



## Convention on the Rights of Persons with Disabilities

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### Committee on the Rights of Persons with Disabilities Eighth session

#### Summary record of the 77th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 18 September 2012, at 3 p.m.

*Chairperson:* Mr. McCallum

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*The meeting was called to order at 3 p.m.*

### **Consideration of reports submitted by States parties under article 35 of the Convention**

*Initial report of China (CRPD/C/CHN/1; CRPD/C/CHN-HKG/1; CRPD/C/CHN-MAC/1; CRPD/C/CHN/Q/1 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of China took places at the Committee table.*

2. **The Chairperson** said that this initial dialogue with the Chinese delegation was being broadcast on the Internet in order, in particular, to enable persons with disabilities who were not able to travel to Geneva to follow the debates. He said that pursuant to article 60 of the Rules of Procedure of the Committee (CRPD/C/4/2), Ms. Yang Jia, a member of the Committee who was a citizen of the State party, would not take part in the consideration of the report; however, in conformity with the Committee's practice, she would leave the room only after the introductory statement by the delegation.

3. **Ms. Wang Naikun** (China) said that the delegation was composed of representatives of the central Government, of the Hong Kong Special Administrative Region and of the Macao Special Administrative Region. She said that China, which had been one of the first countries to sign the Convention, had a population of some 85 million disabled persons, in other words more than the entire population of many countries. Since the submission of its report, China had speeded up the process of improving its legislation and national policy for the protection of the rights of persons with disabilities; that effort had concerned a number of laws (on the protection, education, employment and social participation of persons with disabilities as well as on the construction of accessible environments) and various policies (on special assistance, medical care, social security and public services).

4. Under the twelfth five-year plan for the country's economic and social development, which had been implemented in 2011, the interests of persons with disabilities had been duly taken into account and upheld. Precise objectives had been set: guaranteed rehabilitation services for 13 million persons with disabilities; helping disabled persons in urban (10 million persons) and rural areas (1 million persons) to find jobs. The participation rate of persons with disabilities in medical insurance schemes had reached 97.4 per cent in urban areas and 80 per cent in rural areas. There were more than 6,200 specialized centres catering for disabled persons and almost 600,000 dilapidated homes in which disabled persons lived had been renovated. During the period 2006–2011, 11.745 million persons with disabilities had benefited from rehabilitation services and 186,000 community-based rehabilitation stations had been set up. The enrolment rate of disabled children in compulsory education had increased considerably and in 2011, more than 8,000 disabled persons had been admitted to higher-education establishments. Since 2006, 7.4 million poor rural persons with disabilities had been lifted out of poverty.

5. The Chinese authorities had actively promoted the improvement of the services offered to persons with disabilities and had involved the non-governmental sector in its action. In China, 7 million registered volunteers were active in helping persons with disabilities. There was a national monitoring mechanism to keep track of the situation of persons with disabilities and the data collected by it would provide a scientific basis for the development of laws and regulations. Lastly, in the international sphere, China had actively promoted cooperation for action on behalf of persons with disabilities, for example by hosting the Beijing Forum on disabilities in August 2012 and the Paralympics in Beijing in 2008. China fully appreciated the huge scale of the task still to be accomplished and was resolved to do everything possible to improve the situation of persons with disabilities.

6. **Ms. Cheung Mei Chu** (Hong Kong, China) said that since the submission of the report, the Government of the Hong Kong Special Administrative Region had increased by 9 per cent the annual budget for rehabilitation services (US\$ 3 billion in 2012 in comparison with 2.1 billion in 2008). Since 2009, it had multiplied fivefold the budget assigned to promoting the Convention in Hong Kong. The manual on design to ensure ease of access was regularly updated (most recently in 2008) and the department responsible for designing public buildings and low-cost housing had introduced a mechanism to monitor compliance with the standards specified in the manual. The Government had also advanced with the programme for the overall remodelling of 3,500 public sites and premises and 240 existing low-cost housing units (at a total cost of US\$ 167 million), and 90 per cent of the programme's objectives had been attained in 2012; the remaining 10 per cent should be completed by 2014. All pavements and lifts were gradually being adapted to meet the standards.

