



Replies to the List of Issues

on the Implementation of the Convention on the

Rights of Persons with Disabilities



Art. 1-4: 1.(b); art. 5: 2.(a)(c); art. 6: 3.(a)(b); art. 9: 6(a);
art. 12: 9(a); art. 19: 16(a);
art. 24: 21(d); art. 27: 24(b); art. 32: 29(b)

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By Taiwan Association for Disability Rights

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Introduction of Taiwan Association for Disability Rights (TADR)

Taiwan Association for Disability Rights (TADR) is composed majority of disabled members responsible for policy decision in order to fulfill Article 33 of CRPD for a DPO to monitor the government. TADR emphasized on promoting equal rights that ought to be possessed by people with disabilities, to maintain their human rights, to facilitate international exchanges and cooperation with pioneers and leaders in the aspect of disability, to bring in effective implementation projects, to persuade legislative committees and make recommendations to government, to provide training opportunities for disabled policy advocates to visit and learn from other developed countries' experience and to enhance awareness of human rights of disabled people from international perspectives.

In order to eliminate discrimination towards disabled people, we emphasized particularly on promoting community education and in together added in elements of drama musicals and hip-hop rapping performance in order to reinforce general public's understanding towards disabled people. Moreover, we provided legal consultations, speed up technical development of assistive devices and cultivated cultural innovation as we wished to start from the basic and one's core beliefs. We aimed to facilitate disabled people to participate in the community, cultural activities and public policies so as to achieve community integration and enjoyed human rights and freedom as everyone does in the community.

Replies from Taiwan Association for Disability Rights to the list of issues raised by the International Review Committee on the Second National Report of the Convention on the Rights of Persons with Disabilities

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

1. Please provide the Committee on information on the following.

(b) What statutory guidelines are in place to implement, and enforce the principle of universal design in places of employment, education, health, and transportation, including adoption of measures to ensure reasonable accommodation?

Replied by Taiwan Association for Disability Rights:

1. The Ministry of Labor has not yet prepared a reference guideline for reasonable accommodation. It is suggested that the Ministry of Labor should compile a reference guideline for reasonable accommodation and negotiation procedures to different stakeholders (employee and employer). The objective is to serve as reference while raising their awareness.
2. Although the corridors, entrances and exits, ramps, barrier-free toilets, handrails and other items of hospitals and district health centers have considered the principles of universal design, the nearby community clinics have not yet standardized barrier-free facilities, entrances, accesses, and ramps. For medical treatment, it is still necessary to arrange for a vehicle to be transferred to a larger medical institution. Meanwhile, the barrier-free facilities between urban and rural areas still have significant gap.

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

2. Please provide information on plans, through creation or amendments of

regulations, procedures, and legislation, including the Constitution:

(a) To add explicit provisions to prohibit discrimination and obligate the State to enact positive measures for the promotion of equality across the State;

Replied by Taiwan Association for Disability Rights:

3. The Constitution in Taiwan has not yet formulated a clause prohibiting discrimination against persons with disabilities. Since persons with disabilities often encounter discrimination, the state should amend the Constitution with provisions to prohibit adverse treatment to persons with disabilities. Taiwan has not passed a comprehensive law that prohibits discrimination or guarantees equality. Although the state is formulating a draft of the "Equality Act", it has not widely solicited the opinions of people with disabilities. The state should speed up the legislation and should not postpone the submission of the draft of Equality Act to Legislative Yuan for review till 2024.

(c) To ensure that the denial of reasonable accommodation is recognised as discrimination and is incorporated into relevant laws and regulations and that these obligations and remedies are defined and stipulated in those laws and remedies, including the People with Disabilities Rights Protection Act, Employment Service Act, and Special Education Act.

Replied by Taiwan Association for Disability Rights:

4. Ministry of Examination assigns the review of various application cases to the National Examination Rights Protection Review Committee, but the tenure of committee members only last for two years, not to mention the time and quota restriction for all committee members to approve various application cases. Such format does not truly respect the rights and interests of candidates with disabilities, nor does it accumulate the experience and quality for civil servants. The Ministry of Examination should not commission it to the jurisdiction of the review committee. It should train internal staffs to improve the quality and professional competence with reasonable accommodation. It shall fulfill the national obligation to provide

the professional capacity and accumulated experience with the reasonable accommodation required for the disabled candidates to embark the examination. Then they can be independent and not rely on committee members who are commissioned every two years to make decisions for the Ministry of Examination.

