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Committee on the Rights of Persons with Disabilities

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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

Addendum

Replies submitted by the Government of China, Hong Kong and Macao to the list of issues (CRPD/C/CHN/Q/1)

[9 July 2012]

Response by the Government of the People's Republic of China to the List of Issues (No.1 to No.30) by the Committee on the Rights of Persons with Disabilities

Issue 1

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).

1. According to the Communiqué on Major Statistics of the Second China National Sample Survey on Disability in 2007, 51.55% of the disabled population was male while 48.45% female, with a male to female ratio of 106.42. By the end of 2010, the total disabled population in China had increased to 85.02 million, of which 43.82 million male and 41.20 million female.

2. The Law of the People's Republic of China on the Protection of Persons with Disabilities provides that a disabled person refers to one who suffers from abnormalities of loss of a certain organ or function, psychologically or physiologically, or in anatomical structure and has lost wholly or in part the ability to perform an activity in the way considered normal. The Classification and Grading Criteria of Disability issued by China in 2011 stresses on functional disabilities and social adaptability while paying attention to structural defects physiologically or physiologically. China, a developing country constrained by the overall level of its economic security and social services, has not yet included the loss of or defect in organs in its disability criteria. According to the current classification criteria of disability in China, a person with disability refers to one with visual, or hearing, or speech, or physical, or intellectual, or psychiatric disability, multiple disabilities and/or other disabilities. In this sense, people with disabilities accounted for 6.34 percent of the country's total population.

Issue 2

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. According to the Law of the People's Republic of China on the Protection of Persons with Disabilities, "Opinions of persons with disabilities and their organizations shall be solicited in the formulation of laws, rules, regulations and public policies involving major issues concerning their rights and interests and the work on disability." Persons with disabilities and their organizations have the right to put forward opinions and suggestions to state organs at various levels on the protection of the rights and interests and the development of the work on disability." In 2011, the State Council approved the

implementation of The Outline of the Work for Persons with Disabilities during the 12th Five-Year Plan Period (2011-2015), which explicitly calls for increasing contacts with, guidance to and support for organizations of persons with disabilities.

4. The State Council has established the Committee on the Work for Persons with Disabilities, with China Disabled Persons' Federation (CDPF) as its member. The Committee meets regularly to coordinate the formulation and implementation of the guidelines, policies, rules and regulations, plans of the State Council for the work on persons with disabilities, and to coordinate the efforts to solve major problems related to persons with disabilities. Governments at all levels have also set up a Working Committee for Persons with Disabilities, with local CDPF units as their members. These local Working Committees are responsible for coordinating with all relevant local departments in an all-round manner and pull all the efforts together for the development of the work on persons with disabilities.

5. The governments at all levels in China have attached great importance to the views of persons with various disabilities and their organizations, solicited their opinions and supported the development of all types of organizations of persons with disabilities, including the China Disabled Persons' Federation (CDPF). In the national legislative and policy-making process, the National People's Congress, the State Council and their relevant departments would solicit, in accordance with proper procedures, the views of the China Disabled Persons' Federation directly through holding discussion forums or seek the latter's opinions in writing. The CDPF, representing persons with disabilities, would make comments and suggestions on issues related to this group of people. Local people's congresses and local governments would also seek the views of local CDPF units in the local legislative and policy-making process in accordance with the proper procedures. Local CDPF units, representing persons with disabilities, would also make comments and suggestions on the issues they are consulted with.

6. In addition, in the process of making laws and policies, the legislative organs and government departments would solicit views of the Association for the Blind, the Association for the Deaf, the Association for Disabled Persons, the Association for Mentally Handicapped Persons and the Society of Parents and Friends of Mentally Handicapped Persons, the Association for Psychologically Challenged Persons and the Society of Parents and Friends of Psychologically Challenged Persons, as well as other non-governmental organizations of persons with disabilities, through holding discussion forums or other means. At the same time, they would also openly, publically and directly seek online comments and views of the general public and the vast majority of persons with disabilities.

7. More than 4,100 persons with disabilities, relatives of the persons with disabilities and social workers for persons with disabilities have been elected to People's Congresses and the People's Political Consultative Conferences above the county level, have been directly involved in the political and democratic life of the country and have exercised their rights to participate in the policy-making process. As deputies to the People's Congresses or members of the People's Political Consultative Conferences, they participate in the consideration of the bills, motions, reports and other issues, and make positive or negative comments and suggestions on those parts of the legislation and policies that are related to persons with disabilities through submitting their study reports, proposals and other forms of papers.

Issue 3

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.

8. In recent years, China has gradually modified and amended the relevant state laws and regulations in that the terminology used to describe people with disabilities has been changed from “*can fei ren*” meaning “the handicapped and useless persons” to “*can ji ren*” meaning “persons with disabilities” and those with mental and intellectual disabilities from “*chi dai sha*” meaning “*idiotic, stupid and muddleheaded*” to “*jingshen can ji ren and zhili can ji ren*” meaning “persons with psychiatric and intellectual disabilities”. Article 3 of the Law of the People’s Republic of China on the Protection of Persons with Disabilities provides: “Disparagement of and infringement upon the dignity of persons with disabilities by means of mass media or any other means shall be prohibited.” The term “persons with disabilities” has been used to describe this group of people in important state documents, such as China’s Eleventh Five-Year Plan (2006-2010), the Outline of the Work for Persons with Disabilities during the 12th Five-Year Development Plan Period, the National Human Rights Action Plan (2009-2010) and its assessment report. The use of derogatory term and language when referring to persons with disabilities is prohibited in all media coverage. All the media should use correct terminology in compliance with the law so as to promote the use of more active and positive language in the whole society. In all the documents issued by the governments at all levels in China, only the law-provided term should be used to refer to persons with disabilities and any discriminatory terminologies are forbidden.

Issue 4

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)?

A. The relevant provisions of the Chinese law on prohibiting discrimination against persons with disabilities

9. Paragraph 3 of Article 3 of The Law of the People’s Republic of China on the Protection of Persons with Disabilities stipulates that: “Discrimination on the basis of disability shall be prohibited. Insult of and disservice to persons with disabilities shall be prohibited. Disparagement of and infringement upon the dignity of persons with disabilities by means of mass media or any other means shall be prohibited.” Paragraph 2 of Article 25 of the Law on Protection of Persons with Disabilities clearly stipulates that “ordinary primary schools and junior high schools must accept children or juveniles with disabilities who are able to adapt themselves to life and study there; ordinary senior high schools, secondary polytechnic schools, and institutions of higher learning must accept students with disabilities who meet the state admission requirements and shall not deny their admission because of their disabilities; in case of such denial, the students concerned, his family members or guardians are entitled to appeal to relevant authorities, and the latter shall instruct the schools concerned to enroll the student.” Paragraph 3 of Article 38 of the Law

stipulates that “no discrimination shall be practiced against persons with disabilities in recruitment, employment, obtainment of permanent status, promotion, determining technical or professional titles, payment, welfare, holidays and vacations, social insurance or in other aspects.”

10. Paragraph 3 of Article 29 of the Law on Promotion of Employment stipulates that “when an employing unit recruits persons, it shall not discriminate against disabled persons.” Article 62 of the Law provides that “where anyone practices discrimination in employment in violation of the provisions of this Law, the workers concerned may lodge a lawsuit in the people’s court.” Paragraph 2 of Article 10 of the Law of the People's Republic of China on the Protection of Minors stipulates that: “Domestic violence against minors is prohibited. Maltreating or forsaking of minors is prohibited. Infanticide by drowning, brutally injuring or killing of infants is prohibited. No female or handicapped minors may be discriminated against.”

11. Article 4 of the Regulations on the Employment of Persons with Disabilities stipulates: “State encourages social organizations and individuals to help and support disabled persons to obtain employment through multiple channels and various forms, and disabled persons are encouraged to obtain employment by themselves through various forms such as job interview. No discrimination shall be practiced against disabled persons in their employment.” Article 13 of the Law states that “employing units shall provide disabled employees with working conditions and labor protection suitable for their physical conditions. No discrimination shall be practiced against disabled persons in promotion, determining technical or professional titles, payment, labor insurance, welfare or in other aspects.” Paragraph 3 of Article 3 of the Regulations on the Education of Persons with Disabilities provides that “the education of persons with disabilities shall be carried out by adopting normal or special methods of education according to the different categories of disabilities and varied learning abilities and aptitudes of individuals, and by bringing into full play the role of ordinary educational institutions in the education of persons with disabilities.” Article 29 of the Regulations on the Education of Persons with Disabilities stipulates that “ordinary senior middle schools, institutions of tertiary education and institutions of adult education must enroll students with disabilities who meet the State's admission requirements and shall not deny them enrollment on account of their disabilities.”

B. Relevant provisions on reasonable accommodation

12. Paragraph 1 of Article 25 of the Law of the People’s Republic of China on the Protection of Persons with Disabilities stipulates that “Ordinary educational institutions shall be open to students with disabilities who are able to receive ordinary education, and offer them facilitation and help.” Paragraph 3 of Article 38 of the same law provides that “Enterprises and institutions where persons with disabilities work shall provide appropriate working conditions and labour protection based on the characteristics of disabled workers, and shall make renovations where necessary on workplaces, work equipments and life facilities in light of their actual needs.” Paragraph 1 of Article 50 of the law states that “People’s governments above county level shall provide convenience and preferential treatment for persons with disabilities where appropriate in taking public transport vehicles. Persons with disabilities shall be permitted to carry on board their indispensable equipment free of charge.” Paragraph 2 of Article 54 of the Law states that “People’s governments at various levels and competent authorities shall take measures to facilitate access to public information for persons with disabilities.” Article 56 of the law stipulates that “Competent departments in charge of the organization of elections shall facilitate persons with disabilities to vote in elections. Braille ballots shall be available wherever possible.”

C. The scope of application of the general definition of the law on discrimination

13. The Constitution of the People's Republic of China stipulates that the Chinese citizens are equal before the law. The Chinese Constitution stipulates that "The state upholds the uniformity and dignity of the socialist legal system". In accordance with the provisions of the Legislation Law of the People's Republic of China, the Constitution, the state laws and the state administrative rules and regulations are higher than local laws, rules and regulations. The provisions of the Legislation at the lower levels, if found contradictory to the legislation at the higher level, shall be amended or annulled by the appropriate organs. The Law of the People's Republic of China on the Protection of Persons with Disabilities, a national law adopted by the Standing Committee of the National People's Congress, provides for prohibition of discrimination on the basis of disability and sets out specific requirements for education, employment, accessibility. All these relevant provisions in the Law are applicable to the whole country and no region in the country shall be allowed to formulate regulations in violation of these provisions on "prohibition of disability-based discrimination".

Issue 5**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).**

14. The Chinese government advocates healthy birth and good care (prenatal care and proper child-upbringing) and tries to ensure reduced incidence of birth defects mainly through intervention in pre-pregnancy stage such as education in good health and the best child-bearing age, genetic counseling, preconception care, proper nutrition, harm of exposure to radiation and toxic and hazardous substances, prevention of infection, cautious medication, and giving up smoking tobacco and drinking alcohol.

15. Dissemination of the knowledge on prevention and treatment of birth defects is an important part of the work of prevention and control of birth defects. Awareness-raising publicity campaigns with rich contents have been carried out in various forms with cooperation of several relevant departments that are easy to understand by the general public, with a view to increasing their health knowledge and their awareness of self-care. Training sessions have been organized for health care institutions and medical staff. Information and knowledge on prevention and treatment of birth defects and health care have been distributed to interested people before marriage, pregnancy and birth-giving as an important part of education program.

16. The killing of babies with disabilities or forced abortion/sterilization is illegal and strictly prohibited. If the killing of infants with disabilities occurs, those who are involved will be held criminally responsible.

17. Article 19 of the Law of the People's Republic of China on Population and Family Planning stipulates that "the State creates conditions to guarantee that the citizens have knowledge of and choose safe, effective and appropriate contraception measures. Sterilization operations shall ensure the safety of those to whom the operations are performed." The population and family planning technical service centers at all levels throughout the country provide contraceptive information, methods and regular technical services to families and people of childbearing age through publicity, education, training and consulting.

18. Citizens enjoy the right to informed choice of contraceptive methods, with no distinction between people with and without disabilities. There are no different rules for them. China prohibits the use of forced sterilization as a means of family planning.

Issue 6

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)?

19. During the period from 2006 to 2010, the Ministry of Housing and Urban-Rural Construction carried out the construction of accessible cities in 100 cities in conjunction with the China Disabled Persons' Federation, with over 460,000 accessible guiding curbs or ramps built or modified; and over 300 special education schools, over 600 rehabilitation centers, more than 1,700 multi-purpose service facilities for persons with disabilities and 3 million households with persons with disabilities all transformed for accessibility. On an average, 60% of the business facilities, hospitals, schools and other public buildings in these cities met the accessibility requirements after modification. There were a higher percentage of accessible public buildings in other cities as well. By 2010, 27 provincial TV stations had started sign language news programs and 341 public libraries had in place reading rooms for the blind. The rural areas had started accessibility construction, trying to make their public service facilities accessible through construction or modification. To provide a material foundation for improving the quality of life of persons with disabilities, the government funded the accessibility construction or modification of the homes of the poverty-stricken families with person with disabilities. In 2011, the Housing and Urban-Rural Construction Ministry and other 14 ministries or state organs jointly developed the Implementation Programme for Accessibility Construction during the 12th Five-Year Development Plan Period, which has identified clear objectives and mandates to enhance accessibility construction in the civil aviation, railway, transportation, education and other sectors, accelerate the spread of information on accessibility construction, increase the percentage of accessible facilities in small towns and rural areas, narrow the gap between urban and rural areas in terms of accessibility construction and help households of disabled people with transformation or modification for accessibility.

Issue 7

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).

20. A. In Order to prevent acts of endangering children with disabilities, article 21 of the Marriage Law provides that "Infanticide by drowning, abandonment of infants and all other acts causing serious harm to infants shall be prohibited." Article 43 of the same Law stipulates that "Where a person indulges in family violence or maltreats a family member, the victim shall have the right to advance a request; the neighborhood or villagers

committee or the unit where they belong to, shall persuade the person to stop doing it and conduct mediation”, that “Where a person is committing family violence, the victim shall have the right to advance a request; the neighborhood committee or the villagers committee shall persuade the person to stop doing it; the public security organ shall stop such violence” and that “Where the victim advances a request, the public security organ shall, in accordance with the legal provisions on administrative penalties for public security, impose an administrative penalty on the person who commits family violence or maltreatment of a family member.” Article 44 further states that “The family member who is abandoned shall have the right to advance a request and the neighborhood committee, villagers committee or the unit they belong to, shall persuade the person to stop doing it and conduct mediation” and that “Where the abandoned family member advances a request, the People's Court shall, in accordance with law, make the judgment on payment by the person who abandons the family member to the victim for the costs of maintenance, upbringing or support.” Article 45 provides that “the person who commits bigamy, family violence, maltreatment or abandonment of a family member, if it constitutes a crime, shall be investigated for criminal responsibility in accordance with law. The victim may, in accordance with relevant provisions of the Criminal Procedure Law, lodge a private prosecution with the People's Court; the public security organ shall investigate the case in accordance with law, and the People's Procuratorate shall institute public prosecution in accordance with law.” Article 10 of the Law of the People's Republic of China on the Protection of Minors stipulates: “Domestic violence against minors is prohibited. Maltreating or forsaking of minors is prohibited. Infanticide by drowning, brutally injuring or killing of infants is prohibited. No female or minors with disabilities may be discriminated against. ” The departments concerned safeguard the legitimate rights and interests of children with disabilities in accordance with the provisions of the Marriage Law and the Law on the Protection of Minors.

21. **B.** In 2011, China launched the Sixth Five-Year Law Publicity and Education Plan (2011-2015) to increase public awareness of the law. The All-China Women's Federation, the China Disabled Persons' Federation and other organizations have actively participated in the national process of law publicity and education campaign. In this process, the Women's Federation units at all levels, combining concentrated publicity campaigns with daily publicity work, actively and vigorously conduct the publicity campaigns on the Marriage Law, the Law on the Protection of Minors and other laws and regulations especially on such important occasions as the Women's Rights Protection Week on 8 March (the International Women's Day) every year and the National Law Publicity Day on Dec.4 every year, with a view to increasing the awareness and capacity of the whole society to protect the legitimate rights and interests of women and children, to effectively preventing infanticide, maltreatment, failure to register birth, desertion and other serious harmful acts against children with disabilities and to creating a harmonious and orderly social environment for the survival and development of all women and children, including children with disabilities.

22. Chinese courts have effectively safeguarded the legitimate rights and interests of children with disabilities and severely punished criminals through the trial of criminal cases involving trafficking and sexually harassing children with disabilities, raping young girls with disabilities, abducting, kidnapping, illegally detaining or abandoning children with disabilities, and other acts of infringing upon the personal rights and interests of children with disabilities. All these efforts have significantly and effectively helped to prevent and reduce crimes against children with disabilities.

23. In addition, the formulation of the anti-domestic violence legislation has been put on the 2012 legislative agenda of the Standing Committee of National People's Congress. The departments concerned are studying all aspects of the issue of preventing and stopping domestic violence against children.

Issue 8

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?

24. China is a socialist country with the rule of law and adheres to the principles that law-breakers must be prosecuted, that laws must be enforced strictly and that everyone is equal before the law. China has resolutely and severely cracked down, in accordance with law, on the criminal acts in which to create false mine safety accidents and intentionally kill persons with disabilities in an attempt to obtain compensation, and has brought those responsible for the hoax accidents to justice, which has effectively protected the legitimate rights and interests of persons with disabilities. In June 2007, the Ministry of Labor and Social Security, the Ministry of Public Security, the Ministry of Supervision, the Ministry of Civil Affairs, the Ministry of Land Resources, the Ministry of Health, the State Administration for Industry and Commerce, the State Administration of Work Safety, the All-China Federation of Trade Unions and other relevant departments jointly planned and carried out a special nation-wide campaign to crack down on illegal employment and other related criminal acts in violation of law. The staff working with state organs have been given administrative sanctions if found to have committed dereliction of duty in illegal employment; and have been transferred to judicial organs for legal procedures in accordance with law if they were suspected to have violated law.

Issue 9

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)?

