

T A I W A N

June . 2017

CRPD

人權有理，橫行無礙

《身心障礙者權利公約》



**Parallel Report
on the Implementation of the
Convention on the Rights of
Persons with Disabilities**



Coordinated by
Covenants Watch

Parallel Report on the Implementation of the Convention on the Rights of Persons with Disabilities

Participating NGOs

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台灣身心障礙兒童權利推動聯盟	Disabled Children's Rights Advocacy Alliance in Taiwan
手天使	Hand Angel
民間司法改革基金會	Judicial Reform Foundation
法律扶助基金會	Legal Aid Foundation
LIMA 台灣原住民青年團	LIMA Taiwan Indigenous Youth Working Group
新北市康復之友協會	New Taipei City Association for Mental Health Survivors (Family Group of People with Mental Illness)
台北市新活力自立生活協會	New Vitality Independent Living Association
台北市行無礙資源推廣協會	Taiwan Access for All Association
台灣廢除死刑推動聯盟	Taiwan Alliance to End the Death Penalty
台灣障礙者權益促進會	Taiwan Association for Disability Rights
台灣人權促進會	Taiwan Association for Human Rights
台灣超越巔峰關懷癲癇聯盟	Taiwan Epilepsy Care Alignment
台灣酷兒權益推動聯盟	Taiwan Gender Queer Rights Advocacy Alliance
台灣國際醫學聯盟	Taiwan International Medical Alliance
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June, 2017
Taipei, Taiwan

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Participating NGOs (in alphabetical order)

Association for Taiwan Indigenous Peoples' Policies

Association for Taiwan Indigenous Peoples' Policies is a nonprofit and non-governmental organization that looks for cooperation between intellectuals, scholars, social workers from political, social, economic, legal, cultural and educational segments who are concerned about the future of Taiwan's indigenous peoples, aiming to understand the special problems faced by the Taiwanese indigenous peoples, safeguard their special interests, and preserve their special cultures and languages, in order to enhance the indigenous self-esteem, self-confidence and self-identity, to promote the autonomy of indigenous peoples, and to develop feasible programs and organizational training methods in order to achieve the ideal of ethnic justice.

Covenants Watch

As an umbrella organization of human rights groups established on December 10, 2009, the Covenants Watch (CW) is committed to defending and promoting the dignity and human rights of every person on an equal ground. By monitoring the government of Taiwan in fulfilling its obligations under the international human rights instruments of the United Nations, it aims to build a bridge between international human rights norms and the domestic laws and government policies in the island state.

Covenants Watch is also a collaborative platform for NGOs to work together with joint alternative reports on the implementation of UN core human rights conventions that have legal binding effect on the Taiwanese government. Covenants Watch co-organized 67 and 80 NGOs in 2013 and 2017 respectively for alternative reporting on the ICESCR and ICCPR.

Disabled Children's Rights Advocacy Alliance in Taiwan (DCRAAT)

Disabled Children's Rights Advocacy Alliance in Taiwan (DCRAAT) is composed of children with disabilities and their parents, aiming to defend the basic human rights of children with disabilities. Children with disabilities and their families are confronted by barriers including lack of resources, inadequate legislation and policies, and inaccessible environments. They are absent from the game fields in the park because of the disability unfriendliness of the facilities. They disappear from the playgrounds on campuses because of the poor quality of inclusive education. They are invisible to us because of the denial of transportation and basic public utilities. Their needs have long been disregarded. They lose the equal enjoyment of all rights and support all children deserve, and also across the entire course of lives. DCRAAT is dedicated to actively monitoring the government, participating in relevant policy-making to ensure the children with disability have equal access with other children to fully participate in school, recreation activities and all other aspects of life.

Hand Angel

Hand Angel is a Taiwan-based organization advocating the practice of sex rights. We see the importance of sex to individual people, and how the desires of people with severe physical disabilities are confined by the limited mobility and traditional values in Taiwan. Therefore, we formed the first volunteer organization Hand Angel in Taiwan, providing sex service for people with disability in early 2013. We look forward to setting free the desires of people with physical disabilities.

Our goal is to change the norm in Taiwan's charity which satisfies the general public, yet sacrifices those with disabilities. Our belief is to treat everyone with equality through our services, deliberately revealing the hidden needs of people with physical disabilities to the government and the society. We insist that "the sex rights of the people with disabilities are their human rights!" Hand Angel seeks to provide a service that specializes in masturbation for people with physical disabilities, aiming to bring sexual gratification to the physical disabled so that they can gain a greater motivation to embrace their lives with disabilities. Hand Angel does not accept any donations, in order to show that even if prostitution is legalized in Taiwan one day, there are still people with severe disabilities who have very limited mobility to work or even walk out of the door to conduct sexual transactions. Hand Angel keeps offering services in the hope of advocating sex rights of the physical disabled to the general public in Taiwan, and incorporating the sex right perspectives to the relevant disability charity organizations' services. Through speeches, interviews from the media, publication and cooperation with other NGOs, etc., we look forward to changing the lives of many with disabilities step by step.

