consumer Price Index (A), the prevailing economic environment and attractiveness of the existing rate of incentive payment.

Right to live independently and live in the community (paragraphs 69 and 70)

9. The Committee is concerned about the shortage on subvented residential homes. It is also worried about the lack of premises for District Support Centres (DSCs), whose aim is to strengthen the ability of persons with disabilities to live at home in their own community and be integrated into society. The Committee suggests that Hong Kong, China, allocate more resources to setting up more subvented 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 DSCs receive the necessary funds and premises in order to enable persons with disabilities to live in the community.

9.1. The Administration's initial response: In accordance with the Hong Kong Rehabilitation Programme Plan, the HKSAR Government has been adopting a three-pronged approach to encourage participation from different sectors in providing residential care services for persons with disabilities -

- (a) regulating the operation of residential care homes for persons with disabilities (RCHDs) to ensure service quality and introducing complementary measures to facilitate the market develop more service options for persons with disabilities;
- (b) supporting NGOs to develop self-financing homes; and
- (c) increasing the supply of subsidised residential care home places.

9.2. Along the above strategic directions, we have implemented a statutory licensing scheme for RCHDs since November 2011 following enactment of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) and its subsidiary legislation. As complementary measures, we have since October 2010 implemented a pilot Bought Place Scheme (BPS) to encourage private RCHDs to upgrade their service standards and increase the supply of subsidised residential care places; and a Financial Assistance Scheme since December 2011 to subsidise private RCHDs to carry out improvement works in compliance with the licensing requirements on building and fire safety.

9.3. In tandem, we have steadily increased the supply of subsidised RCHD places. In the past five years (2007-08 to 2011-12), the HKSAR Government provided additional resources to increase 1 414 additional places in subvented RCHDs, representing an increase of 13%. In the coming two years, about 784 additional subsidised RCHD places will come on stream, representing about 10% of the number of persons on the existing waiting list for RCHDs. We will continue to identify suitable premises for the supply of more RCHD places.

9.4. Furthermore, a person with disabilities who has genuine medical and social needs and whose home environment has been assessed as no longer fit for future living may apply for “Compassionate Rehousing” to a suitable public rental flat to enable his/her continued living in the community. Home modifications for the flat concerned are provided by the Housing Authority free of charge.

9.5. To strengthen the support for persons with severe disabilities who are living in the community and to relieve the pressure of their family carers, SWD has rolled out a “Pilot Scheme on Home Care Service for Persons with Severe Disabilities” since March 2011 to provide a package of home-based support services to meet their personal care, nursing and rehabilitation training needs.

9.6. Starting from January 2009, the HKSAR Government has been providing an additional annual recurrent funding of about \$35 million to set up 16 DSCs for Persons with Disabilities through re-engineering the existing community support services, thereby providing district-based and one-stop support services for persons with disabilities, their family members and carers. SWD has secured premises for 15 DSCs and the remaining one has been accommodated in a commercial building pending identification of permanent accommodation.

Freedom of Expression and Opinion, and Access to Information
(paragraphs 71 and 72)

10. 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. It is concerned about the lack of training for and services provided by sign-language interpreters. The Committee recommends that Hong Kong, China, increase training for and the services provided by sign-language interpreters. It should also recognise the public examination and assessment of such interpreters.

10.1. The Administration's initial response: It is the HKSAR Government's established policy objective to create a barrier-free environment and promote barrier-free communication, thereby facilitating full integration of persons with disabilities into the community. In this regard, we strive to adopt appropriate measures to facilitate persons with disabilities in communication, including persons with hearing impairment in using sign language or alternative modes in communication with others.

10.2. To enhance the communication of persons with hearing impairment with others, some Social and Recreational Centres for the Disabled and two Multi-service Centres for the Hearing Impaired Persons subvented by SWD organise sign language training courses and provide sign language interpretation services to assist persons with hearing impairment in communicating with the hearing community. The sign language interpretation services provided include interpretation service for persons with hearing impairment in relation to job interviews, court hearings, wedding ceremonies and medical consultations.