25. A. Article 12 of the General Principles of the Civil Law provides that “A minor under the age of 10 shall be a person having no capacity for civil conduct and shall be represented in civil activities by his agent *ad litem*.” Article 13 of the Law stipulates that “A mentally ill person who is unable to account for his own conduct shall be a person having no capacity for civil conduct and shall be represented in civil activities by his agent *ad litem*.” “A mentally ill person who is unable to fully account for his own conduct shall be a person with limited capacity for civil conduct and may engage in civil activities appropriate to his mental health; in other civil activities, he shall be represented by his agent *ad litem* or participate with the consent of his agent *ad litem*.” Article 14 of the same Law stipulates that “The guardian of a person without or with limited capacity for civil conduct shall be his agent *ad litem*.” According to the above provisions, only a very small number of people with psychiatric and intellectual disabilities have no legal capacity for civil conduct. In those cases, the guardian of the person with such disabilities may act as his/her agent *ad litem* and make decisions on his/her behalf. The vast majority of people with psychiatric and intellectual disabilities have limited capacity for civil conduct. People with limited capacity for civil conduct may engage in civil activities appropriate to their mental and intellectual conditions and their guardians cannot just make decisions for them as their full

representatives. But rather, their guardians must seek their opinions before making decisions for those under their guardianship.

26. **B.** As for infringement by the guardian of the interests of the person under his/her guardianship, Paragraph 3 of Article 18 of the General Principles of the Civil Law provides that “If a guardian does not fulfill his duties as guardian or infringes upon the lawful rights and interests of his ward, he shall be held responsible; if a guardian causes any property loss for his ward, he shall compensate for such loss. The people's court may disqualify a guardian based on the application of a concerned party or unit.”

27. **C.** The Law of the People's Republic of China on the Protection of Minors contains the following provisions: “When making decisions concerning the rights and interests of minors, the parents or other guardians of the minors shall, on the basis of the minors’ age and intellectual development, inform the minors of the decisions and hear their opinions.” According to Chinese law, minors with disabilities or those persons with mental disabilities declared by the people's court as having no or limited legal capacity for civil conduct shall be assigned a guardian in accordance with law and they shall be represented in civil activities by their guardian as their agent *ad litem*. In order to prevent abuse of guardianship by the guardian, the guardian who fails to fulfill the duties of a guardian or infringes upon the legitimate rights and interests of the person under his/her guardianship shall be liable for damages and his/her qualifications for guardianship shall be revoked.

Issue 10

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.

28. Paragraph 2 of Article 13 of the General Principles of the Civil Law provides that: “A mentally ill person who is unable to fully account for his own conduct shall be a person with limited capacity for civil conduct and may engage in civil activities appropriate to his mental health; in other civil activities, he shall be represented by his agent *ad litem* or participate with the consent of his agent *ad litem*.” According to the provisions of the General Principles of the Civil Law, the vast majority of people with psychiatric and mental disabilities are those with limited capacity for civil conduct. Their civil activities will be partially limited due to their mental and intellectual disabilities, but their legal capacity for civil conduct is recognized. A person who has been declared by the people's court as having no or limited legal capacity for civil conduct, may make a request, either by himself/herself or through the interested person, to the people's court for his/her legal capacity for civil conduct; and the people's court may review his/her case in terms of the state of his/her rehabilitation and declare that he/she should have limited or full legal capacity for civil conduct. There is no provision on the legal capacity of mental patients in the Mental Health Law (draft).

Issue 11

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?

29. A. Article 133 of the General Principles of the Civil Law provides for civil liability of the guardian: “If a person without or with limited capacity for civil conduct causes damage to others, his guardian shall bear civil liability. If the guardian has done his duty of guardianship, his civil liability may be appropriately reduced.” “If a person who has property but is without or with limited capacity for civil conduct causes damage to others, the expenses of compensation shall be paid from his property. Shortfall in such expenses shall be appropriately compensated for by the guardian”. According to the provisions of the General Principles of the Civil Law, the guardian does not take full liability unconditionally. His/her civil liability may be reduced if he/she has fulfilled his/her duty of guardianship. And if a person under guardianship has property, compensation may be paid from his/her property, with only shortfall to be born by the guardian.

30. B. With regard to the guardian deserting the family member with mental illness or even murdering such a family member, the Mental Health Law (draft) provides that the guardian of the person with mental disorders shall fulfill the responsibilities of guardianship and that domestic violence against or deserting of the person with mental disorders is prohibited. At the same time, The Mental Health Law (draft) expressly provides in the chapter of the liability that the guardian who has caused damage to the body, property or other damage to the person with mental illness in violation of the relevant provisions of The Mental Health Law (draft) shall bear civil liability in accordance with law; if the guardian's act constitutes a crime, the guardian shall be prosecuted for his criminal behavior. The criminal acts that a guardian may commit include abandoning the person with mental disorders or failure to fulfill the duty of guardianship; discrimination against, insulting or abuse of the person with mental disorders, violating the human dignity and personal safety of the person with mental disorders, or infringing upon such legitimate rights and interests of the person with mental disorders as the right to employment, medical care and the protection of privacy; illegally restricting personal freedom of the person with mental disorders; and other acts of violating the legitimate rights and interests of the person with mental disorders.

Issue 12

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?

31. A. Paragraph 2 of Article 13 of the General Principles of the Civil Law provides that: “A mentally ill person who is unable to fully account for his own conduct shall be a person with limited capacity for civil conduct and may engage in civil activities appropriate to his mental health; in other civil activities, he shall be represented by his agent or

participate with the consent of his agent.” According to the provisions of this Law, the vast majority of the persons with mental or intellectual disabilities have limited capacity for civil conduct and their guardians alone cannot make decisions for them. Persons with mental illness and intellectual disabilities shall not be restricted in engaging in civil activities appropriate to their psychological and mental conditions. In addition, other categories of persons with disabilities enjoy full and equal legal capacity for civil conduct. Nobody shall be declared by the people's court as having no legal capacity for civil conduct, unless the interested party or person makes such a request to the court and the court has looked into the case with experts' testimony and evidence collected to support the request.

32. **B.** Article 8 of the Mental Health Law (draft) provides for the responsibilities of the guardian, which states that the guardian of the person with mental disorders should fulfill the responsibilities of guardianship and take good care of the person under his/her guardianship and safeguard the legitimate rights and interests of the person with mental disorders; and domestic violence against and abandonment of the person with mental disorders should be prohibited. The Mental Health Law (draft) mainly provides for the obligations of guardians on guardianship and for the protection of the rights and interests of mental patients while the General Principles of the Civil Law provide for the legal capacity for civil rights and for civil conduct of mental patients.

33. **C.** The China Banking Regulatory Commission (CBRC) has also been actively supporting the banking sector in providing banking services and facilities to the convenience of persons with disabilities. On 8 May 2012, the CBRC issued the Regulations on Better Financial Services by Banking and Financial Institutions to Customers with Disabilities, which requires banking and financial institutions to further improve their financial services to those customers with disabilities and to protect the latter's legitimate financial rights and interests.

34. **D.** It is provided in the Chinese law that persons with disabilities, except for mentally ill persons without or with limited capacity for civil conduct, have the full capacity for civil conduct and may independently engage in civil activities and exercise civil rights, including the right on the informed consent for medical treatment, the right to testify in court, the right to choose sexual partners and the right to handle their banking and financial matters, with no distinction with other people. Anybody (including the spouse, parents, children or other close relatives of the person with disabilities) who conducts civil activities or disposes the property of the disabled person on behalf of the disabled person without authorization would become an agent without right or unauthorized disposition. In this case, the perpetrator shall be held for the corresponding civil liabilities.

35. **E.** To protect the legitimate rights and interests of criminal suspects with disabilities in consideration of their disabilities, the Criminal Procedure Law specifically provides that “If the defendant is blind, deaf or mute, or if he is a minor, and thus has not entrusted anyone to be his defender, the People's Court shall designate a lawyer that is obligated to provide legal aid to serve as a defender.” “During the interrogation of a criminal suspect who is deaf or mute, an officer who has a good command of sign language shall participate, and such circumstances shall be noted in the record.”

36. **F.** There are laws and regulations in China concerning the right to informed consent for medical care. Article 55 of the Tort Liability Law provides that: “The medical staff shall explain to the patient the situation regarding his illness and measures for medical treatment they will take during diagnosis and medical treatment. If surgery, special examinations or special treatment is required, they shall explain in a timely manner to the patient the situation regarding his illness and measures for medical treatment and risk for such treatment, alternative plan for treatment, etc. and written consent must be obtained from him. If it is not advisable to explain to the patients, the explanation of the same shall be served to his close family members from whom written consent shall be obtained.

Article 26 of the Law of the People's Republic of China on Medical Practitioners provides that: "Doctors should truthfully explain the patients' conditions to the patients and their family members provided that attention is paid to avoiding an adverse effect on the patients. Doctors should obtain the approval of the hospitals and the consent of the patients themselves or their family members for experimental clinic treatment."

37. These laws and regulations have fully protected the right of all citizens in China to informed consent for medical activities, without distinction between persons with and without disabilities, to say nothing of discriminatory provisions against persons with disabilities.

38. **G.** Since 2009, in line with the requirements for deepening the reform of the medical and health system in China, the service management for patients with severe mental illness has been incorporated into the national basic public health services system, which requires the grass-roots medical staff to pay regular visits to and manage these severe mental patients. A nation-wide mechanism and network for mental patients have been gradually put in place in which mental health medical institutions and primary health care institutions work together to take care of patients with severe mental illness. The new Rural Cooperative Medical Care System (RCMCS) and the Urban Resident Basic Medical Insurance (URBMI) in 2011 successively extended their health insurance coverage to include severe mental disease in the major diseases to be covered, which means a reduction or exemption of expenses for inpatient and outpatient medical treatment and which has relieved these patients of their medical care burden.

39. In addition, the central government has introduced and implemented a program for treatment and management of patients with severe mental disorders since 2004. By the end of 2011, a total of 280 million RMB Yuan had been channeled to this program and a network for treatment and management of patients with severe mental disorders had been put in place covering 391 million people in 766 counties or districts in 170 prefectures or cities throughout the country. In 2011 alone, free medication and medical treatment were granted to poor mental patients with a dangerous behavioral tendency in 56,000 cases, free emergency treatment to 9,600 mental cases and emergency hospitalization subsidies to 8,000 patients, which effectively helped these patients with their rehabilitation and reintegration into society.

Issue 13

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)?

40. Under the Prison Law of the People's Republic of China, the prison shall carry out education and reform of prisoners in accordance with law while human dignity of prisoners shall not be humiliated, and their personal safety, lawful properties, and rights to defense, petition, complaint and accusation as well as other rights which have not been deprived of or restricted according to law shall not be violated. Paragraph 2 of Article 14 of the Regulations on Reeducation-through-labor Program (Trial Implementation) formulated by the Ministry of Public Security and forwarded by the State Council in January 1982 provides that mental patients, persons with intellectual disabilities, the blind, deaf and mute, persons with serious illness, the pregnant or women breastfeeding children for less than one year and persons who have lost ability to work, shall not be accepted by re-education facilities. The Ministry of Justice has also made clear stipulations on this. Law

enforcement departments at all levels should strictly enforce laws and regulations, strengthen law enforcement and supervision, and severely deal with breach of the above provisions and regulations according to law. At present, there are 40,154 offenders with disabilities in Chinese prisons. The supervisory units of the public security departments have not yet compiled statistics specifically on persons with disabilities under detention.

Issue 14

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

41. Chinese prisons attach importance to psychological treatment and guidance of prisoners. The Bureau of Prisons Administration of the Ministry of Justice issued in 2009 a Guide on the Prison Psychological Counseling Treatment, which identified the main goal of the prison psychological treatment, and the main tasks and requirements for better psychological treatment. In recent years, the Ministry of Justice has made efforts to develop a team of professionals specialized in psychological treatment. By the end of 2011, nearly 30,000 police officers had obtained certificates of qualifications for professional psychological counselors. Criminals with disabilities are generally weak psychologically and are prone to psychological problems. Prisons offer inmates psychological education and counseling, help them to have a sound concept of mental health, identify indicators and criteria for good mental health and learn ways to adapt themselves to their own psychological problems. At the same time, prisons have established mental health records of inmates through psychological tests and have tried to know and understand the psychological features and behavioral tendencies of inmates with disabilities, have provided those inmates with mental illness with counseling or psychological crisis intervention in a timely manner so as to help them to divert their unhealthy emotion and restore their mental health.

Issue 15

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?

42. There does not exist in China legislation which allows arrests or detention on the grounds of mental and intellectual disabilities. The State has developed appropriate plans and policy measures to effectively deal with the sporadic problem of mental patients being locked up by family members in some parts of the country. China Mental Health Work Plan (2002-2010) issued jointly by the Ministry of Health, Ministry of Civil Affairs, Ministry of Public Security and China Disabled Persons' Federation made it very clear that “All localities in China must carry out a general survey on mental patients being locked up and develop a viable solution to get them out of their lock-ups through medical treatment, care and financial assistance in light of their local conditions, provide proper treatment and supervision and pay regular visits to these patients so as to enable these mental patients to be gradually reintegrated into the society and solve, once and for all, the sporadic problem of mental patients being locked up.” According to Statistical Communiqué on Development of the Work for Persons with Disabilities, 10,781 mental patients were relieved from their lock-ups in 2007; 10,033 in 2008; 7,636 in 2009; 5,477 in 2010; and 4,836 in 2011.

43. We have provided services and assistance to persons with disabilities. First, we have vigorously promoted the establishment of institution of the legal assistance mechanism for persons with disabilities. In May 2009, the Ministry of Justice, the Supreme People's Court, the Supreme People's Procuratorate and five other state organs jointly issued Opinions on Strengthening the Work of Legal Assistance to Persons with Disabilities, which provided for an operational mechanism for coordination and cooperation among the institution with clearly defined responsibilities for each. Second, the legal assistance agencies throughout the country have established, with the help and support of the local CDPF units, 2,745 legal assistance stations for persons with disabilities, which have provided organizational support for people with disabilities to apply for and obtain legal assistance. Third, all localities in China have adopted the principle of "three priorities" for persons with disabilities in terms of acceptance of applications for legal assistance, processing applications and assigning legal assistance cases, and have opened "green channels" for persons with disabilities of the same day acceptance, approval and assignment on legal assistance cases. According to statistics, the legal assistance institutions throughout the country provided 195,000 person-time legal counseling for persons with disabilities and handled 54,000 cases of legal assistance applications by persons with disabilities in 2011.

Issue16

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).

44. The Mental Health Law (draft) is now under consideration of the NPC Standing Committee and it was made public to solicit comments from the general public at the end of 2011. The draft Law sets strict and detailed regulations with regard to surgery on mental patients and to the approval of the mandatory medical treatment of mental patients and the institution to conduct such medical treatment. The draft Law fully reflects the principle of respecting patients and effectively safeguarding the legitimate rights and interests of the patients.

45. Article 38 of the draft Law provides that "The patient with mental disorders who has performed an act that has endangered the safety of others or is likely to endanger the safety of others" and who "needs to be hospitalized" "shall not be subject to surgery for the purpose of treating mental disorders." Article 39 of the draft Law stipulates that "Medical institutions shall not execute the following treatment measures for the patient with mental disorders without the written consent of the patient or the written consent of his/her guardian which is approved by the Ethics Committee of that medical institution, in case the patient was unable to account fully for his case or to control his/her own behavior: (a) surgery which may result in the loss of the function of a human organ; and (b) experimental clinical treatment related to mental disorders. Experimental clinical treatment unrelated to mental disorders is prohibited." Article 67 and Article 68 of the said Law provide that the medical institutions and personnel who have performed surgery or experimental clinical treatment in violation of law must bear legal responsibility for their actions.

46. The Criminal Procedure Law which was amended by the 5th session of the 11th National People's Congress of the People's Republic of China on March 14, 2012 added one chapter in the part of "Special Procedures", which provides for the special procedures for involuntary medical treatment of mental patients legally exempted from criminal liability.

Issue 17**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)?

47. A. Paragraph 4 of Article 9 of the Law on the Protection of Persons with Disabilities clearly states that "Domestic violence against persons with disabilities shall be prohibited. Maltreatment and abandoning of persons with disabilities shall be prohibited." Article 40 of the same Law provides that "No organization or individual shall force persons with disabilities to work through violence, threat or illegal restriction of personal freedom." Article 43 of the Marriage Law stipulates that "Where a person indulges in family violence or maltreats a family member, the victim shall have the right to advance a request; the neighborhood or villagers committee or the unit where they belong to, shall persuade the person to stop doing it and conduct mediation", that "Where a person is committing family violence, the victim shall have the right to advance a request; the neighborhood committee or the villagers committee shall persuade the person to stop doing it; the public security organ shall stop such violence", and that "Where the victim advances a request, the public security organ shall, in accordance with the legal provisions on administrative penalties for public security, impose an administrative penalty on the person who commits family violence or maltreatment of a family member." Article 45 of the Marriage Law provides that "The person, who commits bigamy, family violence, maltreatment or abandonment of a family member, if it constitutes a crime, shall be investigated for criminal responsibility in accordance with law. The victim may, in accordance with relevant provisions of the Criminal Procedure Law, lodge a private prosecution with the People's Court; the public security organ shall investigate the case in accordance with law, and the People's Procuratorate shall institute public prosecution in accordance with law." Article 10 of the Law of the People's Republic of China on the Protection of Minors stipulates that "Domestic violence against minors is prohibited. Maltreating or forsaking of minors is prohibited. Infanticide by drowning, brutally injuring or killing of infants is prohibited. No female or handicapped minors may be discriminated against. "

48. B. In December 2010, the Public Security Bureau of Shenyang Municipality of Liaoning Province launched Shenyang 110 Domestic Violence Report Centre, a hotline center specially for requests from victims of domestic violence for police assistance, which has since timely handled and combated various illegal and criminal activities against women and children (including women and children with disabilities), effectively curbed the spread of domestic violence, safeguarded the legitimate rights and interests of women and children and created a harmonious and stable family environment. In view of the fact that persons with hearing and language disabilities cannot communicate effectively with police officers by the traditional "110" hotline system, a SMS alarm service has been introduced so that persons with hearing and language disabilities who suffer from domestic violence can get timely help. Police officers who are good at working with people, have rich experience in law enforcement and handling cases, and have a strong sense of responsibility would be assigned to cases of domestic violence involving persons with disabilities so as to effectively safeguard the legitimate rights and interests of persons with disabilities.