Judicial Reform Foundation

The Judicial Reform Foundation is committed to advancing legal reform by uniting the power of the people in order to establish a fair, just, and trustworthy judiciary for the people.

In realizing its mission, the Judicial Reform Foundation embraces the following core values:

- Fairness and Justice.
- Diversity and Accessibility.
- Professionalism. Innovation. Criticism.

The vision of the Judicial Reform Foundation is to ensure a society in which all people benefit from a fair, just and trustworthy judiciary.

The principal objectives of the Judicial Reform foundation are:

- To harness the power of civil society to advance judicial reform
- To improve the justice, transparency, and democracy of the judicial system
- To end unfair and negligent treatment of the people by the judiciary

Legal Aid Foundation (LAF)

LAF provides the general public with legal aid, with the purpose of defending people's basic litigation rights. Legal aid recipients are those who lack financial means and are unable to receive proper legal protection or exercise their rights; or those who may not lack financial means but should be given aid according to the law, such as those involved in compulsory defense cases (where the minimum punishment of the crime is not less than three years' imprisonment; or where the individual's ability to express in court is impeded by intellectual disability). The services of LAF include legal consultation, mediation and settlement, legal documents drafting and representation in court proceedings.

The Legal Aid Act was passed on December 23, 2003 and was promulgated by the President on January 7, 2004. The Foundation commenced operations on July 1, 2004. Since then, 21 Branch Offices have opened in municipal cities and counties to serve labor, women, children, aboriginal people and migrants. Under Article 6 of the Legal Aid Act, the endowment of the Foundation is NT\$10,000,000,000. The Foundation encourages the public to make donations, and also receives annual contribution budgeted by the Judicial Yuan.

LIMA Taiwan Indigenous Youth Working Group

LIMA Taiwan Indigenous Youth Working Group LIMA Taiwan Indigenous Youth Working Group is an advocacy group that participates in the United Nations Permanent Forum on Indigenous Issues (UNPFII) and focuses on domestic and international indigenous and national events and issues. The core of the organization is its international participation and local connections.

LIMA is a common term in Austronesian languages, meaning "5" or "hand". LIMA Taiwan Indigenous Youth Working Group was established in 2013, composed by a group of like-minded indigenous youth from various backgrounds, aiming to equip the local indigenous people with relevant capacity and knowledge to enhance their international participation. The members come from different indigenous peoples and nations in Taiwan, and with various educational and professional backgrounds.

Besides participating in the UNPFII sessions, LIMA Taiwan Indigenous Youth Working Group has been conducting series of sharing sessions of international participation experiences, workshops and trainings. It also participated in convention review meetings in Taiwan, like CEDAW review meetings as well as many works related to the rights of indigenous peoples. LIMA has also set up the website called International Platform for Taiwan Indigenous Peoples, which aims to make international human rights related information more accessible.

New Taipei City Association for Mental Health Survivors (Family Group of People with Mental Illness)

New Taipei City Association for Mental Health Survivors is a nonprofit, self-help organization of families and consumers of people with mental illnesses founded on July, 3rd, 1994 in New Taipei City, Taiwan.

Our missions:

- Facilitating people with mental illness to integrate into the community
- Enhancing people with mental illness to face and fight against prejudice and stigma

Our beliefs:

- It is courageous for families to shoulder up the responsibility to cope with the difficulties in relation to mental illness, and therefore the society at large should be accepting and supportive.

- Believing each person with mental illness has potentials and opportunities to recover.

- Being a person with mental illness, s/he, like you and me, has the right to live freely in the community.

Our vision:

- Pioneering a variety of services to journey with people with mental illness for a different life.

New Vitality Independent Living Association Taipei

New Vitality Independent Living Association is an organization run by and for people with different types of physical and mental disabilities. Founded in 2007, the organization is devoted to helping people with disabilities to live in the community with dignity by offering them personal assistance to engage in their life activities, aiming to enable people with disabilities to realize their full potential, live independently, and reduce the obstacles and discrimination in their lives.

The biggest difference sets the organization apart from others is the majority of the decision makers (including the board) are with physical or mental disabilities and are cross-disability.

Taiwan Access for All Association

Taiwan Access for All Association is a cross-disability organization in Taipei, Taiwan. It was originally a web-based network (Accessible Life Network), which provided disability-related news and information by a small group of volunteers with and without disabilities in 2002. As the Network grew, there was a growing demand for accessible tourism and assistive technology information; the network also provided a community platform for people with disabilities to discuss and exchange their experiences. In 2004, Taiwan Access for All Association was officially founded by disabled activists and their allies to support and advocate for disabled people's voices in Taiwan. At present our main services includes mobility assistive devices for rent, accessible travel, and education and advocacy works for the people with disabilities.