10.3. Besides, the Hong Kong Council of Social Service and the Hong Kong Joint Council for People with Disabilities had organised an Open Assessment Scheme for Sign Language Interpreters during the period from 2005 to 2008. The trainees with outstanding results were recommended to provide service to the court. They, in collaboration with the service agencies for the hearing impaired, are planning to launch certificate courses on professional sign language interpretation with a view to training more qualified sign language

interpreters and enhancing the professional standard of sign language interpretation service.

10.4. The HKSAR Government is also committed to promoting sign language learning. LWB has all along been providing subsidies to service agencies for and self-help groups of the hearing impaired to produce sign language training manuals and self-learning packages, including assistive tools for sign language learning via computer or smart phone applications, production of sign language learning cards and teaching kits, as well as setting up the Hong Kong Sign Language Browser. LWB has also subsidised these organisations to organise multifarious public education activities to enhance public understanding of sign language and achieve social inclusion.

10.5. To promote the use of sign language and enhance social inclusion, a Working Group has been formed under the Rehabilitation Advisory Committee (RAC) since May 2010 to advise the Government on ways to promote sign language. The Working Group will continue to examine issues relating to sign language, including training and accreditation of sign language interpreters.

Education (paragraphs 73 and 74)

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

sufficient resources to ensure the accessibility in tertiary education.

11.1. The Administration's initial response: The HKSAR Government is committed to providing appropriate education services for students with special educational needs (SEN). Ordinary schools have been provided with additional resources, professional support and teacher training to implement the Whole School Approach (WSA) to Integrated Education, under which they are encouraged to develop an inclusive culture, school-based policy and practices in supporting students with SEN.

11.2. Apart from the provision of teachers in accordance with the number of operating classes and a pre-set teacher-to-class ratio, additional teachers are provided to public sector schools for the implementation of various education initiatives. Besides, grants such as Capacity Enhancement Grants and Learning Support Grant are also provided to schools under various education initiatives. Schools may use these grants flexibly to employ additional teachers or procure professional services to meet the needs of their students. In fact, there has been improvement in the teacher-to-student ratio in recent years. For the secondary schools, the teacher-to-student ratio has improved from 1:18 in the 2005/06 school year to 1:15.3 in the 2011/12 school year. As for the primary schools, the ratio has also improved from 1:18.4 in 2005/06 to 1:14.9 in the 2011/12 school year.

11.3. To enhance teachers' capacity in catering for the special needs of students, EDB launched a 5-year teacher professional development framework on Integrated Education (the Framework) in the 2007/08 school year. Under the Framework, structured training courses on SEN pitched at three levels of competencies, namely the Basic, Advanced and Thematic (BAT) Courses, were conducted for serving teachers. EDB conducted a review of the Framework in 2010. The findings revealed that schools and other stakeholders had positive views on the BAT Courses with regard to its usefulness and effectiveness. EDB has therefore decided to put in additional resources to continue the provision of the BAT Courses

from the 2012/13 school year, and has revised the training targets having regard to the training needs of teachers and the operational needs of schools. In addition, EDB also organises seminars, workshops and experience-sharing sessions on topics related to SEN for teachers and other school personnel on a need basis. Local teacher education institutions have also included in their pre-service teacher training courses a module related to inclusive education.

11.4. For enhancement purpose, EDB has kept the implementation of IE under constant review by monitoring the deployment of resources and implementation of measures in schools through different means, including visiting schools regularly and collecting feedback from the sector and stakeholders. The EDB set up a Task Force on Integrated Education in Mainstream Schools (IE Task Force) in 2005, comprising representatives from the school sector, tertiary institutions, other government departments, non-governmental organisations (NGOs) and parent groups. Through regular meetings, the EDB updates the members of the IE Task Force on the progress of implementing IE and seeks their views on improvement measures. EDB will continue to keep in touch with school councils, NGOs and parent groups to strengthen communication and co-operation with a view to better supporting students with SEN.