49. C. There is currently no data on exploitation, abuse and violence against persons with disabilities disaggregated by sex in China.

Issue 18

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).

50. All Chinese citizens enjoy the right to informed choice of methods of contraception, with no distinguish between people with and without disabilities. There are no different rules for people with and without disabilities. China has banned the forced sterilization as a means of family planning.

51. The population and family planning technical service centers at all levels throughout China have provided families and people of childbearing age, in a timely manner, with adequate, accurate easy-to-understand information on contraception through publicity, education, training and counseling, and with a wide range of contraceptive methods for them to chose from and proper technical services so that people have full knowledge of the relevant laws and regulations, of the commonly-used contraceptive methods and matters needing attention in using those methods, which has enabled them to independently chose the kind of method of contraception that is safe, effective and suitable to them.

Issue 19

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).

52. A. A number of government departments are involved in the work of protection and service for persons with disabilities. There are difficulties in obtaining accurate statistics. At present, we do not have the exact percentage of persons with disabilities living in institutions and those living in the community. But we can provide some figures for reference:

53. By the end of 2011, institutions for people with psychological and intellectual disabilities under the civil affairs departments had admitted 55,000 persons with disabilities, child welfare agencies took in a total of 100,000 orphans and abandoned babies (the vast majority of them with disabilities). Senior citizens institutions and comprehensive welfare institutions throughout the country accepted 2.568 million people (most of them having partially or completely lost capabilities).

54. The governments at all levels in China have also supported 442,000 persons with disabilities who are unable to take care of themselves intellectually, psychologically and in daily life. They have been given care and support services at home, namely, routine life care, training on social capabilities, psychological counseling, vocational skills and rehabilitation services without detaching from the society or from their homes. The Chinese government is now gradually incorporating this home-based care and support services

model into the social security system. For example, Shanghai Municipality, Jiangsu Province and Dongguan City of Guangdong Province have already introduced policies on this model, including granting monthly allowances to persons with disabilities who are unable to take care of themselves intellectually, psychologically and in daily life to help them to purchase the above-mentioned care and services. It is expected to institutionalize this model in more localities in China in the next five years.

55. **B.** As far as the social service system is concerned, the civil affairs departments have set up various welfare institutions to provide care and services to persons with disabilities, mainly on the basis of the age and the categories of the disabilities, including mainly child welfare institutions, senior citizens homes, hospitals for persons of mental retardation or mental disorders, and homes for demobilized soldiers. As far as the social security system is concerned, persons with disabilities are entitled to the basic subsistence and assistance under the minimum subsistence guarantee system consistent with their classified categories and their minimum subsistence amount has increased by a certain percentage. The adults with severe disabilities whose families have financial difficulties and have lost the ability to work may apply for minimum subsistence allowances after setting a separate account. Impoverished persons with disabilities, if in need of medical assistance, are also entitled to such special treatment as increasing aid level in addition to the normal medical assistance.

56. The “Sunshine Home Plan - Care and Support Services for Persons with Mental, Intellectual and Severe Disabilities” (hereinafter referred to as “Sunshine Home Plan”) is a project launched by the Chinese government to support the care and support services for persons with disabilities. During the first phase of three years from 2009 to 2011, the Central Government appropriated 200 million RMB Yuan a year, a total of 600 million RMB Yuan, earmarked for subsidizing the care and support services for people of employment age but with intellectual, mental and severe disabilities. The Outline of the Cause for Persons with Disabilities during the 12th Five-Year Development Plan Period states that the “Sunshine Home Plan” will continue to be implemented and that the Central Government will appropriate a total of 1 billion RMB Yuan between 2012 and 2015 for the funding of various forms of care and support services for persons with disabilities for a total of 200 million person-times.

57. The care and support services are mainly meant for those persons with disabilities who are in need for care and support services, especially those unable to take care of themselves in daily life intellectually and mentally who need a person’s full-time care or nursing for a long period of time. The care and support services mainly cover the basic daily life care and nursing, living skills training, psychological and behavioral counseling, rehabilitation and health care, social adjustment counseling, leisure counseling, work skills training, and vocational rehabilitation services. There are currently two main forms of care and support services for persons with disabilities. One is institutional-based care and support services. In this case, persons with disabilities are sent to professional care centers, including all kinds of boarding institutions at all levels and day-care institutions. Persons with disabilities and their guardians may choose either boarding institutions or day-care institutions depending on their own conditions. Boarding institutions are generally larger in size, small in numbers and located mainly in large- and medium-sized cities. Day-care institutions are smaller in size, large in numbers, and located in the communities, neighborhood and townships and they offer a wide range of services to persons with disabilities. The other form of care and support services is home-based for those persons with disabilities who find it inconvenient or undesirable to leave home. In this case, the professional social service institutions would provide care and support services to them at their homes.

58. Since the launch of the “Sunshine Home Plan” in 2009, 87,000 people with disabilities in 3,091 care and support service institutions have received funding; and 577,000 person-times have also been funded for their home-based care and support services. All this has facilitated an all-round progress in the care and support services. In addition, 2,815 care and support boarding institutions and community-based day-care institutions have been built. Thanks to the “Sunshine Home Plan”, the care and support services for the disabled people have embarked on a path toward efficient, regulated and long-term development.

Issue 20

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).

59. Article 94 of the Criminal Procedure Law of PRC provides that: “During the interrogation of a criminal suspect who is deaf or mute, an officer who has a good command of sign language shall participate, and such circumstances shall be noted in the record.” Article 86 of Law on Public Security Administration Punishment provides that “During the interrogation of a deaf or mute perpetrator who violated the public security administration, a victim or other witnesses, a person who has a good command of sign language shall provide help, and such circumstances shall be noted in the record.” In legal proceedings in which a deaf person(s) participates, the judicial organs such as the court, procuratorate and public security organ will take the initiative to ask the deaf person whether he or she needs sign language services. If the deaf needs sign language services, the judicial organs such as the court, procuratorate and public security organ shall provide the necessary sign language interpreter to the deaf. The judicial organs provide the deaf with sign language interpretation services, not only in Chinese, but also in minority languages or foreign languages, so as to effectively protect the litigation rights and interests of the deaf.

Issue 21

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).

60. A. There is a legislative and policy guarantee for this. The Law on the Protection of Persons with Disabilities expanded an article on accessibility to a chapter, which has enriched and strengthened the provisions on accessibility and which has provided a legal basis for greater accessibility in exchange of information.

In June 2012, the State Council considered and adopted the Regulations on Construction of Accessible Environment, which provides for the construction of accessible facilities, accessible communication of information and accessible community service in order to facilitate people with disability and other members of society in safe and independent access to buildings, public transport means, and information and community services.

The Outline of the Work for Persons with Disabilities during the 12th Five-Year Development Plan Period (2011-2015) and The Implementation Programme for the 12th Five-Year Development Plan detailed measures for information accessibility to make the

construction of information accessibility more operational, thus laying a foundation for rapid development of information accessibility.

61. **B.** Standards have been developed and disseminated. The following table shows guidance industry standards on information accessibility issued since 2008:

<i>Serial number</i>	<i>Name of Standards</i>	<i>Standard number</i>
1	Information Accessibility, Differences in Human Physical Functions, Technical Requirements of Accessibility on Web Design	YD/T 1761-2008
2	Information Accessibility, Differences in Human Physical Functions, Rating and Testing Methods of Accessibility on Web Design	YD/T 1822-2008
3	Requirements and Measurement Methods of Coupling Technology of Hand Telephone Hearing Aids	YD/T 1889-2009
4	Requirements and Evaluation Methods of Information Terminal Device, Information Accessibility Auxiliary Technology	YD/T 1890-2009
5	Information Accessibility, Guidelines of Communications Terminal Device Design for different human physical functions	YD/T 2065-2009
6	Information Accessibility, Technical Requirements of Call Center Service System	YD/T 2097-2010
7	Information Accessibility, Technology Requirements of Voice Internet Access	YD/T 2098-2010
8	Information Accessibility, Technical Requirements of Auxiliary Hearing System for People with Hearing Impairments in Public Places	YD/T 2099-2010
9	Information Accessibility, Terminology, Symbols and Commands	YD/T 2313-2011

62. During the period of the 11th Five-Year Development Plan, the state launched the Project for Assisting Persons with Disabilities with Science and Technologies, the Sunshine-Green Network project, Key Technology Support System of Information Accessibility for persons with disabilities and demonstration of its application, and other key national projects. China has achieved a number of important scientific and technological innovations. All these have provided a basis for the development and improvement of testing and evaluation standards of accessible webs.

63. In the period from 2008 to 2010, the Ministry of Industry and Information, Ministry of Science and Technology, China Disabled Persons' Federation and other departments took the advantage of the Beijing Olympic Games and the Paralympics Games in 2008, the Shanghai World Expo in 2010 and Guangzhou Asian Games in 2010, actively demonstrated the information accessibility of the important government and social web portals according to the standards.

64. In 2009, the Ministry of Industry and Information, in conjunction with the China Disabled Persons' Federation, organized efforts to revise the standards on the "Information Accessibility, Differences in Human Physical Functions, Technical Requirements of Accessibility on Web Design (YD / T 1761-2008)". In October 2011, UNESCO acknowledged and supported the Chinese R&D efforts in accessibility standards of website design.

65. C. In the next five years, the state will continue to redouble R&D efforts in the formulation of relevant standards, to improve the standards system of information accessibility and to promote the application of information accessibility standards in the field of government and public services.

Issue 22

Education (art. 24)

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

66. China provides children and teenagers with disabilities with education in both ordinary schools and special schools. In 1988, the state education departments proposed that it was necessary to introduce multi-forms of education for children with disabilities, instead of the single form of special school education. The Law on the Protection of Persons with Disabilities, The Compulsory Education Law and The Regulations on the Education of Persons with Disabilities have all emphasized that governments at all levels should strengthen the development of special education schools, in particular, those in the central and western regions of the country, while promoting the enrollment of children and juveniles with disabilities in regular classes in all areas and expanding the scope of enrolling children with disabilities in regular classes, with priority being given to the institution and improvement of a guarantee system to support such regular classes at the county-level so as to gradually improve the quality of education. According to the statistics of the Ministry of Education, the proportion of children with disabilities studying in regular classes of ordinary schools or special classes affiliated to ordinary schools in the total number of students in schools in special education has all along stayed at over 60%. At present, the "Tree-in-one" education system for children with disabilities has generally taken shape in China, "with the special education schools as the backbone, education of children with disabilities in regular classes of ordinary schools and special education classes affiliated to ordinary schools as the mainstream, and other forms of education (such as home-based teaching of children and juveniles with extreme severe and multiple disabilities) as a supplement.

67. The Chinese special education schools are resource centers for local governments to use and facilitate the education for children and juveniles with disabilities. There are some differences between the special education schools referred to in the report and special education schools in other countries. Apart from performing normal school functions for education of children with disabilities on campus, the Chinese special education schools also serve as resource centers through which to assist the local governments in promoting the development of local special education and in fulfilling the following functions as entrusted by the local governments or the local education administrative departments:

(1) To give guidance to and assess the education of children and juveniles with disabilities in regular classes of the local ordinary schools;

- (2) To provide professional guidance and training to teachers who teach children and juveniles with disabilities in regular classes of the local ordinary schools;
- (3) To dispatch teachers and other professionals to ordinary schools for guidance and inspection tours of regular classes with children and juveniles with disabilities;
- (4) To provide home-based teaching to local children and juveniles with extremely severe disabilities at homes who should be covered by the compulsory education so as to ensure their right to compulsory education.
- (5) To strengthen cooperation with the local health departments, the civil affairs departments and the local CDPF units and undertake the tasks assigned to by the Steering Committee of the Education for Persons with Disabilities; and
- (6) To offer pre-school education, ordinary high school education or vocational education to children and juveniles with disabilities.

Issue 23

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.

68. The Chinese government attaches great importance to ensuring persons with disabilities the right to employment and has taken various measures to effectively prohibit and prevent forcing persons with intellectual disabilities into “slave labor”.

69. **A.** To improve laws for legislative protection. The Labor Law, the Labor Contract Law, the Social Insurance Law and other laws have all expressly provided for legal liabilities for any action which infringes upon the rights and interests of workers as well as their social security. Efforts have been made to improve the relevant provisions in the Criminal Law with a view to reinforcing criminal liability for possible crimes involved in labor and employment. As a result, such crimes as forced labor and illegal detention have all been clearly defined. The Amendment (VIII) to the Criminal Law of the People's Republic of China as adopted in 2011 has defined refusing to pay labor remuneration as a crime and has increased the criminal liability for it.

70. **B.** To strengthen law enforcement. Efforts have been made to intensify inspection activities for the purpose of better law enforcement and labor protection, including daily routine inspections, investigations of reported complaints and tips about possible criminal activities, and other special inspections. We have continued to regulate the employment practices of the employers and the employment intermediary agencies, to safeguard the legitimate rights and interests of the laborers, including those with intellectual disabilities.

71. **C.** To create new models for labor protection, supervision and regulation, and improve the administrative efficiency of law enforcement. We have continued to improve the management of the “two networks” of labor protection and supervision for the purpose of better dynamic control and supervision and an overall supervision of the employment by employers and to prevent and stop in a timely manner the occurrence of infringement of the legitimate rights and interests of workers, especially those with intellectual disabilities.

72. **D.** To reinforce coordination mechanism between administrative and judicial organs and intensify the investigation and handling of law-breaking activities. All those

who have been found, in the administrative and law enforcement inspections, to have refused to pay wages to workers, have forced others to work, or have intentionally injured or detained laborers shall be held for criminal liabilities in accordance with law, and shall be transferred by the human resources and social security administration departments to judicial organs in a timely manner. The relevant government departments have taken effective measures and conducted a nation-wide comprehensive investigation into possible forced labor, have relentlessly cracked down on illegal employment and other employment-related criminal activities, especially on forced labor and other illegal criminal activities against persons with intellectual and mental disabilities and have successfully rescued a number of persons with intellectual disabilities and mental disabilities from forced labor.

Issue 24

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.)

73. At the end of 2011, there were 764.20 million people employed nationwide, with 359.14 million in urban areas and 405.06 million in rural areas. The nationwide registered urban unemployment rate was 4.1%.

74. According to Statistical Communiqué on the Development of the Work for Persons with Disabilities in 2011, there were 21.893 million persons with disabilities employed at the end of 2011. Among them, 4.405 million persons with disabilities were actually employed in urban areas while 17.488 million had stable employment in rural areas (including 13.677 million engaged in agricultural production). In 2011, 97,000 persons with disabilities were employed through the national concentrated employment arrangements; 75,000 through proportional employment arrangements; 21,000 on welfare service posts; and 125,000 persons with disabilities were self-employed or through other flexible forms of employment.

75. According to the 2010 National Monitoring Report on the Status of Persons with Disabilities and Their Progress toward a Decent Life, the national registered unemployment rate for persons with disabilities in urban areas was 8.6% at the end of 2010.

Issue 25

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).

76. The Chinese government attaches great importance to safeguarding and protecting the fundamental rights and interests of persons with disabilities and has made the poverty alleviation for persons with disabilities as an important part of its national poverty reduction strategy. It has achieved remarkable results in development-based poverty alleviation of persons with disabilities in rural areas with substantially reduced poor population with

disabilities and steadily increased income levels of families having persons with disabilities. In the decade from 2001 to 2010, a total of 13.177 million people with disabilities were lifted out of poverty through various ways; financial departments at all levels have invested a large sum of money in the renovation of dilapidated houses of the poor rural people with disabilities, which directly benefited 741,000 people with disabilities; 4,575 poverty alleviation bases were established for the rural disabled people, which benefited 1.33 million impoverished disabled people through directly providing them with shelter or through helping them to develop production and increase income; and offered 8.688 million disabled people training on rural practical technologies and skills.

77. **A.** We have studied and formulated policies to help persons with disabilities in rural areas. The National Poverty Alleviation and Development Program (2001-2010) made the poverty alleviation and development of rural people with disabilities as a key task and this group of disabled persons as the priority group for support and assistance. The National Poverty Alleviation and Development Program (2011-2020) calls for incorporation of poverty alleviation and development for persons with disabilities into its overall poverty alleviation plan, integrated organization of poverty alleviation efforts, synchronized implementation of the poverty alleviation plan, giving priority to poor rural disabled people when everything else being equal and more forceful support in this regard.

78. **B.** We have adopted a prioritized support and help approach. We have made efforts to experiment with connecting the development-based poverty alleviation system with the minimum living standards guarantee system for rural residents. To implement poverty reduction policies, we have made arrangements for employment of disabled persons before others in suitable farming, aquaculture, animal farming, handicrafts, household sideline production and other projects in consideration of their disabilities. Again, persons with disabilities have been given priority in multi-level vocational education and short-term practical training so that these disabled people with certain abilities to work may learn one or two rural practical technologies or skills. In carrying out such projects as village-wide development, poverty alleviation through industrialization, training in labor transfer, poverty alleviation through internal migration and renovation of dilapidated houses of poor families, persons with disabilities have been the priority group of people for support and assistance. All these projects have been planned and implemented in coordinated and synchronized manner. Persons with disabilities have been given priority under the same conditions. In social projects of poverty reduction, government officials at all levels have made greater efforts to contact the impoverished disabled people and help them to solve their practical problems in the production and in daily life, taking into consideration their special difficulties.

79. **C.** We have increased input into poverty alleviation loans earmarked for the rehabilitation of persons with disabilities. The central government arranged 60 million RMB Yuan for reduced interest rate loans for the rehabilitation and poverty alleviation in 2011, doubling the size of such loans of 2010. It has encouraged and guided subsidized loans for rehabilitation, amounting to 1.029 billion RMB Yuan in 2011, up by 28.6% compared to 2010. From 2001 to 2010, such loans granted cumulatively amounted to about 8 billion RMB Yuan, benefiting 1.4 million people with disabilities. In October 2011, the central government further adjusted and improved policies concerning the management of rehabilitation and poverty alleviation loans and increased the loan discount rate by 2 percent on the basis of the previous discount rate.

