



Convention on the Rights of Persons with Disabilities

Distr.: General

8 May 2012

ADVANCE EDITED VERSION

Original: English

Committee on the Rights of Persons with Disabilities

Seventh session

16–20 April 2012

Implementation of the Convention on the Rights of Persons with Disabilities

**List of issues to be taken up in connection with the consideration of the
initial report of China (CRPD/C/CHN/1), Hong Kong, China
(CRPD/C/CHN-HKG/1) and Macao, China (CRPD/C/CHN-MAC/1)
concerning articles 1 to 33 of the Convention**

China

A. Purpose and general obligations (arts. 1–4)

1. Please provide additional information on the percentage of persons with disabilities in China, disaggregated by sex. Please explain the difference between World Health Organization (WHO) statistics (15 per cent of a given population have disabilities, *World Report on Disability 2011*, p. 29) and the Chinese data (6.34 per cent of Chinese people are persons with disabilities) as provided in paragraphs 3 and 144 of the report of the State party (CRPD/C/CHN/1).

2. Please indicate how the State party consults and engages directly with a diversified range of persons with disabilities and their representative organizations, beyond the China Disabled Persons' Federation, in the development and implementation of legislation and policies and in other decision-making processes concerning them, including persons with psychosocial disabilities, persons with intellectual disabilities and children and adolescents with disabilities.

3. Please indicate what steps are being taken to eliminate the use of derogatory terminology and language concerning persons with disabilities and to promote the use of the more progressive language advocated by disabled persons' organizations that is more in line with the social model of the Convention on the Rights of Persons with Disabilities.

B. Specific rights

Equality and non-discrimination (art. 5)

4. Please provide additional information on the legal prohibition of disability-related discrimination under Chinese law. Please provide information on the definition of discrimination in this regard, and whether it covers denial of reasonable accommodation. Are the general definitions of law consistent in all the regions (*ibid.*, para. 23)?

Awareness-raising (art. 8)

5. Please provide information on awareness-raising programmes targeting eugenic prevention practices, practices of infanticide against children with disabilities and forced abortion and/or sterilization practices (*ibid.*, paras. 38-40).

Accessibility (art. 9)

6. Please inform the Committee of the percentage of accessible buildings, shops, restaurants and places intended to be used by the general public. Please provide information on accessible environments in rural areas. Is there a national accessibility plan (*ibid.*, paras. 44-45)?

Right to life (art. 10)

7. Please provide additional information on how the Marriage Law and the Law on the protection of minors are implemented and which action measures are being taken with respect to the prevention of infanticide, maltreatment, failure to register birth, desertion and other serious harmful acts against children with disabilities (*ibid.*, para. 47).

8. Please provide information on what steps have been taken to investigate the deaths of persons with intellectual disabilities in “mining accidents”, and whether any of these cases have led to the prosecution and conviction of perpetrators. Furthermore, what steps are being taken to identify other such incidents and prevent future ones?

Equal recognition before the law (art. 12)

9. Please provide further information on Chinese laws regulating legal capacity. Can guardians make decisions on behalf of the person under guardianship? Are services for supported decision-making available to persons affected by guardianship (*ibid.*, paras. 50-52)?

10. As regards the draft National Mental Health Act (2011), has the legal capacity of persons with psychosocial or cognitive impairments been recognized? If yes, please elaborate.

11. Please provide information regarding the liability of guardians for damages caused by patients deemed as lacking civil capacity, especially the civil damage caused by “mental” patients harming or killing others. What measures is the Government of China taking to remedy cases of guardians who were impoverished overnight because of this liability and as a result deserted the family member with psychosocial impairment (“mental illness”) or even murdered the respective family member?

12. What steps are being taken to eliminate the de facto system of guardianship and ensure the recognition of the legal capacity of persons with disabilities as equal to that of others, and to provide support to exercise that capacity, subject to the will and preferences of the person? Does this extend to all rights, including, inter alia, the right to give and withdraw informed consent for medical treatment, give evidence in a court proceeding, choose one’s sexual partner, and conduct one’s banking and financial affairs? What steps

will be taken to ensure compliance with article 12 of the Convention in the current development of a national mental health law?

