Agenda Item 6
Harmonization of National Laws with the Convention on the Rights of Persons with Disabilities in the Asia-Pacific region
Harmonization of National Laws with the Convention on the Rights of Persons with Disabilities (CRPD) in the Asia-Pacific region

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Overview

- Engagement with the CRPD by States in the ESCAP region
- Harmonization – overall progress
- Some challenging issues of harmonization
- Next steps for consideration
Incheon Strategy -- Goal 9: Accelerate the ratification and implementation of the Convention on the Rights of Persons with Disabilities and the harmonization of national legislation with the Convention

Target 9.A

- By the midpoint of the Decade (2017), **10 more** Asia-Pacific Governments will have ratified or acceded to the Convention on the Rights of Persons with Disabilities.

- By the end of the Decade (2022), **another 10** Asia-Pacific Governments will have ratified or acceded to the Convention.

Progress

- By end of 2017, 16 more Asia-Pacific States had become parties to the CRPD.

- As of late 2021, 18 ratifications achieved (88%) -- **2 more required** by end of 2022 to reach target.

- **6 Asia Pacific States are yet to ratify the CRPD.**
CRPD RATIFICATIONS BY ASIA-PACIFIC STATES
2007-2021 (max of 51)
Harmonization – overall progress

Target 9.B

Enact national laws which include anti-discrimination provisions, technical standards and other measures to uphold and protect the rights of persons with disabilities and amend or nullify national laws that directly or indirectly discriminate against persons with disabilities, with a view to harmonizing national legislation with the Convention.

Progress

At least 31 Asia-Pacific States have undertaken legislative review that have led or will lead to amendments to existing laws.

10 others have indicated these are underway or planned.

A few States appear to have taken no substantial harmonization steps.

Legislative reviews do not always cover all the sectors necessary.

In some cases amendments do not fully give effect to CRPD.
Some challenging issues of legal harmonization

- Definitions of ‘disability’/’persons with disability’
- Prohibition of disability discrimination (paras 54-68)
- Reasonable accommodation (paras 69-75)
- Legal capacity and related issues: from substituted decision-making to supported decision-making (paras 76-87)
- Right to liberty and security of the person; freedom from torture and cruel, inhuman or degrading treatment (paras -92)
- Participation, implementation and monitoring (paras 93-115)
Next steps for consideration

(a) Ensure that the processes of ESCAP members and associate members for review of existing legislation:
   (i) Scrutinize laws across all areas for consistency with the CRPD;
   (ii) Take into account the evolving jurisprudence of the CRPD Committee.

(b) Include, as a priority area for legislative reform, the harmonization of legislative definitions of disability and disability discrimination with the CRPD, the reform of laws that are inconsistent with Articles 12, 14, 15 and 17 and related laws.
Next steps for consideration

(c) Establish or strengthen:
   (i) civil service procedures for the development of law and policy and
   (ii) Parliamentary procedures for the scrutiny of draft legislation, to ensure that proposed new laws and policies are assessed for compatibility with the CRPD and are modified before they are adopted or enacted, and

are developed with the meaningful participation of persons with disabilities and their representative organizations.