80. **D.** We have strengthened the supervision and inspection of the implementation of the various policy measures. The China Disabled Persons' Federation and relevant government departments have worked in close collaboration to strengthen the inspection and evaluation of the implementation of various policy measures, to jointly promote

development-based poverty alleviation of rural people with disabilities and to ensure that policy measures are fully implemented.

81. In implementing the project of development-based poverty alleviation of rural persons with disabilities, the Chinese government has focused on women and children with disabilities in rural areas and has redoubled efforts to support and help them. A large number of women with disabilities have improved their living conditions, increased skills and improved the quality of life through poverty alleviation. In consideration of the characteristics of women with disabilities, we have offered training in rural useful and practical technologies, encouraged women with disabilities to make full use of their courtyard resources for planting, breeding and processing, and helped them to develop entrepreneurial projects. The government has helped women with disabilities to develop production skills and capabilities by giving them a platform and providing them with practical and effective services so that these women will be able to support themselves, increase income and effectively improve their status in the family and in the society. The Women's Federation of Yongshou County of Shaanxi Province has conducted training in handicraft skills for rural disabled women. 158 women with disabilities in the county attended the training and learned basic skills and techniques of embroidery, cloisonné and other handicrafts. The training has given these women a platform for increasing income and becoming well-off through hard work. As a result, their family income has increased; they have got out of poverty, have enjoyed higher social status and family status, and have realized their own values as well as their social values. In addition, this training project has also encouraged and impacted 280 women in the neighborhood of Yongshou County. This project has been well received by people from all walks of life and women in particular.

Issue 26

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.

82. Deprivation of a person's political rights is one of the penalties provided for under the Criminal Law. It is only applicable to the crimes that are clearly defined by law, and it is not targeted against any particular group of people. Therefore, there is no judicial statistics in China specifically on the number of persons with disabilities who have been deprived of political rights.

Issue 27

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.

83. The main goals that were identified in the China Women's Development Program (2001-2010) (hereinafter referred to as the Program) have been incorporated into the Outline of the Work for Persons with Disabilities during the 10th, the 11th and the 12th Five-Year Development Plan Period so as to ensure that the development goals for persons with

disabilities are consistent with those in the Women's Development Program and that women and girls with disabilities are given priority in implementing the Program. Over the past 10 years, efforts have been continuously made to improve the legislative and regulatory system, including laws and regulations concerning women and girls with disabilities, and a government-led working mechanism and a steadily increased financial support mechanism have taken shape. We have continued to monitor, on an annual basis, the status of persons with disabilities, and the dynamic status of the life and protection of the rights and interests of women and girls with disabilities. We have vigorously increased publicity of the work for persons with disabilities, which have visibly enhanced the knowledge, awareness and understanding of the community about issues related to women and girls with disabilities. To compare the figures of 2010 with those of 2007, the per capita disposable income for families with women with disabilities was 6,329 RMB Yuan in 2010, an increase of 2,190 Yuan; and the coverage of community service for women with disabilities reached 24.3%, up by 10.9%. At the same time, the statistics have shown that there has been a marked increase in the proportion of women with disabilities participating in family affairs and family decision-making as well as participating in the management of government and community affairs. To further promote and protect the rights of women, including women with disabilities, China's State Council promulgated in July 2011 and has since implemented China's Women's Development Program (2011-2020) and identified measures to promote the employment of women with disabilities and provide women with disabilities with social security, among others.

Issue 28

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).

84. According to the Second National Sample Survey on persons with disabilities, there were 5.043 million 0-17-year-old children with disabilities, accounting for 6.08% of the total disabled population. Among them, 2.947 million were male, or 58.43% of the total children with disabilities; and 209.6 million female, or 41.57% of the total children with disabilities. At present, more than 90,000 children with disabilities are in various kinds of welfare institutions under the civil affairs departments at all levels while 30,000 orphans with disabilities are living with their foster families. The daily rehabilitation training of children with disabilities is mostly done at home with the help of community services and under the guidance by professional institutions.

Issue 29

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.

85. The State Council's Committee on the Work for Persons with Disabilities (SCCWPD) is composed of 36 ministries and state commissions. Its main responsibilities

are: under the leadership of the State Council, to coordinate, in an integrated manner, the development and implementation of the guidelines, policies, statues, regulations and programmes concerning persons with disabilities; to coordinate efforts to solve major issues related to disabled persons; and to organize and coordinate efforts for international exchanges and cooperation in the work for persons with disabilities.

86. Since China ratified the Convention on the Rights of Persons with Disabilities, the SCCWPD has mainly done the following:

87. **A.** In the process of formulating major policies and programmes to facilitate the development of the work for persons with disabilities, all the SCCWPD component ministries and state commissions have fulfilled their functions, have assisted local governments in introducing policies and programs to facilitate the development of the work for local persons with disabilities, and have intensified policy and financial support through “universal preferential treatment plus special preferential treatment” with a view to effectively helping persons with disabilities to get out of difficulties in their daily life and personal development, and promoting their integration into the development cause.

88. **B.** It has formulated a sound national programme on the work for the persons with disabilities and has made arrangements for its implementation. It has called for effective implementation of the United Nations Convention on the Rights of Persons with Disabilities in China and has established and improved the national Convention implementation mechanism. Local governments at all levels and local SCCWPD units have, in light of their local conditions, earnestly developed and implemented their local Plans of Work for Persons with Disabilities during the 12th Five-year Development Plan Period and the development-based poverty alleviation programmes for persons with disabilities in the rural areas for the next decade, and has made many innovations and breakthroughs in institutional guarantee, policy innovations, financial input and community participation.

89. **C.** We have implemented policies and measures of the State Council to accelerate the building of a social security system and a service system for persons with disabilities. The SCCWPD has made it clear that all its component ministries or commissions should develop specific measures for the building of the “two systems” for persons with disabilities within the sphere of their responsibility according to the division of responsibilities in SCCWP, should closely cooperate and coordinate with each other when involving several departments, the lead agency should take the initiative to strengthen organization and coordination, and should encourage local governments at all levels to take the building of the "two systems" as an important part of their efforts to improve people’s life and social development and to incorporate the building of the “two systems” into their local social security system and public service system.

90. **D.** All SCCWPD component ministries or state commissions should give full play to their functional advantages, implement a series of measures to benefit persons with disabilities, provide these people with appropriate facilities, encourage them to integrate into the society and continuously improve their living conditions. In 2011 alone, 10.26 million eligible people with disabilities in the urban and rural areas were granted the minimum living standards guarantee allowance with 20% to 30% higher for persons with disabilities in poor families in most areas. 4.392 million persons with disabilities joined the medical insurance for urban residents. 96% of persons with disabilities in rural areas participated in the new rural cooperative medical care system. care and support services were provided to 165,000 people with disabilities and home-based care and support services in various forms to 438 thousand persons (times). 1.23 million rural poor people with disabilities were lifted out of poverty, 94,000 poor rural homes with disabled persons had their dilapidated houses renovated. Approximately 60,000 children with various disabilities received assistance and support. 1 million cataract patients had their eye sight restored. 5.07 million persons with disabilities were rehabilitated to varying degrees. About

20,000 students with disabilities received financial subsidies. 318 000 new jobs were created for urban persons with disabilities. Accessibility transformation was carried out for 50,000 homes of persons with disabilities.

91. **E.** We have put in place the Life and Sunshine Pavilion to present persons with disabilities in the Shanghai World Expo, organized the Fifth National Special Olympics, the Guangzhou Asian Para Games for the Disabled, the Eighth National Games for the Disabled, the Fourth National Vocational Skills Competition for Persons with Disabilities, the Chinese International Well-Being Expo and International Rehabilitation Show and other major events and promoted the inclusive development for persons with disabilities.

92. **F.** We have promoted the development of the capacity building of persons with disabilities and the services for persons with disabilities through international cooperation and have advocated and encouraged the relevant departments and social organizations in China to enhance their cooperation with relevant national organizations of other countries as well as regional and international organizations. Since its accession to the Convention, China has jointly organized a series of cooperation projects oriented towards persons with disabilities together with the United Nations Development Programme, United Nations Children's Foundation, Handicap International, The Prem Rawat Foundation and the Kadoorie Foundation, including community-based rehabilitation, special education, employment, legislation and awareness publicity campaigns. For example, the “Voice of the Youth” project, initiated by Leonard Cheshire Disability and funded by the EU, carried out in 17 countries around the world, was aimed at advocating in teams the implement the Convention and enhancing capabilities of young people with various types of disabilities. This project has helped increase the capabilities of the Chinese youth with disabilities to participate in international exchanges and cooperation, broadened their horizons, and enhanced their overall qualities. For another example, five Chinese persons with disabilities and social workers for persons with disabilities, along with dozens of participants from Indonesia and Vietnam, attended a three-month training course for integration and development of women with disabilities at Flinders University in Australia in 2010, a project that was funded by the Australian Agency for Overseas Development.

93. **G.** Under the integrated co-ordination and organization of the SCCWPD, the International Forum “Eliminating Obstacles and Promoting Integration” was successfully held in Beijing in June 2012. Leaders of international organizations of persons with disabilities, representatives of organizations of disabled people in different countries and regions, specialists and scholars of major academic institutions and representatives from the United Nations system attended the forum. Participants discussed disability-inclusive development issues, including those related to accessibility, education, livelihood, community rehabilitation, social security. The Forum unanimously adopted the Beijing Declaration, which urged all governments to expedite the ratification of the Convention on the Rights of Persons with Disabilities and implement the Convention, called for regional, inter-regional and international cooperation in matters concerning disabled persons; and proposed to incorporate the work for persons with disabilities into the development strategies of the international community in various areas after 2015.

94. **H.** China has actively supported the activities of the Asian and Pacific Decade of Disabled Persons (2003-2012; 2013-2022) and other regional decade of disabled persons.

Issue 30

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) ?

95. In China, the statistics and monitoring system for disabled persons operates under the leadership of the SCCWPD. The following government departments and other organization are mainly involved in the statistical work of persons with disabilities: the National Bureau of Statistics, the Ministry of Education, the Ministry of Health, the Ministry of Civil Affairs and the China Disabled Persons' Federation. The National Bureau of Statistics is mainly responsible for the approval of the statistical system for persons with disabilities and for the collection and publication of the statistical data for persons with disabilities. At the same time, the decennial census carried out by the National Bureau of Statistics provides a basis for projecting the total number of persons with disabilities and disaggregated data on persons with disabilities by gender, age, region and etc. The China Disabled Persons' Federation collects, through focused surveys, sample surveys and regular reporting system, basic data on persons with disabilities, including the number of disabled persons, the general rehabilitation status of persons with disabilities and the rehabilitation of people with different types of disabilities, the development of disabled people's organizations, the cultural activities and sports that the disabled have involved in, and their participation in the social insurance scheme. In addition, the Ministry of Education is responsible for collecting information on education of persons with disabilities; the Ministry of Health for collecting data on birth defects; and the Ministry of Civil Affairs for collecting data on welfare enterprises that provide jobs for persons with disabilities and on settlement arrangements for persons with disabilities.

96. The Disability Research Institutes of Peking University, Renmin University of China and other tertiary institutions have conducted surveys through classified questionnaire in connection with their research projects and subjects. Associations and organizations of persons with disabilities of different categories have also carried out surveys to collect information on the needs and opinions of disabled people when required by their work. All relevant departments often exchange statistical information on persons with disabilities. The China Disabled Persons' Federation is responsible for consolidating all relevant information on people with disabilities from various departments and it has built a database on persons with disabilities, published statistics on persons with disabilities, and issued study reports on the development of persons with disabilities.

Response to the List of Issues to be taken up in connection with the consideration of the initial report of Hong Kong Special Administrative Region of the People's Republic of China (CRPD/C/CHN-HKG/1) concerning Articles 1 to 33 of the Convention on the Rights of Persons with Disabilities

Purpose and general obligations (Articles 1-4)

1. 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).

97. 1.1 The means-tested Comprehensive Social Security Assistance ("CSSA") Scheme aims to provide financial assistance to people who are unable to support themselves financially to help them meet basic needs. As mentioned in paragraph 2.14 of the Report, the CSSA Scheme takes into account the special needs of persons with disabilities by providing higher standard rates, special grants and supplements. With reference to the severity of disability of individual recipients as assessed by public medical officers, different categories of recipients with disabilities, including persons with a degree of disability under 50% who are grouped under the "ill-health" category, "persons with 50% disabilities", "persons with 100% disabilities" and "persons with 100% disabilities requiring constant attendance", irrespective of gender, are entitled to different levels of standard rates, special grants and supplements. In line with the broad definition of persons with disabilities under Article 1 of the Convention, the above recipients with varying degrees of disabilities may suffer from long-term physical, mental, intellectual, visual, hearing or visceral impairments etc.

98. 1.2 It should also be noted that CSSA is the safety net of last resort. Persons in financial hardship, including those with or without any disability and irrespective of gender, will be eligible for assistance subject to their meeting the means test and other eligibility criteria.

Accessibility (Article 9)

2. Please provide the Committee with specific data on the extent to which the Building (Planning) Regulations under the Buildings 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.

99. 2.1 As stated in paragraph 9.6 of the Report, the Building (Planning) Regulations (B(P)R) 72 under the Buildings Ordinance (Cap. 123) prescribe the design requirements on the provision of barrier-free access and facilities to ensure that reasonable barrier-free access and facilities are provided in private premises to meet the needs of persons with disabilities. To supplement the B(P)R 72, a Design Manual (DM) was issued to provide guidelines on barrier-free access and facilities. All new buildings and alterations and

additions to existing buildings will have to comply with the latest barrier-free design standards as set out in the current version of B(P)R and DM. The DM was first published in 1984 and updated in 1997 and 2008 to catch up with the advancement in building technology over the years. In other words, through the introduction of the legislation since 1984, all new buildings and alterations/additions to existing buildings with building plans submitted after 1984 have already complied with the prevailing barrier-free design standards upon completion of their construction.

100. 2.2 Apart from legislative means, to encourage private property owners to upgrade barrier-free access of their premises (including those built before the introduction of B(P)R 72 and DM in 1984), financial subsidies will be provided under various public funds. Jointly rolled out by the Hong Kong Housing Society and Urban Renewal Authority in April 2011, the Integrated Building Maintenance Assistance Scheme has explicitly included the provision, improvement and maintenance of barrier-free access in the scope of assistance for works in common areas. The Comprehensive Building Safety Improvement Loan Scheme and the Building Maintenance Grant Scheme for Elderly Owners funded by the Government also accept loan or grant applications for works relating to maintenance and improvement of barrier-free access and facilities. Also, the Operation Building Bright, which provides subsidies and one-stop technical assistance to help owners of old and dilapidated buildings to carry out repair and maintenance works, covers improvement and maintenance works in respect of barrier-free access facilities at the common areas of the target buildings under the scheme.

101. 2.3 For government premises, we aim to achieve a standard beyond the statutory requirements, wherever practicable, with reference to a set of universal accessibility provisions compiled by the Architectural Services Department and the best practices set out in DM in the construction of new premises. While the Buildings Ordinance does not have retrospective effect, in response to the recommendations of the Equal Opportunities Commission (EOC) mentioned in paragraph 9.21 of the Report, the Hong Kong Special Administrative Region (HKSAR) Government has taken forward a comprehensive retrofitting programme to upgrade the barrier-free facilities in existing publicly accessible premises and road facilities to the latest design standards. The programme covers about 3 500 government premises/facilities and retrofitting works in around 90% of these premises/facilities will be completed by end-June 2012 and the remainder by end-June 2014.

102. 2.4 In drawing up the retrofitting programme, relevant departments have already made assessments on premises/facilities under their management which have a frequent public interface with regard to a number of factors including patronage, operational requirements, technical feasibility and time required for the retrofitting works, etc. Save for technical constraints or other justifiable considerations (e.g. site earmarked for redevelopment shortly), all government venues which have a frequent public interface have already been included in the programme.

103. 2.5 The Housing Authority has also adopted the “Universal Design” concept in construction of new buildings since 2002 to provide a safe and convenient living environment for tenants in needs. It has also carried out a retrofitting programme to improve accessibility of all its 237 properties, which cover public housing estates, commercial centres, carparks and factory buildings, etc. Most of the improvement works will be completed by end-June 2012, with the remainder completed by end-June 2014 and 2016-17 in phases.

104. 2.6 To strengthen daily management and strive for continuous improvement in accessibility of government venues, the HKSAR Government has established an Access Co-ordinator (AC) and Access Officer (AO) Scheme since April 2011. Under this scheme, designated AC of each bureau/department co-ordinates accessibility issues and serves as the

departmental focal point to facilitate government-wide collaborated efforts in enhancing the accessibility of premises/facilities. Individual bureaux and departments have also appointed an AO for each venue to handle accessibility issues in the venue. Training including seminars, workshops and web-based training package are provided to ACs and AOs. In addition, departments having frequent interface with the public in their service delivery also organise, in collaboration with the EOC and the Civil Service Training and Development Institute, tailor-made accessibility seminars/workshops for their frontline staff. Besides, sign language training workshops are also provided to frontline staff to enhance their knowledge in basic sign language and awareness of the deaf culture, thereby facilitating the hearing impaired in their access to government services.

3. 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.

105. 3.1 As stated in paragraphs 9.44 to 9.52 of the Report, the HKSAR Government is firmly committed to transforming Hong Kong into a digitally inclusive society, thereby supporting persons with disabilities (including persons with hearing and/or visual impairment) in the use of information and communication technologies (ICT) in their daily lives so as to enhance their capacity to lead an independent life, thereby improving their quality of life and facilitating their integration into the community.

106. 3.2 Advancement in ICT has opened up opportunities to assist the persons with disabilities to improve their quality of life. One of the five key action areas of Government’s Digital 21 Strategy is to build an inclusive, knowledge-based society. To assist persons with disabilities to use ICT, we have launched targeted digital inclusion measures tailored to their specific needs. A survey conducted in late 2011 shows that ICT adoption among persons with disabilities has improved markedly in the past three years.