Liberty and security of the person (art. 14)

13. Please provide data on the number of persons with disabilities in Chinese prisons. How many persons with disabilities are detained in civil and administrative institutions (ibid., para. 60)?

14. Please provide additional information on psychological programmes and psychological guidance aimed at “correcting” and “curing” prisoners with disabilities (ibid.).

15. What steps are being taken to repeal legislation allowing for detention based on disability (whether actual or perceived), including psychosocial and intellectual disabilities, and to develop community-based services and support for persons with disabilities?

Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)

16. Please provide additional information on the reform of the Mental Health Law regarding medical experimentation. Please provide information on the legal grounds and practice for forced correctional medical treatment (ibid., para. 64).

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

17. Please provide additional information on how the Law on the protection of persons with disabilities, the Marriage Law and the Law on the protection of minors are implemented with regard to persons with disabilities and their protection against violence. Is data available that shows the prevalence of exploitation, abuse and violence against persons with disabilities disaggregated by sex? How does the work of Shenyang city’s 110 Domestic Violence Report Centre reflect upon the incidences of violence against persons with disabilities (ibid., paras. 65-66)?

Protection of the integrity of the person (art. 17)

18. Please provide data on forced sterilization used as a method of family planning. Please explain how the right to an informed choice of methods of contraception is implemented with regard to persons with disabilities (ibid., para. 71).

Living independently and being included in the community (art. 19)

19. Please provide data on the percentage of persons with disabilities living in institutions and those living in the community, respectively. Are personal assistance services available, and are these part of the social service/security scheme? Please provide more information on the Sunshine Home Project (ibid., para. 76).

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

20. Please provide information as to whether deaf persons are supported in the use Chinese sign language in all legal proceedings with public authorities (ibid., paras. 54 and 82).

21. Please provide information as to when the standards and methods for the testing and assessment of accessible websites, referred to in the State party’s report, will become mandatory and be fully implemented (para. 84).

Education (art. 24)

22. Please provide the State's educational rationale for "actively develop[ing] special education schools" (ibid., paras. 95 and 98).

Work and employment (art. 27)

23. What measures are available to remedy and prevent "slave labour" involving, in particular, persons with psychosocial and intellectual disabilities? Please provide further information on this issue.

24. Please provide gender disaggregated data on the employment/unemployment rate of persons with disabilities compared to the rate of persons without disabilities in China, and on the number of persons with disabilities in sheltered workshops (ibid., paras. 114-115.)

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

25. Please inform the Committee as to whether the Government of China plans to act on the State Council's request that efforts be made to ensure that policies on development-oriented poverty reduction and policies on supporting and benefiting the rural areas reach poor families having persons with disabilities. Are poverty reduction policies tailored to the needs of persons with disabilities? Please provide information on programmes specifically targeted at the reduction of the poverty of women with disabilities (ibid., para. 123).

Participation in political and public life (art. 29)

26. Please provide information on the number of persons with disabilities deprived of political rights and the grounds thereof as mentioned in para. 129 of the State party's report.

C. Women and children with disabilities (arts. 6 and 7)

27. Please provide additional data on the Programme for the Development of Chinese Women (2001-2010) and how it has improved the situation of women and girls with disabilities (ibid., para. 28). Please indicate whether any positive action measures have been taken to advance the situation of women with disabilities.

28. Please provide data, disaggregated by sex, on the number and percentage of children with disabilities living in institutions/rehabilitation centers and those living with their own families or foster families (ibid., para. 34).

D. Specific obligations**International cooperation (art. 32)**

29. Please provide information on what the State Council's Committee on the Work for Persons with Disabilities has done to effect disability inclusive development, both nationally and internationally, since China ratified the Convention. Please elaborate on to what extent they are within the framework of article 32 (a), (b), (c) and (d) of the Convention.

National implementation and monitoring (art. 33)

30. Please provide further information on the independent monitoring mechanism appointed by the Government of China. Which organizations or entities other than the China Disabled Persons' Federation participate in the independent monitoring mechanism (ibid., paras. 151-153)?