7. Persons with disabilities were encouraged to participate in the life of the community, in particular by the introduction of reduced fares on public transport for the elderly and persons with disabilities. Support was also provided for the vocational training of persons with disabilities by imposing conditions on the support provided for the creation of firms (a 50 per cent quota of disabled employees) and awarding grants to allow employers to adapt the working environment for persons with disabilities.

8. **Mr. Iong Kong Io** (Macao, China) said that the Commission for Rehabilitation Affairs, established in 2008, was made up of representatives of non-governmental organizations (NGOs) and of organizations of persons with disabilities, who were able to influence the policies implemented in respect of disabilities.

9. The authorities in Macao were working very hard to improve accessibility, for example by equipping lifts with Braille signs and footbridges with audio-guidance systems, lowering pavements and providing buses with wheelchair platforms and spaces. Education for children with disabilities received particular attention. Special inclusive classes were opened in public schools and private schools provided services for children with intellectual disabilities, visual or hearing impairments.

10. In 2011, the Government of Macao Special Administrative Region had introduced a disability assessment and registration system with six categories and four levels. Thanks to the system it was possible to collect data for use in designing, monitoring and evaluating rehabilitation policies. All persons registered by the system were entitled to a card and a disability allowance adapted to the severity of their disability. They had access to free public health and could use public transport at a discount.

11. **Mr. Kim** (Country Rapporteur) said that China had played a leading role in the Asia-Pacific region when, in 1993, it had launched the first Asian and Pacific Decade of Disabled Persons and, in 2003, it had adopted the Beijing Declaration on the development of an international convention for the promotion and protection of the rights and dignity of persons with disabilities, which had been the starting point for negotiations on the Convention. China had recently adopted the Beijing Declaration on Disability-inclusive Development, which was a clear sign of its determination in that respect. A legislative framework had been put in place and programmes on behalf of persons with disabilities were implemented.

12. However, the Committee had been informed of violations of the fundamental rights of persons with disabilities, and some disabled persons organizations had drawn its attention to shortcomings in the implementation of the Convention, citing in particular the system of involuntary committal to a mental health service of persons with psychosocial disabilities. The Committee would appreciate information on the role of disabled persons and of organizations other than the China Disabled Persons Federation in monitoring the

implementation of the Convention, and on the nature of the relationship between the Federation and the State party. He concluded by reminding the delegation that many people and nations were attentive to the evolution in the situation of persons with disabilities in China, which was a global economic leader.

*Articles 1 to 5*

13. **Ms. Quan-Chang** asked for details of the progress made by China in bringing its legislation into line with the provisions of the Convention. She said that she was concerned about the terminology used in the texts — which ran counter to the respect enshrined in the Convention for the dignity of persons with disabilities — and asked what was being done to make it more appropriate. She also asked what methodology was adopted by the studies and surveys carried out in China in order better to determine the situation of persons with disabilities, and pointed out that the percentage given for the proportion of persons with disabilities in China's population (6.34 per cent) was much lower than that recently given by the World Health Organization (WHO) for all countries (15 per cent of the world's population).

14. **Mr. Gombos** said that it was not simple to define what was meant by persons with disabilities. However, China and the Hong Kong and Macao Special Administrative Regions should not make the common mistake of ignoring the most vulnerable group of persons with disabilities, i.e. those with a mental or psychosocial disability, who should also be included in the definition. He asked for information on the measures adopted in mainland China and in the Special Administrative Regions to ensure that persons belonging to those, the most vulnerable groups, including children, could be consulted through their representatives and participate in any legislative or political reform concerning them. He also asked what measures had been taken by mainland China to ensure, in particular, that the victims of occupational accidents could obtain a certificate of disability.

15. **Ms. Cisternas Reyes** asked about the measures taken by the Macao Special Administrative Region to incorporate into its legislation the concept of indirect discrimination, including the refusal of reasonable accommodation. She asked whether mainland China planned to ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities and said that she would also appreciate details of how the commission responsible for monitoring respect for the rights of persons with disabilities operated and whether it included representatives of persons with disabilities.