107. 3.3 The Office of the Chief Government Information Officer (OGCIO) of the HKSAR Government launched a Web Accessibility Campaign (Campaign) in October 2011 to promote the adoption of web accessibility design in the public and private sectors in order to facilitate access to online information and services for all segments of the community including persons with disabilities. We have compiled a management handbook on key web accessibility principles and practices for corporate executives and managers, developed a portal (www.webforall.gov.hk) to share know-how and best practices, and organised a series of seminars and workshops for some 150 organisations of non-government sector to raise their awareness, and encourage adoption of web accessibility in their websites. Government websites are also required to conform to Level AA of the latest version (Version 2.0) of the Web Content Accessibility Guidelines promulgated by the World Wide Web Consortium (W3C) by early 2013 within all practicable means. This makes the HKSAR Government one of the earliest to implement this latest standard for government websites.

108. 3.4 In 2010-11, OGCIO also allocated HK\$3.6 million to support the development of ICT-based assistive tools and applications for persons with disabilities. Products of the nine selected projects range from tailor-made input software or devices, intelligent home system, software tool for mobility support, to rehabilitation tools, catering for persons with different kinds of disabilities including visual impairment and difficulties in body movement. The products are available for free download, distribution to needy groups or further development with a proven concept, as the case may be.

109. 3.5 The Innovation and Technology Fund (ITF), administered by the Innovation and Technology Commission of HKSAR Government, provides funding support for projects that contribute to innovation and technology upgrading. As of end-April 2012, about HK\$18.5 million of ITF funding has been allocated to support research and

development projects relating to persons with disabilities. Examples are electronic communication device for persons with hearing impairment, and smartphone control device and signpost system for persons with visual impairment.

110. 3.6 Furthermore, to cater for the need of persons with hearing impairment, the two domestic free television programme service licensees in Hong Kong are required by their licence conditions to provide subtitling service on analogue and simulcast digital channels, both English and Chinese, for all news, current affairs, weather programmes and emergency announcements. The two domestic free television licensees are required to provide Chinese subtitles in all programmes on the Chinese analogue channels between 7:00pm and 11:00pm. As for their English analogue channels, at least two-hour English programmes on a weekly basis with educational value targeting teenagers must carry English subtitles. In addition, starting from end-2010, the two domestic free television licensees are also required to provide Chinese subtitling for all drama programmes on their Chinese analogue channels. By the end of 2012, they will further be required to provide English subtitling for all programmes on their English analogue channels between 8:00 pm and 11:30 pm.

111. 3.7 The above subtitling requirements also apply to the simulcast digital channels in Hong Kong. But the licensees are allowed to provide the subtitles in closed captioning on simulcast digital channels to allow viewers to display the subtitles on screen according to their need.

112. 3.8 As mentioned in paragraph 21.13 of the Report, the Rehabilitation Advisory Committee has set up a working group to assist it in advising the HKSAR Government on ways to promote the use of sign language. The working group has already mapped out the strategic directions and work plan on the promotion of use of sign language covering four major areas: sign language interpretation training; application of sign language in daily life; promotion; and education. The working group has already rolled out a series of promotional activities and enhanced measures, such as organising sign language training courses for civil servants, launching community publicity programmes, production of TV series on the use of sign language, developing online sign language interpretation service for medical consultation at public hospitals through internet etc. The working group will continue to assist the HKSAR Government in taking forward the work plan in collaboration with the rehabilitation sector and relevant stakeholders.

Right to life (Article 10)

4. 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)

113. 4.1 In HKSAR, the question as to who has the right to make decisions regarding the termination or withdrawal of medical treatment, nutrition or any other life support for persons with disabilities is governed by both statute law and the common law.

114. 4.2 In the case of persons with disabilities who are adults suffering from physical impairment etc. but who are capable of understanding the general nature and effect of the treatment or withdrawal of treatment and are therefore capable of giving effective consent, they have the right to make decision about their medical treatment.

115. 4.3 In the case of persons with disabilities who are adults suffering from mental impairment who are incapable of giving or withholding consent, section 59ZF of the Mental Health Ordinance (Cap. 136) (MHO) recognises the lawfulness of treatment taken in the best interests of the patient. It makes it lawful for a registered medical practitioner or a registered dentist to carry out treatment on the patient if, in the view of the registered

medical practitioner or registered dentist that, as a matter of urgency that treatment is necessary and is in the best interests of the person concerned.

116. 4.4 In common law, the best interests of a patient is determined on similar principles to the welfare of a child. The next of kin has no legal right either to consent or to refuse consent of treatment. The doctors must act in accordance with a responsible and competent body of professional opinion.

117. 4.5 According to the Code of Professional Conduct for the Guidance of Registered Medical Practitioners of the Hong Kong Medical Council, January 2009 (mentioned in paragraphs 15.5 and 17.6 of the Report), withholding or withdrawing life-sustaining treatment after taking into account the patient's benefits, wishes of the patient and family, and the principle of futility of treatment for a terminal patient, is legally acceptable and appropriate. A doctor's decision should always be guided by the best interests of the patient. Doctors should exercise careful clinical judgment and whenever there is disagreement between doctor and patient or between doctor and relatives, the matter should be referred to the ethics committee of the hospital concerned or relevant authority for advice. In case of further doubt, direction from the court may be sought as necessary.

118. 4.6 For those without the mental capacity to make a decision (i.e. those who are terminally ill, in a state of irreversible coma or in a persistent vegetative state), it is ultimately a clinical decision to be made by the healthcare professionals as to whether life-sustaining treatment for the patient should be withdrawn or withheld based on the best interests of the patient. A declaration about the lawfulness of withdrawal or withholding of life-sustaining treatment is often sought from the court when a clinical decision has been made that it is in the best interests of patient that life-sustaining treatment should be discontinued.

119. 4.7 In the case of child patients who are persons with disabilities, according to case law a child who has sufficient maturity and understanding to make a competent decision about the issue can effectively consent to treatment (*Gillick v West Norfolk and Wisbech Area Health Authority* [1986] AC 112). If the child refuses, the parents can still consent. Even if the child and the parents refuse to consent to treatment, the court can still authorise it. While the courts accord great respect to parental wishes, and they are usually put into the balancing exercise, parental wishes never prevail over the best interests of the child.

120. 4.8 There are no reported cases in Hong Kong which deal with withdrawal of medical treatment of a child. However, there have been cases where the court in wardship has authorized medical treatment of a child despite refusal of the parents to give consent. In *Director of Social Welfare v Tam and Chan* [1987] HKLR 66 (CA), the court held that a child with spina bifida and hydrocephala, and meningitis (although not in danger of death) should have an operation to improve its chances in the future for a reasonably normal life. The parents' refusal of consent to the operation was therefore overridden. In *Director of Social Welfare v Lam Kwok Wah* [1988] HKLR 206, the parents had religious objections and lacked faith in Western medicine. The court overrode their objections to their 8-year-old son, injured in a road accident, having an operation to fit a plastic cover over his brain to prevent future injury.

121. 4.9 In order to establish that the proposed withdrawal of treatment from a child patient is in the best interests of the child where no consensus can be reached between the parents (and the child if *Gillick* competent) and the medical team, an application may be made to the court for a declaration as to the lawfulness of the proposed action under its inherent jurisdiction.

Equal recognition before the law (Article 12)

5. 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).

122. 5.1 The Guardianship Board is authorised under the MHO to appoint guardians for adults at 18 years of age and over who are mentally incapable of making their own decisions about their personal affairs, financial matters or medical or dental treatments, in order to promote and protect their interests and welfare. The Board may decide to appoint a private guardian (a family member or friend) or the public guardian (Director of Social Welfare). The Board may give the guardian the legal power to make important decisions relating to personal circumstances for such adults e.g. about his/her place of residence or consenting to his/her medical or dental treatment. The number of persons under guardianship over the past five years, disaggregated by sex, is as follows -

Sex	Year					2012
	2007	2008	2009	2010	2011	(as at end of April 2012)
Male	111	129	142	122	127	49
Female	131	130	135	135	134	48
Total	242	259	277	257	261	97

123. 5.2 The number of rulings modifying the capacity to act (i.e. subject persons who are ruled as not mentally incapacitated persons) over the past five years, disaggregated by sex, is as follows –

Sex	Year					2012
	2007	2008	2009	2010	2011	(as at end of April 2012)
Male	2	2	3	3	1	2
Female	0	2	0	0	1	0
Total	2	4	3	3	2	2

6. 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).

124. 6.1 In addition to the legal aid policy and services elaborated in paragraphs 12.4 to 12.7 of the Report, the Legal Aid Department (LAD) will pay for the expenses reasonably incurred by the assigned lawyers for legal technical assistance such as sign language interpretation service for the proper conduct of the case as litigation expenses. LAD will also pay for sign language interpretation service for applicants for legal aid and in appropriate cases arrange home/hospital visits to help applicants with physical disabilities with the application process. For applicants (including those with disabilities) who fail to pass the means and/or merits tests, they have a right of appeal to the Registrar of the High

Court. LAD will assist the applicants/appellants to file the notice of appeal, fix a date for appeal and notify the Judiciary to arrange for the service of sign interpreter at the appeal hearing. The applicants/appellants can submit any documents or information which they deem material and make submission to the Registrar during the appeal hearing. Moreover, the Duty Lawyer Service (DLS) provides hearing aids to clients for the purpose of giving instructions to its liaison officers and duty lawyers. Each DLS Court Liaison Office is equipped with one set of hearing aid which can be made available upon request from clients.

125. 6.2 In addition to the three legal assistance schemes (i.e. Duty Lawyer Scheme, the Free Legal Advice Scheme and the Tel-Law Scheme) mentioned in paragraphs 12.6 to 12.7 of the Report, DLS has also implemented the Convention Against Torture Scheme which provides legal assistance to claimants who have made claims to the Immigration Department under Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The said Scheme commenced operation on a pilot basis on 24 December 2009. Persons with disabilities in need will be offered assistance under the Scheme on equal basis with others.

126. 6.3 Furthermore, to ensure the effective access to justice at all stages of the legal process by all persons with disabilities, the HKSAR Government has set out in relevant legislation the special mechanism and provision of reasonable accommodation to allow effective access of persons with disabilities to justice in legal process. Relevant details are set out in paragraphs 13.3 to 13.15 of the Report.

Liberty and security of the person (Article 14)

7. 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)

127. 7.1 The Police have adopted special procedures for handling arrested persons with disabilities. The procedures require officers to make every effort to ascertain the detailed conditions of an arrested person with disabilities including his/her medical condition and any restrictions to his/her mobility. Particular attention will be paid to take care of the needs of a person with disabilities who has lost full motor ability and relies on the aid of a wheelchair for mobility. When transferring these arrested persons with disabilities, the Police will use appropriate means of transportation arranged through the Auxiliary Medical Service or the Hong Kong Society for Rehabilitation, operator of the accessible Rehabus service.

128. 7.2 The Police will also provide arrested persons with disabilities who have communication difficulties with necessary assistance, such as the provision of a sign language interpreter to facilitate communication. When conducting a custody search on a mentally incapacitated person before that person is detained in a cell or temporary holding area, the Police have to ensure that an appropriate adult is present to provide assistance to that mentally incapacitated person. An appropriate adult can be a relative, guardian or person responsible for the care or custody of that person or someone who has experience in taking care of a person with special needs, rather than a police officer or someone employed by the Police.

129. 7.3 The Correctional Services Department (CSD) assigns persons in custody (PIC) to different institutions according to factors such as their gender, age, status (i.e. convicted inmates or remands, whether they are first-time offenders), length of sentence, criminal background, risk of escape and security level. PIC with disabilities, intellectual or physical, are normally placed with other PIC. Only under the recommendation of a medical officer or a clinical psychologist may CSD refer PIC to a psychiatric institution for

assessment and management by psychiatrists as appropriate. They will return to ordinary penal institutions as soon as the psychiatrist considers that they are suitable. If PIC with disabilities or their families have any views on the arrangement, they can reflect to the CSD.

Protecting the integrity of the person (Article 17)

8. 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).

130. 8.1 The HKSAR Government has put in place suitable measures to protect persons with disabilities from medical treatment given without consent, including protection from forced sterilisation and forced abortions. Relevant details are set out in paragraphs 17.2 to 17.6 of the Report. Further information is provided in the following paragraphs.

131. 8.2 Requirements for obtaining consent to medical treatment have been set out in the Code of Professional Conduct issued by the Medical Council of Hong Kong (mentioned in paragraphs 15.5 and 17.6 of the Report). According to the Code, consent is valid only if (i) it is given voluntarily; (ii) the doctor has provided proper explanation of the nature, effect and risks of the proposed treatment and other treatment options (including the option of no treatment); and (iii) the patient properly understands the nature and implications of the proposed treatment. A patient's refusal of proposed investigation and treatment must be respected and documented. A doctor who performs diagnostic procedures and medical treatment without the patient's consent is liable to be sued for the tort of battery or prosecuted for criminal offences such as wounding and assault occasioning actual bodily harm. In addition, the Medical Council upon receipt of any complaints against the professional misconduct of doctors will consider taking disciplinary action in accordance with the provisions of the Medical Registration Ordinance (Cap. 161).

132. 8.3 The Human Organ Transplant Ordinance (Cap. 465) stipulates that a prospective donor should fully understand the procedure and the risks involved as well as his entitlement to withdraw consent at any time. It also prohibits organ donation by persons below the age of 18 years – parents and guardians cannot give consent for organ donation on behalf of their children or minors under their care. In addition, approval from the statutory Human Organ Transplant Board is required for transplantation of human organs between living persons who are not genetically related or a couple whose marriage has subsisted for not more than three years. To ensure full protection to mentally incapacitated persons who are incapable of giving consent, part IVC of the MHO stipulates that it shall not be construed as enabling the removal of organs from adult mentally incapacitated persons, who are incapable of giving consent, for transplant purposes.

133. 8.4 Under the MHO, consent to carrying out of medical treatment in respect of an adult mentally incapacitated person may be given by the guardian of that person or the Court. The guardian of the person and the Court, when deciding whether or not to give consent, is required to ensure that the mentally incapacitated person is not deprived of the medical treatment merely because he lacks the capacity to consent to the carrying out of that treatment, and that any treatment proposed to be carried out in respect of the mentally incapacitated person is carried out in the best interests of that person. Without such consent, treatment may only be carried out by registered medical practitioners or registered dentists if that treatment is considered as a matter of urgency and that treatment is necessary and is in the best interests of the patient. In assessing what is in the patient's best interests, all doctors of the public hospitals and institutes in Hong Kong are required to obtain second opinion from another doctor. On the other hand, the MHO provides that consent to

carrying out of special treatment can only be given by the Court. At present, sterilization operation is the only treatment designated as special treatment under MHO.

Living independently and being included in the community (Article 19)

9. 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.

134. 9.1 The pilot scheme on Home Care Service for Persons with Severe Disabilities (the Scheme) aims at relieving the stress of family carers in taking care of their family member with severe disabilities. To cater for the intense care needs of persons with severe disabilities who are living in the community and are on the waiting lists for subvented residential care services, the Scheme provides a package of home-based support services including personal care and escort service, occupational therapist/ physiotherapist rehabilitation training and nursing care service. The non-governmental organisation (NGO) operators will provide the required services at suitable intervals, including personal assistance service for those in need, according to the assessed needs of service users and agreement with service users and/or their family carers.

135. 9.2 The three-year pilot scheme has been rolled out since March 2011 in four districts, i.e. Kwun Tong, Wong Tai Sin, Kwai Tsing and Tuen Mun districts. A mid-term review will be conducted after the pilot scheme has been in operation for 18 months with a view to refining the operational details as appropriate having regard to operational experience. A final review will be conducted after the Scheme has operated for 30 months to assess its long-term feasibility and overall service effectiveness.

Education (Article 24)

10. 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).

136. 10.1 The following table shows the number of students studying in public sector schools and the percentage of students with special educational needs (SEN) enrolled in public sector ordinary schools and those enrolled in public sector special schools, with a breakdown by gender, in the past three school years -

School Year	Total No. of Students in Public Sector Schools note 1			No. of Students with SEN in Public Sector Ordinary Schools			No. of Students in Public Sector Special Schools note 2		
	Male (%)	Female (%)	Total	Male (%)	Female (%)	Total (%)	Male (%)	Female (%)	Total (%)
2011/12	341 112 (51.3%)	324 495 (48.7%)	665 607	20 800 (3.1%)	7 830 (1.2%)	28 630 (4.3%)	5 063 (0.8%)	2 533 (0.4%)	7 596 (1.1%) note 3
2010/11	337 525 (51.2%)	321 930 (48.8%)	659 455	18 650 (2.8%)	6 990 (1.1%)	25 640 (3.9%)	4 896 (0.7%)	2 488 (0.4%)	7 384 (1.1%)
2009/10	352 003 (51.1%)	336 634 (48.9%)	688 637	15 710 (2.3%)	6 010 (0.9%)	21 720 (3.2%)	4 748 (0.7%)	2 451 (0.4%)	7 199 (1.0%) note 3

Note 1: Figures cover students in public sector primary schools, secondary schools and special schools

Note 2: Special schools include schools for children with intellectual disability, schools for children with physical disability, schools for children with visual impairment, schools for children with hearing impairment and schools for social development. Hospital school is not included as it provides education services for students admitted to hospital for three days or more and therefore the number of students fluctuates.

Note 3: Figures on percentage do not add up to the total after rounding.

137. 10.2 Same as the students studying in ordinary schools, students with normal intelligence pursuing the ordinary curriculum in special schools sit for the same public examination, i.e. the Hong Kong Diploma of Secondary Education Examination, upon completion of Secondary Six. The diploma awarded by the Hong Kong Examination and Assessment Authority (HKEAA) is the same as those for ordinary school students. For those special school students pursuing the adapted curriculum for children with intellectual disability, they do not sit for public examinations and are not awarded diplomas or qualifications by the HKEAA.

11. 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).

138. 11.1 As stated in paragraph 24.3 of the Report, under the Disability Discrimination Ordinance (Cap. 487) (“DDO”) it is unlawful for an educational establishment to discriminate against a person with a disability unless that person would require services or facilities not required by students without disability and the provision of such services or facilities would impose unjustifiable hardship on the education establishment (section 24(4) of the DDO refers). The burden of proof is on the educational establishment to establish the defence of unjustifiable hardship.