Hong Kong, China

A. Purpose and general obligations (arts. 1–4)

31. Please elaborate on how the use of different percentages for the purpose of administering the Comprehensive Social Security Assistance Scheme complies with the Convention's definition of disability. Please provide the Committee with information, disaggregated by sex, on, in particular, whether a person with a degree of disability under 50 per cent is entitled to such social benefits (CRPD/C/CHN-HKG/1, para. 2.14).

B. Specific rights

Accessibility (art. 9)

32. Please provide the Committee with specific data on the extent to which the Building Planning Regulations under the Building Ordinance (*ibid.*, paras. 9.6-9.9) have been effective in changing the number or percentage of privately owned buildings that complied with the design requirements. Please also provide data on the percentage of government buildings that are accessible (*ibid.*, paras. 9.13–9.28) within the framework of article 9 of the Convention.

33. Please provide information on the specific measures that Hong Kong, China has adopted to ensure “accessible communication” for deaf and deaf-blind persons and other persons with hearing or visual disabilities.

Right to life (art. 10)

34. Please explain whether guardians or caregivers of persons with disabilities can make decisions regarding the termination or withdrawal of medical treatment, nutrition or any other life support (*ibid.*, para. 10.1)

Equal recognition before the law (art. 12)

35. Please provide data, disaggregated by sex, on how many persons with disabilities have been put under guardianship and on the number of rulings modifying the capacity to act, if any (*ibid.*, para. 12.9).

36. Please provide further information regarding the extent to which Hong Kong, China is providing legal technical assistance, advocacy support and legal training for people with disabilities and parents of children with disabilities (*ibid.*, paras. 12.1 and 12.4-12.9).

Liberty and security of the person (art. 14)

37. Please provide information on the criteria and the process for placing a person with disabilities, in particular intellectual or psychosocial disabilities, into involuntary confinement and on how placement decisions can be challenged (*ibid.*, paras. 14.1-14.7)

Protecting the integrity of the person (art. 17)

38. Please provide information on the existing safeguards assuring that medical treatment, including psychiatric treatment, abortion and sterilization, is undertaken only with the full and informed consent of the person with a disability (*ibid.*, para. 17.5).

Living independently and being included in the community (art. 19)

39. Please provide additional information as to whether the pilot scheme on home care service described in paragraphs 19.5 and 19.6 of the State party's report incorporates a personal assistance service for persons with disabilities in need of more intense support.

Education (art. 24)

40. Please provide data, disaggregated by sex, on the overall percentage of students with disabilities attending regular schools and the percentage of students attending special schools. Please clarify whether diplomas and qualifications that are awarded through special schools are equal to those awarded through regular schools (ibid., paras. 24.14-24.15 and 24.20-24.21).

41. Please provide additional information on the definition of the "unjustifiable hardship" that a school can invoke not to accommodate a pupil/student with disabilities. Please provide established objective criteria used for this assessment (ibid., para. 24.3).

Work and employment (art. 27)

42. Please provide additional information on the definition of "unjustifiable hardship" that an employer can invoke not to accommodate a person with disability within his or her company. Please provide the established objective criteria used for this assessment (ibid., para. 27.2).

43. Please provide data, disaggregated by sex, on the rate of unemployment for workers with disabilities as compared with workers without disabilities. How does the average income of the workers with disabilities compare with their counterparts without disabilities?

Participation in political and public life (art. 29)

44. Please provide data, disaggregated by sex, if available, on the number of persons with disabilities holding public office and the proportion of those in senior positions (ibid., paras. 29.3-29.13).

C. Women and children with disabilities (arts. 6 and 7)

45. Please indicate whether the State party includes a gender perspective in its public policies relating to persons with disabilities to address the needs and rights of women with disabilities, and whether any positive action measures have been taken to advance their more vulnerable situation (ibid., paras. 6.2-6.12).

Macao, China**A. Purpose and general obligations (arts. 1–4)**

46. In the light of the 2011 census, please provide updated statistical data regarding persons with disabilities, as disaggregated as possible, including by sex and age (CRPD/C/CHN-MAC/1, para. 19).