16. **Mr. Langvad** said that he was surprised by the relatively low number of persons with disabilities (85 million) announced by China and wondered whether only persons who had a certificate of disability had been taken into account. He would like to know whether Chinese legislation also protected the relatives of persons with disabilities from discrimination by association. He would like to know whether in China and in the Hong Kong and Macao Special Administrative Regions organizations other than the China Disabled Persons Federation represented disabled persons and if so, how such organizations were consulted.

17. **Mr. Tatić** noted that the sign-language interpretation to which deaf persons were entitled under Chinese criminal procedure was presented as a reasonable accommodation and asked whether the service could occasionally be refused on grounds of unjustified difficulties.

18. **The Chairperson**, speaking as a member of the Committee, said that he hoped the act on the protection of State secrecy (2010), as amended and the possible implementation of the draft regulations of August 2012 would make it possible for the Committee to obtain the more detailed information it required in order to understand the statistics presented by China on persons with disabilities.

19. **Ms. Maina** said she had noted that the Law on the Protection of Persons with Disabilities stipulated that ordinary primary and secondary schools were required to admit children or adolescents with disabilities who were capable of adapting to life in those establishments and studying there. She asked what provision was made for children with a mental disability that affected their intellectual capacity and ability to adapt and what measures were taken to integrate them into the educational system and avoid their being placed in an institution.

20. **Mr. Ben Lallahom** said that the definition adopted by China for disability corresponded by and large to that of the World Health Organization (WHO), which mentioned limitations on activity and restriction on participation in social life. However, the existence of obstacles to accessibility should be added to the definition.

21. **Mr. Torres Correa** asked how far persons with disabilities participated in the commission responsible for monitoring respect for the rights of persons with disabilities and how the members of that Commission were chosen.

22. **Mr. Kim** (Country Rapporteur) asked about the programmes of action implemented in China to ensure that persons with disabilities benefited from the country's development, and about the measures taken to enable them to live independently and avoid being placed in an institution.

*The meeting was suspended at 4.20 p.m. and resumed at 4.40 p.m.*

23. **Ms. Guo** Chunning (China) said that the Chinese authorities cooperated closely with WHO and had carried out surveys to determine the percentage of persons with disabilities in the country. If the figures gathered were different from those of WHO, it was because the criteria used had been developed on the basis of the country's economic and social situation. They were gradually being adapted to international standards such as the International Classification of Functioning, Disability and Health (ICF) so as to reflect the country's evolution; proof of that was the percentage of persons with disabilities, which had been estimated at approximately 5 per cent in 1984, and which currently exceeded 6.5 per cent. In China there was a system for certifying disability, but the social security system and public services made no distinction between disabled persons in possession of the certificate and other persons with disabilities.

24. **Mr. Bo** Shaoye (China) said that persons with psychosocial disorders experienced specific difficulties, in particular with regard to the exercise of their rights, to which the authorities were very attentive. Such persons were entitled to voluntary assistance services, with the involvement of members of their families, at several levels of the territorial administration. Persons with disabilities were systematically consulted before any legislative measures concerning them were adopted. Victims of occupational accidents who met the requirements could obtain a disability certificate.

25. **Mr. Qian** Bo (China) said that although the Government of China considered that the promotion and protection of human rights was the responsibility of the State concerned and was even more reserved about adhering to the Optional Protocol, it was nevertheless prepared to study the possibility of ratifying it.

26. **Ms. Cheung** Mei Chu (Hong Kong, China) explained that since 1977, the Rehabilitation Advisory Committee, on which the parents of disabled persons and representatives of mutual assistance associations and specialized NGOs sat, advised the Government of Hong Kong on all matters relating to disability. Its action was completed by the activities of various working and advisory groups concerned with specific issues such as access to public transport and buildings. Moreover, the Equal Opportunities Commission, an independent high-level body, ensured the implementation of legislation on

discrimination, including the disability discrimination ordinance. Persons with disabilities sat on all those bodies.