11.5. As regards tertiary education, the post-secondary institutions in Hong Kong are committed to offering equal opportunities to all applicants for admission. The admission decisions of post-secondary institutions are based on a holistic assessment of the merit of the applicants. To assist the students with SEN to study in University Grants Committee-funded institutions, a sub-system under the Joint University Programmes Admissions System has been created for the admission of these students. Students with SEN do not need to compete with other applicants, but must meet the minimum entry requirements of the corresponding courses. As with admission of other students, such admission decision falls within institutional autonomy. The Vocational Training Council (VTC) also has a special admission process for students with SEN. If an applicant with SEN meets the

entrance requirements of the programme and satisfies the interview assessment that he/she has the ability to complete the programme, he/she would be given an offer.

11.6. The VTC has established a new Youth College in the 2012-13 academic year to offer diversified study opportunities for young people, and to provide dedicated support for ethnic minority students and those with SEN to enable them to have appropriate professional education and training opportunities.

Right to health (paragraphs 75 and 76)

12. The Committee is troubled by the fact that the demand for public medical services is higher than the supply. It 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. 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.

12.1. The Administration's initial response: We note the Committee's observation on the increasing demand for public medical services. The HKSAR Government has all along attached great importance to improving healthcare services in a holistic manner. We have adopted a well-established twin-track system for public and private medical sectors, with the former providing a safety net for residents while the latter providing choices for those with the financial means.

12.2. For public healthcare, the HKSAR Government has, in response to the need of the community in the past years, increased funding to improve healthcare services. The Government's recurrent funding for HA has increased from \$29 billion in 2007-08 by some 40% to \$40.4 billion in 2012-13. In addition, the Chief Executive has, in his manifesto, also set out that in order to cope with the challenges posed by an ageing population, we will maintain

progressive increase in funding for public medical services in the medium to long-term subject to available finance.

12.3. As for private healthcare, one of our reform initiatives to support the long-term sustainable development of the healthcare system will be to, based on the principle of having public healthcare services as the cornerstone of our healthcare system and the safety net for all, promote and facilitate private healthcare development. This will help address the imbalance between the public and private sectors in hospital services, and increase the overall capacity of the healthcare system in Hong Kong to cope with the increasing service demand.

12.4. The Committee commented on the difficulties faced by some persons with disabilities in obtaining health insurance coverage. The Government proposed a voluntary and government-regulated private health insurance scheme, the Health Protection Scheme (HPS), in the Second Stage Public Consultation on Healthcare Reform in 2010. HPS is meant to complement the public healthcare system, which has been and will continue to be the cornerstone of our healthcare system and the safety net for all under our dual public-private healthcare system. Around 90% of the in-patient services (in terms of number of bed days) are provided by public hospitals. The public healthcare sector is highly subsidised by the Government, providing equitable and affordable healthcare services to all sectors of the society.

12.5. HPS aims to provide more choices with better protection to those who are willing and are able to pay for private healthcare services. Under HPS, participating insurers will offer HPS plans that incorporate key features designed for consumer protection, including those of a higher health risk status, such as no turn-away of subscribers and guaranteed renewal for life, covering pre-existing medical conditions subject to waiting period, and accepting high-risk groups through a high-risk pool mechanism. The standardised features of HPS plan would enhance consumer protection and access to health insurance protection by the public, including persons with disabilities. The Government is currently

formulating detailed proposals for HPS and aims to put up recommendations by 2013 to seek the community's views on the recommendations.

Work and employment (paragraphs 77 and 78)

13. 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. It is also troubled by the low number of civil servants with disabilities. 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.

13.1. The Administration's initial response: The policy objective of the HKSAR Government is to ensure that persons with disabilities have equal access to participation in productive and gainful employment in the open market. We have put in place suitable legislative measures against disability discrimination in employment and at the workplace. We are committed to providing a wide range of employment support and vocational training services for persons with disabilities, including selective placement services provided by the Labour Department (LD) to assist persons with disabilities in securing employment in the open market, vocational rehabilitation training provided by SWD and the VTC, and re-training programmes for persons with disabilities provided by the Employees Retraining Board, etc.