47. Please provide details on the involvement of non-governmental organizations (NGOs), in particular disabled persons' organizations, in preparing the initial report (ibid., para. 16).

B. Specific rights

Equality and non-discrimination (art. 5)

48. Please explain whether “denial of reasonable accommodation” and “indirect discrimination” are considered as forms of discrimination under domestic law (*ibid.*, para. 22).

Awareness-raising (art. 8)

49. Please provide additional information on the distribution of the booklet on the Convention mentioned in paragraph 26 of the State party’s report (CRPD/C/CHN-MAC/1), including the number of copies distributed, the targeted public, and the places where it was distributed. What campaigns are being designed and led, together with organizations of persons with disabilities, to raise awareness about persons with disabilities as equal citizens and contributors to society?

Accessibility (art. 9)

50. Please provide information, including detailed data, on the percentage/level of compliance with Law 9/83/M. What are the sanctions for constructions that do not comply with those requirements? Is there similar legislation for the private sector (*ibid.*, para. 30)?

51. What steps have been taken to improve access to information for persons with disabilities through the promotion of the use of Braille, sign language, easy-to-read formats and other accessible modes of communication, including information available through the Internet?

Right to life (art. 10)

52. Please provide additional information on articles 130, 132 and 133 of the Criminal Code on homicides motivated by compassion, desperation or other relevant social and moral grounds and homicide at the request of the victim (*ibid.*, para. 36).

Equal recognition before the law (art. 12)

53. In paragraph 41 of its report (CRPD/C/CHN-MAC/1), the State party states that “restrictions to capacity are expressly prescribed by law and based on objective facts”. Please provide details on the legal criteria serving as a basis to place a person under guardianship and on the procedure for challenging such a decision. **Please provide data on the percentage of persons with disabilities placed under guardianship, disaggregated by sex.**

Protection of the integrity of the person (art. 17)

54. Please explain the “strict objective conditions” for placing a person with “severe mental illness” in compulsory hospitalization, in particular the persons involved in the assessment of these conditions and the types of mental illnesses covered. Please provide information on the periodic review of the internment, in particular whether it is a judicial or administrative review (*ibid.*, para. 47).

Living independently and being included in the community (art. 19)

55. Please provide information as to whether there are any plans to provide NGOs with subsidies to provide personal assistance service for persons with disabilities (*ibid.*, para. 60).

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

56. Please provide information on existing or planned measures for accessibility of information (captions, audio-description, etc.), including measures taken to promote and recognize the use of sign language (ibid., para. 67).

Education (art. 24)

57. Please provide information on how it is determined that a child with disabilities will attend a mainstream or a specialized school. Please provide information on the percentage of persons with disabilities in mainstream education as compared to the percentage of those in special education facilities, disaggregated by sex. Do mainstreamed students with disabilities have access to all the services and education as enshrined in article 24 of the Convention (ibid., paras. 75-81)?

58. Please indicate if there is a difference in income and social benefits between staff employed in specialized schools and those employed in mainstream education.

Work and employment (art. 27)

59. Please explain whether protection against discrimination on the basis of disability in terms of recruitment and/or work conditions is provided for in the State party's legislative framework and the corresponding sanctions for such cases of discrimination. Are workers with disabilities provided with reasonable accommodation at their work places (ibid., paras. 88-95)?

National implementation and monitoring (art. 33)

60. Please elaborate on how the different entities (the government of Macao, China; NGOs; the government consultative bodies; the judiciary; the Ombudsman) involved in the monitoring of the Convention will interact and which entity will play which role? How are persons with disabilities and their representative organizations ensured a role in participating in the independent monitoring mechanism (ibid., paras. 16-18 and 105)?

C. Women and children with disabilities (arts. 6 and 7)

61. Please provide additional information on article 38 of the Basic Law, which provides protection for "women's legitimate rights and interests"; please indicate whether the State party includes a gender perspective in its public policies relating to persons with disabilities to address the specific needs of women and girls with disabilities, and whether any positive action measures have been taken to advance their more vulnerable situation (ibid., paras. 24-25).

62. Please explain whether the use of corporal punishment to discipline children at home, centres and institutions is permitted by law or not sanctioned.