27. **Mr. Sui Wai Keung** (Hong Kong, China) said that as part of the most recent rehabilitation programme-plan, day-care centres and social assistance services had been further reinforced to enable persons with disabilities to remain as far as possible in their familiar environment. In 2010, a three-year pilot programme had been launched to provide home care for persons with severe disabilities who were waiting to be admitted to subsidized institutional care. If the project was considered satisfactory after its midterm evaluation, which was under way, the possibility of extending it would be examined.

28. **Mr. Iong Kong Io** (Macao, China) said that in 2008, the authorities of Macao had set up a specialized agency that included many disabled persons who were thus able to express their views on the Government's practices and action in respect of disabilities. Each year, the Social Welfare Bureau organized meetings and visits which made it possible to gather the views of persons with disabilities.

29. **Ms. Chu Lam Lam** (Macao, China) explained that under the legal regime in force, international treaties came into effect as soon as they had been ratified and could therefore be invoked directly before the courts. The Basic Law of Macao prohibited discrimination and made provision for care and protection for persons with disabilities who, in accordance with the legislation adopted to complete the Basic Law, enjoyed the same rights to health, education, employment and to participation in social and cultural life as other citizens. They were also entitled to special protection or treatment in certain cases such as employment or in order to participate in elections, when the law allowed them to be accompanied. She added that the concept of "reasonable accommodation" was defined by Macao's legislation.

30. **Ms. Guo Chunling** (China) said that the task of follow-up was largely based on the work of the National Bureau of Statistics, with the participation of various ministries and administrations. That huge task was accomplished with the contribution of civil society, academia and NGOs, who were consulted and invited to take part in the evaluations.

31. **Mr. Zhang Xinlong** (China) said that any disabled person who so wished could obtain a certificate of disability by undergoing a medical examination and an assessment of their capacity to take their place in society. To avoid abuse, some services were provided only on presentation of the certificate. Associations of persons with a disability helped those concerned to obtain the document, which was not obligatory.

32. **Mr. You Liang** (China) explained that since the amendment of the Law on the Protection of Persons with Disabilities, they and their associations were able to play an active part at all stages of the legislative process. They were in fact consulted and invited to give their views in various ways (such as via websites) during the planning, preparation, drafting, and consideration of legislative texts, as had recently been the case in 2011, on the draft regulation on intellectual disability. Parliamentary debates were open to the media, who broadcast and published them. With regard to the requirement for "reasonable accommodation", the Government of China thought that it should depend on a country's means — as was moreover provided for by the Convention — and China did not shirk its obligations as it had adopted numerous provisions with regard to participation in cultural life, in elections and community life and access to public transport.

33. **Mr. Shi Lei** (China) said that the Codes of Criminal and Civil Procedure contained many provisions designed to ensure the protection of persons with disabilities at all stages of procedure and to provide them with such assistance as they required (such as interpretation into sign language). In 2009, the Supreme Court had adopted a rule intended to reinforce legal aid for persons with disabilities. There were not enough sign-language interpreters to satisfy demand and it would be necessary to train more.

*Articles 6 to 19*

34. **Ms. Degener** said that she would like to know what was being done to improve the situation of women with disabilities and more precisely to put an end to the violence to which they were often exposed in both institutions and the family. She asked whether any measures had been taken to end the practice of forced sterilization in institutions and what the State party intended to do to combat infanticide and the abandonment, ill-treatment and corporal punishment of which children with disabilities were the victims. She said that she was concerned by the reports that a large number of children with disabilities were not enrolled in school and would appreciate additional information on the measures taken to prevent and punish the atrocities inflicted on children with cognitive disorders, who had been abducted and treated as slaves in the mining industry. With regard to the right to life, measures had certainly been taken to protect the lives of persons with disabilities, particularly in Macao, but the laws protecting that right needed further to be strengthened. In that connection, it was necessary to ensure that current legislation was in conformity with article 10 of the Convention.