13.2. The HKSAR Government will also continue to implement various incentive schemes and enhance public understanding of the working abilities of persons with disabilities through public education activities. On incentive schemes, we have implemented the "Work Orientation and Placement Scheme" under which participating employers will receive financial incentive equal to two-thirds of the actual salary paid to each employee with

disabilities during the employment period, with a ceiling of \$4,000 per month for a maximum period of six months.

13.3. Furthermore, starting from early 2013, we will subsidise employers of persons with disabilities for procuring assistive devices and carrying out workplace modification works, thereby enabling persons with disabilities to work more efficiently and facilitating them to secure open employment. An employer will be provided with a maximum subsidy of \$20,000 for each employee with disabilities. In addition, through providing a mentorship award of \$500 as financial incentive, we aim to encourage employers to render workplace guidance to employees with disabilities and help them adapt to new jobs.

13.4. To directly create job opportunities for persons with disabilities, SWD grants seed money to NGOs for setting up small enterprises through the “Enhancing Employment of People with Disabilities through Small Enterprise Project” (3E’s Project). Under the 3E’s Project, NGOs are provided with a maximum funding support of \$2 million per business to meet the set-up capital cost and operating expenses incurred in the initial period of business operation. A funded business is required to fulfill the condition that the number of employees with disabilities should not be less than 50% of the number of employees under its payroll. Up to end-November 2012, 580 jobs for persons with disabilities have been created under the 3E’s Project. To sustain the momentum in enhancing employment opportunities for persons with disabilities, the HKSAR Government has injected \$100 million into the 3E’s Project and extended the funding period for each project from a maximum of two years to three years.

13.5. On the public education front, the HKSAR Government has, from 2009-10 onwards, substantially increased the annual allocation for relevant public education activities from \$2 million in the past years to about \$13 million. Promoting employment of persons with disabilities is one of the major themes of the annual public education programme. The HKSAR Government will continue to collaborate with RAC and various sectors in the

community to promote the work capability of persons with disabilities through public education, publicity, visit programmes, etc., and encourage various sectors to employ persons with disabilities and procure the products and services provided by rehabilitation organisations.

13.6. The HKSAR Government, as an employer, provides employment opportunities for persons with disabilities through enabling government job applicants with disabilities to compete with able-bodied applicants on equal grounds. We are committed to implementing proactive policy on the employment of persons with disabilities as civil servants, and offering preferential treatment to candidates with disabilities in their application for government jobs. Specifically, in the recruitment process, candidates with disabilities who meet the basic entry requirements will not be subject to any shortlisting criteria and will be automatically invited for a selection interview or written examination. They may be given an appropriate degree of preference for appointment to enable them to compete with able-bodied candidates on equal grounds. In addition, if any candidates with disabilities request special arrangements to attend an interview or a test in the recruitment exercise, the departments concerned will consider their request and make appropriate arrangement.

13.7. As for serving officers with disabilities, necessary assistance is provided to facilitate their performance of duties. We also finance the purchase of technical aids for officers with disabilities to facilitate their performance of duties in the workplace. The HKSAR Government will continue with our existing policies and encouragement measures to promote the employment of persons with disabilities as civil servants.

Adequate standard of living and social protection (paragraphs 79 and 80)

14. The Committee is concerned about the family-based assessment for application and eligibility to receive CSSA. In addition, it is worried about the different standards employed

by doctors in approving the DA. 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 CSSA. It also recommends that Hong Kong, China, introduce uniform standards for approving DA.

14.1. The Administration's initial response: In response to the Committee's concern that CSSA applicants living with their family members (including persons with disabilities) are required to make their applications on a household basis, we would like to point out that it is consistent with our social values for family members to help each other, and for income-earners to support their family members who have no financial means. CSSA, which is the safety net of last resort, comes to aid only when family support is insufficient. Therefore, in processing CSSA applications, we assess the means of the family as a whole. This system enables us to direct limited public resources to those most in need, and helps ensure the sustainability of this scheme which is non-contributory and wholly funded by public money. We reckon that there may be special circumstances which merit exceptional treatment, for example, where a person with disabilities has a poor relationship with his/her family members or where there are special reasons that the family cannot support him/her financially. The Director of Social Welfare will consider such circumstances on a case-by-case basis and may allow a person with disabilities in need to apply for CSSA on his/her own.