139. 11.2 The term “unjustifiable hardship” is not defined in the DDO. However, section 4 of the DDO provides that –

“For the purposes of this Ordinance, in determining what constitutes unjustifiable hardship, all relevant circumstances of the particular case are to be taken into account including-

- (a) the reasonableness of any accommodation to be made available to a person with a disability;*
- (b) the nature of the benefit or detriment likely to accrue or be suffered by any persons concerned;*
- (c) the effect of the disability of a person concerned; and*
- (d) the financial circumstances of and the estimated amount of expenditure (including recurrent expenditure) required to be made by the person claiming unjustifiable hardship.”*

140. 11.3 Under section 65(1)(a) of the DDO, EOC may issue codes of practice containing such practical guidance as it thinks fit for the purpose of elimination of discrimination. Pursuant to section 65(13), any such code of practice is admissible in evidence in any proceedings under the DDO before any court, and if any provision of such a code is relevant to any question arising in the proceedings it shall be taken into account in determining that question.

141. 11.4 The EOC has published the Disability Discrimination Ordinance Code of Practice on Education (“Code of Practice”) in July 2001¹. Paragraph 12.3 of the Code of Practice explaining the term “unjustifiable hardship” is extracted below –

“12.3 Unjustifiable Hardship

142. 12.3.1 the DDO makes it unlawful for educational establishments to discriminate against a person with a disability. However, the DDO exempts educational establishments from liability in cases where there would otherwise be an unjustifiable hardship.

143. 12.3.2 For the purposes of the DDO, relevant circumstances in determining what constitutes unjustifiable hardship include:

144. 12.3.2.1 the reasonableness of any accommodation to be made available to a person with a disability;

145. 12.3.2.2 the nature of the benefit or detriment likely to accrue or be suffered by any person concerned. This means that, apart from the benefits to the person with a disability seeking the adjustments, benefits to others should also be considered. For example, a ramp installed to allow wheelchair access for a particular student might benefit other students or visitors with similar needs, and those moving goods around the site;

146. 12.3.2.3 the actual effect of the disability of a person concerned. Only those adjustments that the student with a disability actually needs should be considered and adjustments which would not be effective to assist that person are not relevant; and

147. 12.3.2.4 the financial circumstances and the estimated amount of expenditure (including recurrent expenditure) required to be made by the educational establishment claiming unjustifiable hardship. The DDO allows differences in the financial capacity of various educational establishments when determining what constitutes unjustifiable hardship in each case.

¹ The full text of the Code of Practice can be downloaded from this web site - http://www.eoc.org.hk/eoc/otherproject/eng/color/youthcorner/education/cop_edu/cop_edu_b.htm

148. 12.3.3 In each case of proving unjustifiable hardship, the responsibility always rests with the educational establishment. Before claiming unjustifiable hardship as a defence in discriminating against a student or prospective student with a disability, the educational establishment must consult the student or prospective student and his or her parents with a view to identifying what the special needs of the student are and the accommodations required. It is only after the required accommodations are identified, and the educational establishment cannot, after careful consideration, provide the accommodations due to unjustifiable hardship, that the educational establishment may claim this exemption under the DDO. The fact that the consultation is made and the reasons justifying the hardship claimed should be documented for future reference.”

Work and employment (Article 27)

12. 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).

149. 12.1 As stated in paragraph 27.2 of the Report, under the DDO, it is unlawful for an employer to discriminate against a person with disability unless that person is unable to carry out the inherent requirements of the employment or would require services or facilities not required by persons without disability and the provision of such services or facilities would impose unjustifiable hardship on the employer (section 12(2) of the DDO refers). The burden of proof is on the employer to establish the defence of unjustifiable hardship.

150. 12.2 As stated in paragraph 11.2 above, the term “unjustifiable hardship” is not defined in the DDO. However, section 4 of the DDO provides that in determining what constitutes unjustifiable hardship, all relevant circumstances of the particular case are to be taken into account including the matters set out in that section.

151. 12.3 As an update to paragraph 27.5 of the Report, the revised Code of Practice on Employment under the DDO (“Revised Code”) was published by the EOC in 2011² after public consultation and approval by the Legislative Council. Paragraphs 5.15 to 5.16 of the Revised Code explaining the notion of “unjustifiable hardship” in the context of section 12 of the DDO is extracted below–

“Unjustifiable Hardship

152. 5.15 In determining what constitutes unjustifiable hardship, all relevant circumstances of the particular case are to be taken into account including:

5.15.1 The reasonableness of any accommodation sought; (section 4(a))

5.15.2 The nature of the benefit or detriment likely to accrue or be suffered by any persons concerned; (section 4 (b))

5.15.3 The effect on the employee with a disability if accommodation could not be provided; and (section 4 (c))

5.15.4 The financial circumstances and the estimated amount of expenditure required for providing accommodation by the employer claiming unjustifiable hardship. (section 4 (d))

² The full text of the Revised Code can be downloaded from this web site http://www.eoc.org.hk/eoc/Upload/UserFiles/File/ddocop_e.pdf

5.16 This requires a structured balancing act of potentially competing interests. The cost-benefit assessment will vary depending on the size and financial resources of the employer claiming recourse to the unjustifiable hardship exemption.

13. 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?

153. 13.1 As stated in paragraphs 31.1 to 31.3 of the Report, to facilitate formulation of policies and planning for services for persons with disabilities by the respective government bureaux and departments and servicing agencies, the Census and Statistics Department conducts Surveys on Persons with Disabilities and Chronic Diseases every 5 to 7 years. The latest round of survey was conducted in 2006-07. According to the Survey, statistics on unemployment rate as well as the median monthly employment earnings of employed persons with disabilities and a comparison with the overall situation of Hong Kong population are shown in the tables below -

Unemployment rate of persons with disabilities by sex in 2007

<i>Sex</i>	<i>Unemployment rate (%)</i>	
	All persons with disabilities (excluding persons with intellectual disability note)	Total population
Male	10.7	4.6
Female	10.2	3.4
Overall	10.5	4.0

Note: Since intellectual disability is a very sensitive issue to some respondents, the information collected from these respondents may be subject to larger error, and hence the survey may have underestimated the number of persons with intellectual disability. For this reason, the survey results of the number of persons with intellectual disability and the number of other persons with disabilities were handled separately.

Median monthly employment earnings of employed persons with disabilities by sex in 2007

<i>Sex</i>	<i>Median monthly employment earnings (HK\$)</i>	
	All employed persons with disabilities (excluding persons with intellectual disability note)	Total employed population
Male	7,500	12,000
Female	6,000	8,000
Overall	6,800	10,100

Note: Since intellectual disability is a very sensitive issue to some respondents, the information collected from these respondents may be subject to larger error, and hence the survey may have underestimated the number of persons with intellectual disability. For this reason, the survey results

of the number of persons with intellectual disability and the number of other persons with disabilities were handled separately.

Participation in political and public life (Article 29)

14. 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).

154. 14.1 As at end-March 2011, the number of male and female civil servants with disabilities were 2 294 and 1 023 respectively³. Directorate officers with disabilities in the Civil Service made up 1.2% of directorate officers.

155. 14.2 As regards appointments to the advisory and statutory boards (ASBs) in Hong Kong, the HKSAR Government does not collect information on whether members of ASBs have a disability or not as such information is considered as sensitive personal data.

156. 14.3 While upholding the fundamental principle of appointment by merit, the HKSAR Government will continue to encourage the appointing authorities to enhance diversity in ASBs so that members of ASBs can reflect the opinions of different sectors in the community including persons with disabilities.

Women and children with disabilities (Articles 6 and 7)

15. 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).

157. 15.1 To achieve its mission of enabling women (including women with disabilities) in Hong Kong to fully realise their due status, rights and opportunities in all aspects of life, the Women's Commission (WoC) has been promoting the interest and well-being of women through a three-pronged strategy, namely, the provision of an enabling environment, empowerment of women through capacity building, and public education.

158. 15.2 WoC has been assisting the Government in implementing gender mainstreaming since 2002 with a view to including gender perspective in its public policies. WoC developed the Gender Mainstreaming Checklist (the Checklist) – an analytical tool to assist government officers in incorporating gender needs and perspectives into the policy formulation and programme development processes in a systematic manner – so that women and men can have equitable access to, and benefit from, society's resources and opportunities. Thus far, the Checklist has been applied to over 43 specific policies or programme areas which are of relevance to women, including women with disabilities. In addition, staff of many bureaux and departments have also applied the gender mainstreaming concept in the course of their daily work.

159. 15.3 WoC maintains close liaison with different women's groups, including women with disabilities, and meets them from time to time to discuss issues of mutual concern.

³The figures may not be exhaustive as civil servants are not required to inform the management whether they have or do not have a disability.

Reply to the list of issues for the consideration of the initial report submitted by the Macao Special Administrative Region regarding its implementation of the Convention on the Rights of Persons with Disabilities (CRPD/C/CHN-MAC/1)

A. Purpose and General Obligations (arts. 1 - 4)

46. In light of the recent 2011 census please provide updated statistical data regarding persons with disabilities, as disaggregated as possible, including sex and age, (para 19 of the State Party's report).

160. **Reply:** Updated data on persons with disabilities is shown as follows.

*Population with disability by gender and age group**

Age group and gender		Total	Proportion to population by respective age group (%)
Total	FM	11,141	2.0
	Male	4,611	1.7
	Female	6,530	2.3
0-4	FM	54	0.2
	Male	24	0.2
	Female	30	0.3
5-9	FM	83	0.5
	Male	65	0.7
	Female	18	0.2
10-14	FM	119	0.5
	Male	50	0.4
	Female	69	0.6
15-19	FM	189	0.5
	Male	114	0.6
	Female	75	0.4
20-24	FM	270	0.5
	Male	137	0.5
	Female	133	0.5
25-29	FM	268	0.5
	Male	163	0.6
	Female	105	0.4
30-34	FM	187	0.4
	Male	108	0.5
	Female	79	0.4
35-39	FM	287	0.6
	Male	174	0.9

*Population with disability by gender and age group**

	Female	113	0.5
40-44	FM	273	0.6
	Male	134	0.7
45-49	Female	139	0.5
	FM	635	1.2
	Male	198	0.9
	Female	437	1.5
50-54	FM	992	2.1
	Male	370	1.6
	Female	622	2.6
	FM	1,284	3.3
55-59	Male	579	3.0
	Female	705	3.8
60-64	FM	1,089	4.2
	Male	485	3.5
	Female	604	4.9
	FM	5,411	13.5
≧ 65	Male	2,010	11.2
	Female	3,401	15.4

Source: Statistics and Census Bureau, 2011 Population Census.

Note: * For the purpose of 2011 Population Census, disability means that for congenital or acquired reasons, the physical, intellectual, mental or psychiatric conditions of an individual are affected; even with auxiliary equipment, the individual still has difficulty in carrying out daily activities and assistance is needed; the difficulty has lasted or is expected to last for six months and more. The census reference moment when the data collected should take reference to, was 3 a.m. on 12 August 2011, for the land-based population.

47. Please provide details on the involvement of non-governmental organizations, in particular Disabled Person's Organizations in preparing this report (para 16 of the State Party's report).

161. **Reply:** The Commission for the Rehabilitation of Persons with Disabilities has been established by the MSAR Government, under which there is a specially-assigned team responsible for the promotion of "The Convention on the Rights of Persons with Disabilities" (hereafter referred to as "the Convention"). Members of the team include officials from government departments as well as members from NGOs. These members, in partnership, drafted for the report on related issues, in which, for example, data on the services used is provided by members of the relevant NGOs.

B. Specific Rights

Equality and non-discrimination (Article 5)

48. Please explain whether “denial of reasonable accommodation” and “indirect discrimination” are considered as forms of discrimination under domestic law (para 22 of the State Party’s report).

162. **Reply** In the MSAR, discrimination, on any basis, is forbidden. Equality and non-discrimination rights are explicitly enshrined in Article 25 of the MSAR *Basic Law*.

163. In addition, the principles of equality and non-discrimination are the general principles of law that underpin the entire MSAR legal system and that can be directly invoked before the courts or any administrative authority.

164. Although the concepts of ‘denial of reasonable accommodation’ and ‘indirect discrimination’ are not expressly enshrined in the MSAR’s domestic law, the MSAR Government has been taking steps to ensure the practical realization and full enjoyment of the right to equality, in particular in what concerns hidden forms of discrimination.

165. As referred above, equality and non-discrimination are general principles of law, thus, a case involving any form of discrimination can be considered by the courts, or by any administrative authority, on a case-by-case basis.

Awareness raising (Article 8)

49. Please provide additional information on the distribution of the booklet on the Convention motioned in para 26 of the State Party’s report, 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?

166. **Reply:** To promote the UN Convention on the Rights of Persons with Disabilities, in accordance with Article 11 of the *Chief Executive Order* No. 239/2008, a publicity group has been established in 2010 for the Convention on the Rights of Persons with Disabilities. The Social Welfare Bureau (hereinafter as SWB) is the convener of the group and the Legal Affairs Bureau is one of the members. Rest of the group members are the Education and Youth Affairs Bureau (hereinafter as EYAB), Civic and Municipal Affairs Bureau, Macau Association of Support for the Disabled, Macau Fu Hong Society, Macau Deaf Association, Macau Association of Parents of Mentally Handicapped, and a number of distinguished persons and one disabled person appointed by the Secretary for Social Affairs and Culture. Under the leadership of the convener, every public entity and every member from the rehabilitation services and related fields, provide recommendations and assisted in the promotion strategies and overall plan.

167. Since 2010, the publicity group has engaged in a series of promotional activities for the Convention, in a total of 20, ranging from booklets, leaflets, posters, advertising headline on newspapers, bus advertising, television advertising, and producing a video named “Exclusive Interview with People Living with Disabilities”, to organizing activities for the International Day of Persons with Disabilities, establishing the Convention Promotion Subsidy Scheme, etc.

168. The SWB has published a booklet for the Convention, whereby 11,000 copies were printed in Chinese and 1,500 copies in Portuguese. The booklet can be picked up, for free,

from government departments that are open to public or social service facilities. Beside from distribution of booklets, to publicize the implementation of Convention in the MSAR, including its core values and content, to enhance social acceptability of the rights of disabled persons and to promote positive perceptions and understanding of disabled persons, until April 2012, the SWB has launched a series of promotion campaigns and the details are as follows:

1. Promotional projects

<i>Item</i>	<i>Quantity</i>	<i>Target(s)</i>	<i>Location of distribution</i>	<i>Remarks</i>
Booklet on the Convention on the Rights of Persons with Disabilities	Chinese version (11,000 copies) Portuguese version (1,500 copies)	General public	Government offices that are open to public, social service facilities in Macao	
Promotion leaflets	35,000 copies	General public	Government offices that are open to public, social service facilities in Macao	
Posters	3,000 copies	General public	Government offices that are open to public, social service facilities in Macao	
TV programme Advisory and Information	8 times	General public	--	
One-minute Story on Disabled Persons	--	General public	--	Has broadcasted for 5 months
Radio commercials	360 times	General public	--	Duration: 6 months
TV commercials	--	General public	--	Has broadcasted for 13 months

<i>Item</i>	<i>Quantity</i>	<i>Target(s)</i>	<i>Location of distribution</i>	<i>Remarks</i>
Interviews with disabled persons	2 times	General public	--	Shown on 26/12/2010 and 2/1/2011
Digital commercials shown outdoor and on public entities	--	General public	--	Since July 2010
Educational TV Education and Youth Dynamics	--	General public and young persons	--	Broadcasted in May 2010
Bus advertising	--	General public	Various districts in Macao	Duration: 4 months
Advertising posters inside buses	--	General public	Various districts in Macao	Duration: 1 year
Advertising headline on newspapers	60 times	General public	Various districts in Macao	Duration: 12 weeks
Souvenirs for promoting the Convention on the Rights of Persons with Disabilities	1000 torches, 1000 warmers, 1500 four-sided clocks, 1500 pen holders	General public	Various districts in Macao	

2. Promotional activities

<i>Item</i>	<i>Quantity</i>	<i>Target(s)</i>	<i>Location</i>	<i>Remarks</i>
Advertisement boards for the Convention on the Rights of Persons with Disabilities	Once	Participants of International Day of Persons with Disabilities namely, students from secondary schools and higher education institutes in Macao	Secondary and higher education institutes	
Cross-word puzzles for the Convention on the Rights of Persons with Disabilities	Once	General public	Various districts in Macao	5,918 participants
Activities for the International Day of Persons with Disabilities 2010	Once	General public	Recreation area of Ed. Lok Yeong Fa Un	
Logo design competition on the Convention on the Rights of Persons with Disabilities	Once	General public	--	163 entries
Subsidy Scheme for promotion projects on the Convention on the Rights of Persons with Disabilities	Once	Rehabilitation organizations in Macao	--	8 organizations submitted applications for 11 activities

Accessibility (Article 9)

50. Please provide information, including concrete data, on the percentage/level of compliance with Law No. 9/83/M. What are the sanctions for constructions that do not comply with those requirements? Is there similar legislation for the private sector? (para 30 of the State Party's report)

169. **Reply:** Currently, there is not any available data regarding the ratio of barrier-free access in buildings and the level of compliance to Law No. 9/83/M.

170. In fact, in addition to the mandatory compliance of Law No. 9/83/M in implementation of any public works, also the Government, when reviewing construction projects submitted by the private entities/organizations, ensures their implementation of legal requirements as noted in said law. This is especially applied to the size of foyer, slope gradient, and the height of the sidewalk leading to foyer, and so forth. To building height, it also requires to ensure disabled persons have barrier-free access to lift lobby. If a construction plan submitted by a private entity or institution does not comply with the aforesaid requirements, it will not be approved due to the failure in meeting the required conditions.

51. What steps have been taken to improve the 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 Internet?

171. **Reply:** To cope with the needs of persons with disabilities’ access to information, the SWB has been, progressively, improving and updating its systems and homepage design, such as installing Screen Reading Software for visually impaired people, with functions to change the background colour and font size to suit different visually impaired persons. At the same time, the SWB offers subsidies to NGOs for purchasing equipments that assist visually impaired persons to use the internet.

172. The SWB also offers subsidies to NGOs for purchasing auxiliary equipments that supports the usage of Braille. In addition, it sponsors and promotes sign language interpretation in TV news.