Women with disabilities (art. 6)

3. Please inform the Committee about:

(a) Plans to amend the Gender Policy Guidelines to include comprehensive and concrete measures and action plans to address the disadvantages faced by women with disabilities in their private and public lives including improved accessibility in hospitals for women with disabilities including during pregnancy and delivery;

Replied by Taiwan Association for Disability Rights:

5. The "Gender Equality Policy Framework" issued by the state does not pay special attention to the issue of severe multiple discrimination against women with disabilities. The state should strengthen the direction and measures in the policy framework for women with disabilities to eliminate violence; educational opportunities; family life; physical health; employment and social protection. In particular, women with disabilities in starting a family, they should have the right to decide on pregnancy, childbirth and maternal care, contraception, parenting, and barrier-free medical care, etc. It should be listed as a positive matter in the policy framework to pay attention to the rights of women with disabilities who are vulnerable.

(b) Plans to provide support to women with disabilities with their household and parental responsibilities and in their workplaces;

Replied by Taiwan Association for Disability Rights:

6. The government still lacks support for the maternal social role of women with disabilities, such as supporting their children, online teaching at home during the COVID-19 pandemic, parenting education, etc.

Accessibility (art. 9)

6. Please inform the Committee:

(a) On how the State has taken into consideration the General Comment No. 2 on Accessibility by the Committee on the Rights of Persons with Disabilities in order to establish comprehensive accessibility legislation covering built environments, public transportation, and communication including television, Wi-Fi and smartphones in both urban and rural areas, with an action plan with timetable;

Replied by Taiwan Association for Disability Rights:

7. The various ministries in Taiwan include: Ministry of the Interior, Ministry of Education, Ministry of Culture, Ministry of Economic Affairs, Ministry of Transportation and Communication, Ministry of Finance, Ministry of Justice, Ministry of Labor, the Financial Supervisory Commission has relevant regulations on accessibility/barrier-free, but still lacks overall and comprehensive regulations and action plans. The drawback is that it only deals with cases of disabled people individually, while other disabled people will still suffer similar obstacle again and again, which is extremely disturbing. In the long run, the state should formulate a dedicated act on accessibility. In addition to regulating the barrier-free environment, it should also regulate the access of information, including television, wireless networks, website, and smart phones, as well as sign language and real-time subtitles. The objective is to ensure that the country has an overall plan for a accessible environment with a complete and enforceable legal basis.

Equal recognition before the law (art.12)

9. Please explain to the Committee:

(a) How the draft amendments to the Mental Health Act reported on in the media in January 2022 will enhance respect for the will and choices of persons with disabilities as protected in Article 12 of the CRPD and General Comment No.1;

Replied by Taiwan Association for Disability Rights:

8. The Mental Health Act in Taiwan stipulates that compulsory hospitalization should be declared by the court. Meanwhile, the court's trial time will be extended from the original 5-day emergency resettlement period to 14 days, which has seriously violated personal freedom, and depriving the disabled of their legal capacity and failing to respect the will and right of choice of the mentally disabled. The state should guarantee the right of informed consent to treatment for the mentally disabled. Prior to implementing compulsory treatment, it should fulfill its obligation to inform and obtain the patient's consent. When implementing compulsory hospitalization, it should formulate clear procedural norms and enforcement methods for "restraining personal freedom". The state should adopt a "supported decision-making system" for the mentally disabled, and solicit opinions from the mentally disabled community and related groups in order to establish a supported decision-making system suitable for Taiwan.