14.2. As explained in the earlier part of this response, an applicant will be regarded as suffering from a severe disability for the purpose of DA if he/she is certified by a public medical officer as being in a position broadly equivalent to a person with a 100% loss of earning capacity according to the criteria in the First Schedule of the Employees' Compensation Ordinance (Cap. 282). To ensure that medical assessments are consistent and objective, medical practitioners of public hospitals/clinics will assess the disabling conditions of DA applicants with the aid of a standard Medical Assessment Form and Checklist. They will consider comprehensively the cause of the disease, the clinical physical

condition of the applicant and the severity of the disease, and then form a view on the severity of the medical condition of the applicant.

14.3. To enhance the DA implementation mechanism, SWD has set up an inter-departmental working group to review and refine the guidelines, Medical Assessment Form and checklist used by medical officers at public hospitals/clinics for conducting medical assessments, and also the work flow of relevant departments and authorities in processing DA applications. The review has been completed and improvement measures will be introduced to ensure consistency and objectivity in the medical assessments.

Participation in political and public life (paragraphs 81 and 82)

15. 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. It 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.

15.1. The Administration's initial response: We will continue to identify suitable persons with disabilities to serve on various advisory and public bodies. A recent example is the appointment of a person with disabilities as vice-chairperson of the Special Needs Groups Task Force under the Commission on Poverty. We are also actively considering the appointment of a woman with disabilities as member of the WoC.

15.2. As for the accessibility of polling station, the Registration and Electoral Office (REO) has all along been making every effort to identify suitable venues which are accessible to electors with mobility disabilities for use as polling stations. In the 2012 Legislative Council Election, of the 549 polling stations set up for voting, 512 or 93% were accessible to electors with mobility disabilities. This is comparable to the 2011 District Council

Election, when 94% of the polling stations were accessible to electors with mobility disabilities.

15.3. In future elections, the REO will continue to set up polling stations at venues that are accessible to persons with mobility disabilities as far as possible and put in place various accommodation measures to ensure that persons with such disabilities can exercise the right to vote in an election. For polling stations that have no permanent barrier-free facilities, if circumstances permit, temporary ramps will be installed to improve the accessibility of those polling stations to electors who are wheelchair-bound. An elector with a disability who finds it difficult for him/her to access the polling station allocated to him/her may contact the REO to arrange to vote at a special polling station specifically designated for electors with mobility disabilities. If necessary, free transportation arrangements will be made to facilitate electors with mobility disabilities to vote at the designated polling stations. Polling staff will also offer assistance to electors with mobility disabilities, as far as circumstances permit, in making access to the polling station if it is not barrier-free and the electors have not applied for a re-allocation to a special polling station.

National implementation and monitoring (paragraphs 83 and 84)

16. 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. It 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.

16.1. The Administration's initial response: We note the Committee's observations and are reviewing the duties and responsibilities and ranking of the post of Commissioner for Rehabilitation, as well as the establishment and manpower of his/her team.

16.2. As for the monitoring mechanism, EOC, as the statutory and independent enforcement agency of the DDO, has all along been upholding the equal opportunities of persons with disabilities and safeguarding their specified rights under the DDO. In tandem, RAC, being the principal advisory body of the Government on the rights and well-being of persons with disabilities, has been assuming the important role of monitoring the implementation of the Convention in Hong Kong in addition to assisting the Government in promoting the Convention. The Chairman, Vice-Chairman and members of RAC are all non-officials, including persons with different disabilities, parents of persons with disabilities, representatives from self-help organisations of persons with disabilities and NGOs providing rehabilitation services, academics, community and business leaders, professionals and other persons who have a keen interest in the well-being of persons with disabilities. Representatives of relevant government bureaux and departments also serve as ex-officio members to provide the necessary support to RAC and to follow up the issues raised by RAC as appropriate. With wide acceptance and representation, RAC is the most suitable central mechanism to promote the implementation of the Convention. We consider that the existing framework has been effective in monitoring the implementation of the Convention in Hong Kong.