173. On the other hand, with a view to providing a better educational environment, the EYAB publishes the *School Operation Guideline* yearly, aiming at providing guidance and recommendations on school founding and operation processes. This *Guideline* gives specific recommendations to schools for adjusting school environment and teaching measures according to different students’ needs for special education. For example, to visually impaired students schools it should provide computers for blind people, Braille books, audio computer, and should allow answering questions through Braille, operations, or computers. On the other hand, to meeting the needs of hearing impaired students, schools are suggested using wireless tuner, warning lights, electronic screen, visually teaching materials, and assisting students to understand through gestures and facial expressions. In addition, the *Guideline* also regulates that a school should take into account the school-building access by the physically disabled, visually impaired, hearing impaired or mentally retarded persons.

174. To encourage barrier-free campus, and to assist students with different special education needs, the EYAB published in 2007, a booklet named *How to Create a Barrier-free Campus Environment*, which provides guidance to build a barrier-free campus for the physically disabled, visually impaired and hearing impaired students. It recommended that for visually impaired students, a school should set up touchable signs by the school entrance, touchable location signs and audio devices, in addition to labelling every exit with Braille signs. Furthermore, to enhance students’ learning outcomes, this booklet also recommends schools, in accordance with students’ needs, use computers for blind people, screen amplifier, screen readers, Braille machines, magnifying glasses, screen-expansion devices, enlarging photocopiers, tape recorders, books and pictures in Braille. For any hearing impaired students, it recommends using FM radio aid systems, hearing aid devices, short-wave amplifiers and others, in bid of enhancing students’ understandings of teaching content. To support any schools to provide the aforesaid devices and to create a barrier-free environment, the EYAB, through the Education Development Fund, provides financial assistance to schools. Moreover, the EYAB also provides purchasing subsidies for

acquiring these devices for home use, through the Student Welfare Fund, to any students that are economically disadvantaged.

175. The Centre for Psycho-pedagogical Support and Special Education under the EYAB, is installed with a resource room, containing different devices to assist disability persons' mobility, communication, self-care, and many others. Such devices include, for example, canes and guiding bricks for the visually impaired; and phones, communication board with micro-computers and so forth for the hearing impaired, which parents, teachers, related professionals and those in need may borrow. In addition, this Centre is installed with a Braille printer for teachers to prepare Braille teaching materials for visually impaired students.

176. To deepen teachers' and parents' understanding of students with special educational needs, and to enhance their teaching and parenting skills, the EYAB, besides from subsidizing NGOs or schools to organize related courses and seminars, organizes for parents or teachers different seminars or trainings on the theme of students with special educational needs, such as, for students with visual disabilities, the Workshop on Cantonese Braille, Training Courses for Teachers of Basic Mobility Actions for Blind Children, Training Courses for Teachers of Braille, and for students with hearing disabilities, the Overlapping Sound --- Lecture Series for the Training Manual of Hearing-impaired Children's Speech and Understanding of Grammar through Story Reading, etc. These all aim to enhance deeper understandings of students' needs so teachers and parents can provide necessary teaching assistance.

Right to life (Article 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. (para 36 of the State Party's report)

177. **Reply:** Among the crimes against life in the *Criminal Code*, criminal offences provided in Articles 130, 132 and 133 are punished with imprisonment penalties lower than those provided for simple homicide.

178. Under Article 130 (privileged homicide), whoever kills another person motivated by an understandable violent emotion, compassion, desperation or other relevant social or moral ground, with which his/her guilt could be substantially reduced, is punished with imprisonment ranging from 2 to 8 years.

179. Under Article 132 of the *Criminal Code* (homicide at the request of the victim) punishes the criminal offences of homicide at the request of the victim, stipulating that whoever kills another person upon a serious, resolute and express request made by the victim is punished with imprisonment up to 5 years.

180. Under Article 133 of the *Criminal Code* (incitement, aid or propaganda to suicide), whoever incites another person to commit suicide, or assist him/her for this purpose, is punished with imprisonment up to 5 years if the suicide is attempted or committed. If the person who is incited or to whom assistance was provided is under 16 years or, for any reason his/her capacity of evaluation or determination is significantly low, the perpetrator is punished with imprisonment ranging from 2 to 8 years.

181. Furthermore, propagandising "suicide" is also punishable under Article 133 of *Criminal Code*, which stipulates that whoever, by any means, makes propaganda or advertises a product, object or method advocated as a mean to produce death, in an

appropriate manner to provoke suicide, is punished with imprisonment up to 2 years or a with fine of up to 240 days.

Equal recognition before the law (Article 12)

53. Para 41 of the State Party's report 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.

182. **Reply:** As mentioned in the report, the *Civil Code* expressly prescribes the restrictions to a person's legal capacity (which means a person's capacity to personally and freely exercise the rights and fulfil the obligations that he/she holds without the mandatory intervention/intermediation of others). In respect to the restrictions to a person's legal capacity, apart from minors, the law prescribes that a person that is incapable of managing him/herself or him/her property affairs may be judicially declared as 'interdicted' or as 'unable'.

183. A person may be declared as 'interdicted' by a court judgement, if due to mental disorder, deafness, dumbness, or blindness he/she is obviously shown as incapable of managing him/herself or his/her property affairs (Article 122 of the *Civil Code*).

184. It should be noted that the 'interdiction' is always determined by a serious impairment that limits the person at physical or psychic level. In other words, it is not the simple occurrence of any of such impairment that determines that a person suffering from it should be declared as 'interdicted'. Solely a mental disorder, deafness, dumbness, or blindness that is current, permanent and disabling, i.e., so serious that makes the person incapable to govern him/herself and his/her property, then it may conduct to that decision. For instance, if a person who is blind or deaf-mute has received appropriate treatment or instruction and, therefore, is able to make up for him/her physical limitations, he/she will not be susceptible to 'interdiction' due to his/her impairment.

185. The *Civil Code* provides that a person may be declared as 'unable' if the mental disorder, deafness, dumbness, or blindness, although permanent, is not so serious as to justify his/her 'interdiction', or if his/her usual prodigality or abuse of alcohol or drugs makes him/her unable to properly manage his/her property affairs (Article 135).

186. In case of cessation of the reason that has led to declaration of a person as 'interdiction' or as 'unable', the restriction to capacity can be lifted at the request of the person who has been declared as 'interdicted' or 'unable' and by persons who are entitled to request the declaration of 'interdiction' and 'unable' (that is, the spouse, the *de facto* companion, the tutor, the curator, a family heir who is entitled to heritage or the public prosecutor) (Articles 134 and 138 of the *Civil Code* and Article 860 of the *Civil Procedure Code*).

187. The decision to declare a person as 'interdicted' or 'unable' is necessarily to be made by the court, and may be challenged through an 'ordinary judicial appeal', within 10 days from the notification of the decision (Articles 581, 585 and 591 of the *Civil Procedure Code*).

188. For the number of persons who have been declared as ‘interdicted’ or ‘unable’ between 2006 and April 2012, please refer to the table below.

Year		2006	2007	2008	2009	2010	2011	2012 (until April)	Total
No of ‘interdicted’ persons	Female	44	7	6	2	5	7	5	158
	Male	47	10	2	9	4	5	5	
No of ‘unable’ persons	Female	0	0	1	1	1	1	0	8
	Male	1	1	0	2	0	0	0	

Source: Legal Affairs Bureau

Protection of the integrity of the person (Article 17)

54. Please explain the “strict objective conditions” for placing a person with “severe mental illness” in compulsory hospitalization, in particular the person 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 (para 47 of the State Party’s report).

189. **Reply:** Article 8 of the Decree-Law No. 31/99/M on the *Mental Health Regime*, establishes the requirements for placing a person with severe mental illness in compulsory hospitalization.

190. Accordingly, a person with severe mental illness may be placed in compulsory hospitalization if: a) due to his/her mental illness, he/she creates a dangerous situation to his/her or others’ personal legal interests or property legal interests of significant value, and refuses to submit him/herself to medical treatment; or b) he/she does not have the necessary judgment to assess the meaning and scope of the consent, and the absence of treatment seriously deteriorates his/her health.

191. It can be seen that the measure of compulsory hospitalization is determined by whether the person concerned is found with serious mental illness that he/she may create a dangerous situation to his/her or others’ legal interests, instead of determined by certain type of mental illnesses.

192. Applications for compulsory hospitalization are submitted to the Head of the Health Bureau. When the internment in a public health institution is requested based on a report made by a psychiatrist, the Head of the Health Bureau may provisionally approve the compulsory internment by justifying his decision. In this case, the Head of the Health Bureau’s decision must be submitted to the court for confirmation within 72 hours. In case of compulsory internment in a private health institution, the Head of the Health Bureau shall forward the file to the court for hospitalization authorization within 72 hours upon receipt of the request (Article 12 of the Decree-Law No. 31/99/M).

193. A person with a severe mental illness may be subject to an urgent compulsory internment request, submitted to the Head of the Health Bureau, when the requirements set out in Article 8 previously mentioned are met, and there is an imminent danger to the legal interests referred therein which is particularly resulted from an acute deterioration of his/her health. If the psychiatric assessment concludes that an internment is needed, to which the patient opposes, the health institution shall inform the court of the provisional internment decision with an evaluation report. In case the psychiatric assessment does not confirm the

need for internment, the patient with mental illness is immediately released and its file will be forwarded to the public prosecutor (Article 13 of Decree-Law 31/99/M).

194. Decisions to maintain the urgent compulsory internment require judicial confirmation within 72 hours (Article 14).

195. In case a reason for termination/cessation of the hospitalization is invoked, the court shall appraise that request at any time. Nonetheless, the review of the internment is mandatory, irrespective of any request to that effect, 2 months after the commencement of the internment or after the decision that maintained the internment. The mandatory review takes place with the participation of the public prosecutor, the patient's defensor and the patient himself, whenever viable (Article 17 of Decree-Law No. 31/99/M).

196. It should be noted that the compulsory hospitalization shall be replaced by an outpatient treatment, whenever it is possible to maintain the treatment in liberty, and the court shall be informed of the replacement (Article 15 of Decree-Law No. 31/99/M).

197. In any case, the patient has the right to appeal against the decision that imposed or maintained the compulsory hospitalization (Article 10 of Decree-Law No. 31/99/M).

198. The compulsory internment shall cease as soon as the requirements that justify the internment cease to exist. The court shall be immediately informed of the lift of the internment (Article 16 of Decree-Law No. 31/99/M).

Living independently and being included in the Community (Article 19)

55. Please provide information whether there are any plans to provide subsidies to NGOs to provide personal assistance service to persons with disabilities (para 60 of the State Party's report).

199. **Reply:** The SWB continuously supports the operation of NGOs, aiming at the individualized services needed by disabled persons, by various means including financial assistance, technical assistance and transfer of equipments. At the same time, SWB also subsidizes NGOs to establish new services to meet the changing needs of services.

200. Apart from the above, the SWB also provides advices on house remodeling for any follow-up cases when needed, so as to assist the client to continue living in the same community. Should a case involve a client who is a beneficiary of the SWB's economic subsidy, additional financial assistance will be provided for the remodeling of his housing environment.

201. In addition, the SWB also subsidizes social service organizations to support handicapped persons living in their own community, namely, by aftercare services, supported housing programs, community support services, carer support services, etc.

No. of service users between 2007 and 2011

Service / Year	2007	2008	2009	2010	2011
Aftercare Service	1	2	4	7	9
Supported Housing Program	7	8	8	8	8
Community support services 1	1	44	78	92	120
Carer support services 2	129	145	306	339	326

Remark 1: The service began in year 2007 Remark 2: No. of counselling service users

202. With respect to optimizing the education for students with special educational needs and the related assistance, the EYAB has been supporting NGOs to provide services to such students.

203. In the academic year 2011/2012, funding to NGOs or services purchased from NGOs by the EYAB for the education of or assistance to students with special educational needs is detailed as follows.

<i>School / Organization</i>	<i>Details of the Sponsorship</i>
Private schools for special education (The Macau Association for the Mentally Handicapped – Child Development Centre, Caritas School and Concordia School For Special Education)	<ol style="list-style-type: none"> 1. Sponsor private schools for special education to provide special education of whole-day schooling for students. The EYAB also encourages these schools to section homogeneous class by providing additional allowance. 2. Sponsor private schools for special education to set up a specialized team for special education or to purchase related professional services, in order to provide students with psychological counseling, occupational therapy, physical therapy and speech therapy services. 3. Sponsor private schools for special education to provide students who have enrolled in private ordinary schools with individual therapy services (speech therapy, physiotherapy and occupational therapy).
Education Centre for Children with Hearing Problems, Macau Deaf Association	<ol style="list-style-type: none"> 1. Sponsor purchase of training services of language teachers, in order to provide intensive language trainings to students who are in need, in private ordinary schools and Caritas School. 2. Sponsor supervisory trainings of language teachers who provide professional language trainings in the Centre. 3. Sponsor various trainings aimed at hearing impaired persons, including Happy Social Language Learning, EQ Full of FUN, Pleasant Communication, Child Cognitive and

<i>School / Organization</i>	<i>Details of the Sponsorship</i>
	Language Training, Training for Child Language Communication, Study Centre, Music and Leisure Communication and Civic Education Activities.
Private Schools (non-special education)	<ol style="list-style-type: none"> 1. Sponsor private schools to provide inclusive education services; schools are entitled to extra allowance for having teaching support staff, in order to provide more appropriate learning support to students under inclusive education. 2. To allow students with special educational needs to learn in a barrier-free environment, schools can apply to the Education Development Fund, for any improvement, adjustment or configuration of school buildings into an appropriate environment, teaching facilities, teaching materials, educational aid and activities, with a view to increasing learning efficiency.
Macau Special Olympics	<ol style="list-style-type: none"> 1. Sponsor school-bus services for students with special educational needs and the purchase of Rehabus. 2. Purchase from this organization services of physical therapy and occupational therapy, which are provided to private ordinary schools students who need such services.
Concordia School for Special Education, Macau Special Olympics	Purchase the “itinerant support service”, in bid to provide intensive on-site support to schools with inclusive education as well as teaching recommendations to teachers of inclusive education.

204. In addition, the EYAB, together with various public departments and NGOs, each year co-organizes a series of activities for the International Day of Persons with Disabilities. The EYAB firmly supports NGOs in providing recreational activities, extracurricular activities and overseas exchanges, etc., so students with special educational needs could develop their potential and be given equal opportunities in participating social activities as much as ordinary students do.

205. During the academic year 2011/2012, the EYAB’s sponsorships to NGOs for activities or overseas exchanges are detailed as follows:

<i>School / Organization</i>	<i>Details of the Sponsorship</i>
Macau Association of Parents of Mentally Handicapped	<ol style="list-style-type: none"> 1. Sponsored the musical named The Birth of a Little Angel of Music 2. Sponsored the Communion without Boundaries and Building a Harmonious Circle – a Cross-strait Seminar on Mentally Retardation Services 3. Sponsored the “Consciousness” - Exchange Activity in Hong Kong 4. Sponsored the Activity Series, Top-up Values for Parents 5. Sponsored the Development of Arts Seedling - Courses for Visual Arts 6. Sponsored the Color Tour Camp 7. Sponsored “The Thing” Track Camp

<i>School / Organization</i>	<i>Details of the Sponsorship</i>
	8. Sponsored "The Sunshine Band" Music Training Scheme
Macau Fu Hong Society	Sponsored the exhibition Displaying of Arts and Rainbow Flower Artworks
Macau Special Olympics	1. Sponsored students to participate the 2011 Special Olympics Global Youth Summit in Athens, Greece 2. Sponsored the organization of the "Practice and Vision", Cross-strait Special Education Forum
Macau Adult Deaf Especial Education Association	Sponsored the organization of "Flying Rope of Love, the China Connection" ---- Exhibition of Knot Artworks by Hearing-impaired Persons for the Handover Celebration
Macau Special Education Teachers Association	Sponsored the organization of the Good Camp Firefly Party
Education Centre for Children with Hearing Problems, Macau Deaf Association	Sponsored the organization of the Teacher Trainings ---- Visits to listening and language barrier services in Taiwan, and the Overlapping Sound ---- Workshop for the Training Manual of Understanding Hearing-impaired Children's Speech

Freedom of expression and opinion, and access to information (Article 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 (para 67 of the State Party's report).

206. **Reply:** All SWB promotions through electronic media or digital discs are with captions, so that disabled persons can have easier access to information, also ensuring hearing impaired people to obtain the relevant knowledge. And to cope with the social development, the SWB will continue to strengthen its work in this area, by exploring more channels for hearing impaired persons to access public information.

207. SWB subsidises NGOs to develop and promote the usage of sign language, and to hire sign language interpreters. To promote the usage of sign language, the SWB subsidises NGOs to organize sign language courses and attend international conferences.

As for the promotion of sign language service, the SWB organized the legal course for sign language interpreters. The purpose is to provide the interpreters with more knowledge on legal issues so that they can explain to the deaf persons more clearly on legislative issues during interpretations, so as to safeguard their rights.

208. The SWB also assigned additional financial resources to support the concerned NGOs to launch sign language interpretation during TV news as well as 24-hour sign language interpretation service.

209. And whenever the SWB organizes any activities relating to persons with disabilities (such as the International Day of Persons with Disabilities), there will be interpreters to provide sign language interpretation services.

210. In respect of facilitating the study and expression of opinions of disability students, according to Item VII, Section V, Chapter III, *School Operation Guideline Year 2011/2012*, published by the EYAB, it recommends providing students with special educational needs, an individualized education program and teaching outline, on top of adjusting and providing special teaching measures based on students' problems, basis, strengths and weaknesses. Special teaching measures include, amid the evaluation of student learning progress, adoption of multi-dimensional assessments; and assessments through students' verbal language, sign language, body language, instructions, computer answering, and so forth, which enable students to have the ability to fully demonstrate their abilities. Also listed in the *School Operation Guideline* is, to students with different barriers, schools should deploy respective teaching measures. For example, it recommends teaching visually impaired students reading and writing Braille, and also answering through Braille, operations, verbal answers or computers. And to hearing impaired students, it recommends using gestures and facial expressions in teachings to assist understanding, while reducing oral assessment and replacing such with writings and other methods. The aforesaid measures will support the needs of students with special education needs and help express themselves with their strength, as an opportunity to the full development of their abilities.

Education (Article 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 CRPD? (para 75-81 of the State Party's report).