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

16. Please provide the Committee with:

(a) Information on the measures which the State will take to ensure coordination of assistance to persons with disabilities for personal care, household management and employment, and in emergencies, and to provide direct payment to individuals with disabilities so that they can manage their own

support;

Replied by Taiwan Association for Disability Rights:

9. A person with severe disabilities said that his back was so sore in the middle of the night that he needed to wake up a migrate healthcare giver to help him turn over more than 3 times. It is hard to imagine that severely disabled people who need 24-hour care in Taiwan have no alternative but to rely entirely on helpers. Since they are excluded from the home services of the long-term care 2.0 system, and they must also pay "employment stability fees", which is similar to the "disability tax". The state should include disabled persons who employ helpers into the long-term care system, provide home-based services, and provide cash transfers to personal accounts (individual budget) in accordance with the assessment of the demand for disabled persons, so that disabled persons can hire helpers according to their actual needs. So that they can access long-term care, or personal assistants for independent living support services for people with disabilities, which is in line with the international trend of equal rights for people with disabilities to live in the community.
10. In addition, the current deductible proportion of independent living support services is based on "household income" to determine whether a person with disabilities needs to pay 30% of the deductible fee. According to Social Relief Act, persons with disabilities are required to be tied to the financial conditions of their family members as an assessment of their financial ability. People with disabilities who especially need labor assistant services often have their economic ability limited to a certain extent by the respective disability. However, independent living support services apply household income to distinguish the proportion of deductible, which seriously ignores the user's own real economic ability. Meanwhile, it restricts the equal opportunities and rights of the disabled to live independently, and lowers the status of the disabled at home. The state should adjust the subsidy criteria for the deductible of personal assistants: instead of calculating it based on family income, it should be calculated based on the personal income of persons with disabilities.

Education (art. 24)

21. Please provide information to the Committee:

(d) How the concept of reasonable accommodation is being promoted throughout the school system in order to reduce the exclusion of learners with disabilities from regular schools at all levels.

Replied by Taiwan Association for Disability Rights:

11. The current school service hours of special education student assistants are too low to fully support the campus life of students with disabilities. Such as:
- a. The time when special education students can go to the toilet in school is restricted, and in the early and near school hours, they may face no assistance from assistants.
 - b. Due to insufficient service hours, there may be no assistant service during club activities for special education student.
 - c. For extra curriculum activities such as extracurricular activities, off-campus teaching and graduation trips, sufficient assistant hours should be allocated, as well as additional manpower support that requires overnight stays.

Each county and city education bureau should provide sufficient service hours for special education student assistants to protect the right of special education students to study in campus.

Work and employment (art. 27)

24. Please explain to the Committee:

(b) Whether there is a legal provision stating that the failure to provide reasonable accommodation in the workplace (whether in public, private or voluntary sectors) constitutes unlawful disability-based discrimination;

Replied by Taiwan Association for Disability Rights:

12. The Ministry of Labor currently provides job redesign programs only, and has not yet completed the reasonable accommodation norms of works for persons with physical and mental disabilities. It is seriously delayed, which has damaged the equal rights of the work of the disabled. The state should invite working persons with disabilities as soon as possible to collect actual demands, accumulate practical cases, and develop reasonable accommodation procedures and protocol, including procedures such as application, consultation, accommodation, mediation, and resolution, and design vacancies, selection, and resolution for persons with disabilities. Regarding job vacancy, recruitment, training, performance appraisal and promotion, job retention, and return to the workplace, etc., they all should incorporate the principle of reasonable accommodation into relevant amendments to ensure that when the public and private sectors refuse reasonable accommodation, people with disabilities can obtain equal rights to work.

C. Specific obligations (arts. 31–33)

International cooperation (art. 32)

29. Please explain to the Committee:

(b) How the implementation of the CRPD and Sustainable Development Goals (SDGs) are ensured in the execution of the official development program and in particular the measures envisaged to implement the targets 3.8, 9C, 11.2. and 11.7;

Replied by Taiwan Association for Disability Rights:

13. In response to SDGs target 11.2, according to statistics from the International Energy Agency, Taiwan ranked the 21st in the world in carbon emissions in 2020, with per capita carbon emissions at the top 20th. The National

Development Council has announced that it will reach net zero emissions in 2050 and develop electric vehicles in 2040. The Ministry of Transportation and Communications has also announced that urban buses will be fully electrified in 2030. However, the state has not yet integrated SDGs with the mainstreaming of CRPD for people with disabilities. The state should actively plan and comprehensively promote the electrification of sustainable low-floor buses and accessible taxis, which not only conforms to the new trend of sustainable green environmental protection, but also compliant with traffic equality under CRPD.