35. Mental-health legislation posed a number of problems and the relevant legislation should be completed, particularly with regard to recognition of the legal personality of persons with disabilities, access to justice for persons with disabilities and their right to security and to protection of their integrity. Arbitrary detention, abandonment and murder were still common, education was often replaced by work and public support, in particular financial, was frequently lacking. Patients in psychiatric hospitals did not have access to justice and had few or no contacts with the outside world and were frequently ill-treated.

36. **Ms. Quan-Chang** asked for details of the policies implemented or planned in order to ensure protection for persons with disabilities in situations of risk, such as natural disasters.

37. **Mr. Tatić**, referring to the question of accessibility of public places and spaces, asked whether the new regulations introduced had had any effect and whether there were any penalties for non-compliance. The authorities of the Hong Kong Special Administrative Region had said that achieving universal accessibility was a point of honour, and it would be useful to have specific information on the practical difficulties encountered in implementing that decision and to hear whether any complaints had been lodged in that regard. He would also appreciate details of the technical and architectural constraints encountered by the Macao Special Administrative Region.

38. **Mr. Rios Espinosa** said that it appeared from the comments made by the delegation of China that in China disability was considered to be a health issue. It would be advisable to organize information campaigns in order better to explain that disability was not an illness, but one of life's circumstances, and to develop greater social awareness of persons with disabilities. He would like to know how the State party intended to combat the practice of infanticide and to improve access to justice. Finally, he noted that the programmes designed to "correct" and "cure" detainees with disabilities were based on moral principles and pointed out that such an approach was contrary to the principles of human rights.

39. **Mr. Langvad** said that it would be advisable for China to give up its medical approach to disability in favour of a more social vision of the issue in order better to circumscribe and resolve the problems preventing persons with disabilities from fully participating in social life. Accessibility was not only a question of adapting outdoor and indoor public spaces, it also concerned, for example, websites, computers, automatic payment terminals and banking services. He noted with regret that after the 2008 Beijing Paralympics, the features designed for persons with disabilities, such as wheelchair ramps, had been dismantled, and he asked what measures the State party planned in order better to integrate persons with disabilities at the local level.

40. **Ms. Maina** said that she had noted an inconsistency in the Chinese Constitution; while it asserted the equality of all before the law, at the same time it determined that legal personality could be withdrawn on the grounds of specific disabilities. A clear distinction should be made between psychosocial disability and mental disorder. As an example, she said that she herself had a psychosocial disability, but by no means was she mentally disabled. She asked what plans the State party had to integrate that category of disabled persons into society or, failing that, into institutions in which their needs were met, and expressed her concern about the report concerning the use of confinement or detention.

41. **Mr. Gombos** asked for details of the measures taken by China and its Special Administrative Regions to improve access to sign language for deaf persons. He reminded the delegation that in its concluding observations, the Committee had always made it clear that in no case did the existence of a disability justify deprivation of liberty, and he recommended that legislation governing any such deprivation of liberty, including in cases of psychosocial disorder, should be revised. He recommended that China should reconsider any draft legislation on that issue so as to avoid contravening the Convention. He also asked whether the Hong Kong Special Administrative Region planned to amend its Mental Health Ordinance.

42. **Ms. Cisternas Reyes** said that she would like to know the outcome of the studies into the conditions of detention of persons with disabilities referred to in the written replies from the Government of China to the list of issues. She also requested details of the composition and functions of the Guardianship Board that existed in Hong Kong. Finally, she asked what follow-up had been given by Macao to the recommendations made in 2008 by the Committee against Torture concerning the implementation of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) in order to avert ill-treatment, in particular that of women and children.

43. **Ms. Peláez Narváez** said that in view of the large number of disabled children who were placed in institutions she would like to know what measures were being taken by the State party to give priority to keeping them in a family environment in their own community. She also took note of the information that disabled persons who attempted to adopt a child allegedly faced discrimination. Finally, she requested information on the measures being taken by the State party to guarantee the right of disabled persons to exercise parenthood.

*The meeting rose at 6 p.m.*