211. **Reply:** For children and youths who are suspected to have special educational needs, EYAB will conduct assessment for them in aspects such as their intelligence, learning, social adaptation and emotional behaviour and will suggest suitable educational arrangements according to their performance. For students who suffer mental retardation or have relatively severe intellectual disability, and have obvious difficulties in learning and daily routine adaptation, they will be suggested to receive education in special needs classes. For those students that are of mild intellectual disability with learning difficulties, or with long-term and continued serious emotional and behavioural problems and require relatively greater accommodation or assistance, they will be suggested to enrol in small special education classes. Those with any of the following difficulties, such as physical functional disabilities (including hearing disabilities, visual disabilities, speech disabilities and physical disabilities), borderline mental retardation in the intelligence spectrum, pervasive developmental disorder, attention deficit/hyperactivity disorder, specific learning difficulties or with long-term and continued emotional and behavioural problems that require a small amount of special assistance in learning or learning environment, in order to learn and grow with classmates, will be suggested to enrol in inclusive classes. During the academic year 2010/2011, there were 977 students with special educational needs, 426 of which were placed in inclusive classes and 551 were placed in special needs classes and small special education classes.

Concrete details are displayed as follows:

Comparison of male and female students of special education classes and of inclusive classes

Academic year	Students of special education classes* (Male and female %)		Students of inclusive classes (Male and female %)		Students with special education needs (Male and female %)		Students of special education classes* in students with special education needs (Male and female %)		Students of inclusive classes in students with special education needs (Male and female %)						
	Total % (No. of persons)		Total % (No. of persons)		Total % (No. of persons)		Total % (No. of persons)		Total % (No. of persons)						
	M	F	M	F	M	F	M	F	M	F					
08/09	471	64.97%	35.03%	333	67%	33%	804	65.8%	34.2%	804	38.06%	20.52%	804	27.74%	13.68%
	(306)	(165)	(223)	(110)	(529)	(275)	(306)	(165)	(223)	(110)					
09/10	502	65.3%	34.7%	372	66.4%	33.6%	874	65.8%	34.2%	874	37.53%	19.91%	874	28.26%	14.30%
	(328)	(174)	(247)	(125)	(575)	(299)	(328)	(174)	(247)	(125)					
10/11	551	64.4%	35.6%	426	70.2%	29.8%	977	66.9%	33.1%	977	36.34%	20.06%	977	30.60%	13.00%
	(355)	(196)	(299)	(127)	(654)	(323)	(355)	(196)	(299)	(127)					

* Students of special education classes include those in small special education classes and special needs classes.

212. In accordance with Law No. 9/2006 on the *Legal Framework on Non-Tertiary Educational System* and Decree-Law No. 33/96/M on the *Special Educational Regime*, all schools that accept students with special education needs have to draw up individualized education programs and educational activity outlines according to students' abilities, learning characteristics and development needs, so as to provide students with special education needs with suitable curricula, educational assistance, assessment adaptations and targeted support. As to students with treatment needs, the EYAB will sponsor special education schools and rehabilitation institutions to provide them with periodic treatment follow up, so as to facilitate their overall development.

213. To ensure that students with special education needs will obtain sufficient concern and assistance in ordinary schools, in public schools, there are special education specialist teams to support students with special education needs, such as providing counseling and treatment follow up services, and stationed resource teachers to provide students with special education needs with educational assistance. In private schools, the Centre of Psycho-pedagogical Support and Special Education under the EYAB not only assigns staff

to visit schools periodically to discuss with teachers, assistants and parents the individual learning needs of inclusive students and the corresponding assistance measures but also encourages private schools accepting inclusive students to engage more teaching assistants to provide assistance to inclusive students, through financial subsidies every academic year; moreover, if a school considers it necessary to repair and construct special barrier-free environments and facilities, to purchase relevant teaching materials and aids, to purchase additional teaching equipment to assist inclusive students, it may submit its application to the Education Development Fund through the School Development Plan.

214. In order to strengthen support to teachers in ordinary classes, the EYAB, in the academic year 2010/2011, carried out the “itinerant support service” at primary level in 7 private Chinese schools, by inviting special education schools to assign experienced special education teachers to provide intensive support services and opinions in the area of teaching to teachers of inclusive students. In the academic year 2011/2012, the “itinerant support service” was extended to the pre-primary level of 11 private schools and primary level of 15 private schools.

215. To allow teaching staff to master more in depth the strategies and techniques of teaching students with special education needs, besides the above-mentioned periodic visits to schools to provide technical support, the EYAB also co-organizes intensive certificate training programs with tertiary institutions of Macao, Hong Kong SAR and other places every academic year, including the Inclusive Education Certificate Program, Resource Teacher Training Program and Special Education Certificate Program. At the same time, aiming at the special education needs of students with different kinds of disabilities, the EYAB also runs workshops of special topics for teaching staff, including workshops on teaching aid strategies by different kinds of disabilities such as autism, Asperger syndrome, special learning difficulties, visual disabilities and hearing disabilities, and supports schools to organize relevant school-based training programs, so as to allow teachers to master the teaching techniques for students with specific disabilities. Besides training programs, administrative staff and teachers of local inclusive schools were also organized to go to other places for visits and exchange in order to learn from the experience of schools in other places in implementing special education and inclusive education.

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.

216. **Reply:** Regarding teachers engaged in special education schools and ordinary schools, there is no difference in their salaries due to the difference in the nature of teaching but the number of teaching hours/sessions of teachers engaged in special education schools is reduced. In accordance with Article 24(1) to (4) of Decree-Law No. 67/99/M on the *Statute of Teaching Staff of the EYAB*, “the number of teaching hours of teaching staff of pre-school education and preparatory year for primary education is 28 to 30 per week; the number of teaching hours of teaching staff of primary education is 24 per week; the number of teaching hours of teaching staff of secondary education is 22 per week; the number of teaching hours of the teaching staff of special education and special teaching, as long as their activities are confined to such type of teaching, is 20 per week”.

217. Furthermore, the *General Framework of Teaching Staff of Private Schools of Non-Tertiary Education*, promulgated in March 2012, also establishes relevant provisions in accordance with the education level and nature of private school teachers: in ordinary education, it is suggested that the number of teaching sessions of teachers of different education level is 16 to 23 (16 to 18 for secondary teachers, 18 to 20 for primary teachers and 21 to 23 for pre-primary teachers) while the number of sessions of teachers of special needs classes, disregarding education level, is 16 to 18.

Work and employment (Article 27)

59. Please explain whether discrimination on 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? (para 88 - 95 of the State Party's report)

218. **Reply:** With regard to the provisions laid down in the existing laws and regulations for disability discrimination during recruitment and in workplace, firstly, Article 4 of Decree-Law No. 33/99/M, on the *Scheme of Prevention, Rehabilitation and Integration of Persons with Disabilities*, stipulates that on an equal basis, a disabled person enjoys the legal rights given for other Macao residents, and also is restricted by the legal obligations for other Macao residents, except when being unfit to exercise any rights or to discharge any obligations.”

219. On the other hand, Article 5 of Law No. 4/98/M, *Law on Employment Policy and Labour Rights* prescribes that: (1) Regardless of age, sex, race, nationality or place of origin, workers are entitled: a) to receive remuneration according to the quantity, nature and quality in work; b) to receive equal wages for the same work or for the same value; c) to labour hygiene and safety during work; d) to assistance for illnesses; e) to a maximum limit of daily working hours, weekly rest and paid periodic holidays, as well as receiving remuneration for public holidays; f) to join any association representing their interests. (2) Special protection is given to minors, handicapped people and women in workplace, especially during pregnancy and after childbirths.

220. Additionally, with respect to Article 10(1) of Law No. 7/2008, *Law on Labor Relations*, it regulates that employers are prohibited to impede employees, in any forms, to exercise their rights, and cause harm to employees for their exercising of such rights. Article 6 of the aforesaid law provides that: (1) all residents of the MSAR have equal opportunities for employment based upon nondiscrimination conditions. (2) No employee or applicant for employment shall be unduly privileged, or discriminated against or deprived of any right or exempted from any duty on ground of, inter alia, national or social origin, descent, race, color, gender, sexual orientation, age, marital status, language, religion, political or ideological beliefs, membership of associations, education or economic background. (3) Given the nature of the work or the relevant causes established justifiable and decisive elements for labour provision, any acts taken on the causes in the preceding paragraph does not constitute discrimination. (3) A difference of treatment which is based on one of the prohibitive grounds laid down in the preceding paragraph shall not constitute discrimination when, due to the nature of the work or the context in which it is carried out, such a characteristic constitutes a justifiable and decisive requirement to perform work. (4) The provisions in the preceding paragraphs shall not prejudice the privileged treatment of social groups in need of special protection, provided such actions are legitimate and proportional.

221. If an employer impedes his employees to exercise their rights, or under any unreasonable grounds discriminates against employees or job applicants, this will constitute a misdemeanour; such employer is punishable, according to Article 85(1)(i) and (ii) of the same law, with a fine of \$20,000.00 (twenty thousand patacas) to \$50,000.00 (fifty thousand patacas).

222. With regard to setting up appropriate installations to accommodate persons with disabilities in their workplace, Law No. 9/83/M, *Law on Suppression of Architectural Barriers* provides that buildings and facilities under the terms of this Law have to comply with its provisions of suppressing architectural barriers while they are being constructed, with the aim of allowing persons with disabilities, on the basis of equality, to enter and exit

buildings and to use facilities without barriers. Its *Annex I* establishes the installations for the accommodation of persons with disabilities which must be complied with in relevant buildings while its Article 6 specifically provides: “ Plans of factories and workshops submitted for the evaluation of the competent authority after the entry into force of this Law shall comply with the construction norms described in *Annex I*.” The above-mentioned provision ensures that persons with disabilities will obtain accommodation in workplaces.

223. Moreover, Article 4 of the *Order of the Secretary for Economy and Finance* No. 6/2004 establishes *Regulations on Employment Incentives and Training*, which stipulates that the actions of vocational training, sheltered workshop, adaptation of posts at work and elimination of architectural barriers to support the social integration and employment of unemployed persons with physical or behavioural disabilities, promoted by enterprises or non-governmental organizations, shall be subsidized by submitting the proper application form to the Social Security Fund by the respective promoting entities. The subsidies for the referred actions may not exceed the amount of \$500,000.00 (five hundred thousand patacas), being granted after the decision of the Administrative Committee of the Social Security Fund, under the favourable opinion of the Labour Affairs Bureau, as approved by the Secretary for Economy and Finance. Through the above-mentioned measures, employers are encouraged to take actions to eliminate architectural barriers in their workplaces, so as to provide persons with disabilities with more accommodated and barrier-free working environment.

National implementation and monitoring (Article 33)

60. Please elaborate on how the different entities (the MASR Government NGOs, a government consultative body, the judiciary, the Ombudsman) involved in the monitoring of the CRPD 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? (para 16-18, 105 of the State Party’s report)

224. **Reply:** As previously mentioned, the Government’s rehabilitation policy and programme is based on the concept of the development of social inclusion and rehabilitation services to maximise their autonomy and active social participation through an array of community-approach measures involving individuals, families and social institutions.

225. NGOs that work in the field of disability play a key-role in the implementation of rehabilitation policy. Through partnerships with different government departments, such as the SWB, the Health Bureau, the Labour Affairs Bureau, etc., NGOs, with the aim of facilitating the quality of life of persons with disabilities, as well as their integration in the society, deliver specialized services and organise different type of activities, while heightening community awareness and sharing of responsibilities.

226. At policy making level, NGOs’ intervention was strengthened with its participation in the Commission for the Rehabilitation of Persons with Disabilities, which was established in 2008, aiming to assist the Government in the formulation, implementation, coordination and supervision of policies related to the prevention of disability, rehabilitation and social integration of persons with disabilities. According to *Chief Executive Order* No. 239/2008, members of the Commission include representatives of governmental departments and at most 15 representatives from organizations involving rehabilitation affairs and other related areas as well as up to 5 individuals who are publicly recognized as distinguished in the social service and other related areas.

227. A publicity group for the Convention has been established, in 2010, whose members include representatives from government departments and NGOs, in addition to others from the Macau Association of Support for the Disabled, Macau Fu Hong Society, Macau Deaf Association, Association of Parents of Mentally Handicapped Macau, and one disabled person appointed by the Secretary for Social Affairs and Culture.

228. Through the above-mentioned participation by NGOs and disabled persons, this ensured the supervisory roles of disabled persons and the organizations they represented.

229. The Commission Against Corruption, being the Ombudsman of the MSAR, in accordance with the provisions of its organization law (Law No. 10/2000 as revised by Law No. 40/2012), one of its main functions is to promote the protection of rights, freedom, protection and legitimate interests. If it finds any regulatory deficits, in particular any deficits affecting people's rights, freedoms, protection or legitimate interests, for example, to any regulations causing inequality or discrimination against disabled persons, it will provide recommendations to explain, modify or repeal, or to advice or recommend for the development of new regulations (on condition that the involved matters do not fall within the competence of the Legislative Assembly).

230. As for the judiciary, according to the Macao SAR's judicial system, courts and prosecutors are independent. Independence of the courts ensures its exercising of jurisdiction, and they only obey the law without any intervention. The Public Prosecutors are also an independent judiciary, free from any interference, whose functions include the supervision of law enforcement, and legal supervision of public administration in its enforcement procedures, to ensure strict implementation of the provisions of the law in the enforcement process. In addition, Public Prosecutors are the legal representatives of the incapacitated, the uncertain and the missing people in the legal proceedings, as a safeguard to their legitimate rights and interests. If the legitimate rights and interests of a person are infringed, he can resort to the court to restore justice and access to remedies.

C. Women and Children with Disabilities (art. 6 & 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 on their more vulnerable situation (para 24 - 25 of the State Party’s report)

231. **Reply:** Firstly, women and girls with disabilities are equally protected by same laws as other disabled people entitled to. In addition, they possess the rights to enjoy various kinds of rehabilitation services. The SWB supports the operation of two residential facilities for disabilities through financial subsidies and technical assistance, in view of providing disabled women who are in need of residential care services notwithstanding.

232. The SWB provides financial subsidies and technical assistance to NGOs, for early special education and trainings to girls who have problems in intelligence development, behaviour or with hearing problems, in additions to its parenting education and other assistance for parents.

233. In respect of education, aiming at students with special education needs, disregarding their gender, the EYAB creates conditions for improvement of the overall education support, in order to suit the special education needs of all students; meanwhile, Article 12 (4) of Law No. 9/2006 on the *Legal Framework on Non-Tertiary Educational System* provides that “the curricula, teaching materials, teaching methods and assessment

shall be adapted to the specific characteristics of each student”; therefore, schools respect each student’s individual differences and uniqueness, to allow them to obtain suitable individualized education under the principle of fairness and equal opportunities, to allow them to develop their potential and integrate into the society.

234. Regarding special measures for women and girls with disabilities in respect of employment, Decree-Law No. 52/95/M guarantees equal opportunities and treatment in employment between male and female workers, including the enjoyment of employment, vocational training and career promotion without discrimination by female employees with disabilities. In addition, in order to implement Article 5(2) of Law No. 4/98/M on the *Legal Framework on Employment and Labour Rights*, which prescribes special protection for female workers, minors and persons with disabilities at work, the Labour Affairs Bureau has specially considered the needs of these persons while formulating relevant policies.

235. In the area of organization of vocational training programs for persons with disabilities, the Labour Affairs Bureau has always been cooperating with relevant service organizations, rehabilitation institutions and government departments, devoting its efforts in ensuring that all persons with disabilities who plan to participate in vocational training have the chance to enrol in relevant programs, thus effectively protects the right of women with disabilities to receive vocational trainings, from which they are allowed to develop their potential, to increase creativity and professional ability, to bring up self esteem and self confidence, to facilitate easier integration into society and to obtain employment opportunities. According to statistical data from 2006 to 2010, female comprises 49.4% of the participants of the vocational training programs run by the said Bureau specifically for persons with disabilities.

236. Furthermore, the Labour Affairs Bureau also provides persons with disabilities with measures facilitating employment, mainly by providing job applicants with disabilities with free and personalized employment service by its staff of the “Working Group on Capacity Development”, who conduct interviews with them to understand their situations and, according to their expectation at work and physical situation, to make a suitable match.

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

237. **Reply:** In the MSAR, corporal punishment is prohibited by law. Subjecting a person to torture or inhuman treatments is expressly forbidden by Article 28 (4) of the *Basic Law*.

238. Under the *Criminal Code*, conducts that involve infliction of corporal punishment are considered criminal offences. Among the criminal offences against physical integrity, it should be pointed the crime of simple offence to integrity: whoever offends the body or health of another person is punished with imprisonment up to 3 years or with a fine (Article 137); and the crime of serious offence to integrity: whoever offends the body or health of another person leading to serious physical injury of the victim is punished with imprisonment ranging from 2 to 10 years (Article 138). In case of aggravation caused by offending the body or health of another person and leading to death, imprisonment penalties range from 2 to 8 years and from 5 to 15 years in the cases of Article 137 or 138, respectively (Article 139). If the offences referred to in Articles 137, 138 and 139 are committed in special circumstances which reveal reprehensibility or perversity of the perpetrator, he/she is punished with the penalty applicable to those crimes increased by one third in its minimum and maximum (Article 140).

239. Moreover, it should be pointed out that conducts which constitute domestic violence are considered criminal offences under the *Criminal Code*, in particular under its Article 146, which establishes the crime of ill-treatment of minors, persons with incapacities or

spouse. Infliction of physical or mental ill-treatment or cruel treatment by whoever has under his/her care, custody, responsibility for the direction or education, or under his/her supervision in work relations, a minor or an incapable or a person with low capacity due to age, illness or physical or mental disability, is punishable with imprisonment ranging from 1 to 5 years, and 2 to 8 years or 5 to 15 years, if the said ill-treatment leads to serious physical injury or death of the victim, respectively.

240. In respect of disciplining children at schools and educational institutions, Order 46/SAAEJ/97 approves the *Discipline System for Students in Public Educational Institutions*, providing for the prohibition of taking disciplinary measures that are contrary to the moral and physical integrity and to the personal dignity of students.

241. Furthermore, Law No. 2/2007 stipulates that the educational regime and adequate measures are applicable to minors between the age of 12 and 16 who have committed criminal offences or misdemeanours, under which measures infringing the physical integrity, health or dignity are prohibited.