Taiwan Alliance to End the Death Penalty (TAEDP)

The Taiwan Alliance to End the Death Penalty (TAEDP) was founded in 2003 by local NGOs and academics, such as the Taiwan Association for Human Rights, and the

Judicial Reform Foundation. The Alliance was formed to stress and promote the absolute value of life and human dignity as core to the protection and promotion of human rights.

Profoundly understanding that the society has yet to be exposed to the debate concerning death penalty abolition, and that the general public seems to support capital punishment as a form of revenge against perpetrators of major crimes, the Alliance aims to create an open discussion forum for society on various abolition issues. Furthermore, it advocates shaping a better penal system that both respects the value of life while truly compensating the victims so as to really uphold justice and safeguard human rights for all.

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 discriminations 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.

Taiwan Association for Human Rights (TAHR)

Taiwan Association for Human Rights (TAHR) is an independent non-governmental organization and was founded on 10th December 1984 (International Human Rights Day). It is a member-based NGO and run by full time activists and volunteers.

The Taiwan Association for Human Rights is committed to:

- Remaining independent from the government, all political parties, corporations, and other interest groups;
- Promoting the spirit of human rights and enhancing human rights standards and protections;
- Fighting for all people without regard for class, race, gender, religion, or nationality; and

- Cooperating with NGOs worldwide to improve domestic and global human rights.

Taiwan Epilepsy Care Alignment

Taiwan Epilepsy Care Alignment was established in 2013. 99% of the members are epilepsy patients and their families. The mission of the alignment is to protect the rights of epilepsy patients in aspects like education, care providence, employment and self-development. The work of the alignment includes: (a) Raising public awareness: to educate correct epilepsy health knowledge and advocate care and acceptance for patients with epilepsy; (b) Empower epilepsy patients: organize various activities to develop patient's' confidence and potentials, and help them to seek appropriate training courses and employment opportunities (c) Advocate for improved rights and regulations: urge the government to amend the stringent standards of unreasonable epilepsy identification and insurance requirements. Also, call for the establishment of institutions such as nursing homes, training centers and asylum factories. The Law on the Protection of Persons with Disabilities was incorporated into the protection of tenacious epilepsy in 2000, which is the result of the collective efforts of the members.

Taiwan Gender Queer Rights Advocacy Alliance

Taiwan Gender Queer Rights Advocacy Alliance is formed by a group of people with multiple identities, i.e., people who are homosexual, bisexual, transgender, transsexual, queer and questioning, etc. and at the same time with social vulnerabilities like physical or mental disabilities, epilepsy, or are infected with rare diseases, HIV, etc.

These individuals who carry multiple social stigma are often excluded by the society and difficult to seek support groups. The members of Taiwan Gender Queer Rights Advocacy Alliance have all experienced such hardship and decided to speak out for people of their kinds. Seeking to be recognized and understood, the alliance aims to fulfill the equality of all human beings, realizing zero discrimination in all living spaces and to improve the rights and interests of people with different multiple identities.

Taiwan International Medical Alliance (TIMA)

Founded in Jan 2001, the Taiwan International Medical Alliance (TIMA) is dedicated to promoting the right to health and alleviating the health inequalities among different social strata and classes, both domestically and regionally. TIMA has been working with Cambodian partners on the development and enforcement of health-related policies, including tobacco control. As a member organization of the Covenants Watch, TIMA takes up the responsibility of developing human rights policies and quantitative human rights methods, such as human rights indicators and impact assessment.

Taiwan Task Force for Prison Reform

Taiwan Task Force for Prison Reform is composed of members from different backgrounds, dedicating to promoting effective corrections, researching policies, and engaging people for innovation in prison reform. For inmate's better future, and for our better community.

Contents

The Editing Team.....	i
Participating NGOs (in alphabetical order).....	ii
Contents	viii
List of Tables.....	xi
Executive Summary	xii
Overview.....	1
Special challenges facing indigenous persons with disabilities	2
Article 1 General Principles	4
Definition and population of persons with disabilities (in response to Paragraph 4 of the State Report).....	4
Article 2 Definition; Article 5 Equality and Non-discrimination.....	7
State does not provide a clear definition of reasonable accommodation	8
Article 6: Women with Disabilities	8
Article 7 Children with disabilities	12
Article 8: Awareness-Raising	17
Article 9 Accessibility.....	18
Physical accessibility (in response to Paragraphs 44-53 of the State Report).....	19
Public information (in response to Paragraph 54 to Paragraph 56 of the State Report).....	24
Transportation and Communications (in response to Paragraph 57 to Paragraph 60 of the State Report).....	26
Other facilities and services.....	28
Article 10 Right to Life	30
Doctors Should Not Actively Recommend Abortion	30
Article 11: Dangerous Situations and Humanitarian Emergencies.....	31
Incomplete disaster relief system may endanger people with disabilities who depend on electrically powered devices (in response to Paragraphs 71 and 73 of the State Report).....	31
Article 12 Equal recognition before the law	32
The system of appointing guardians under the Civil Code violates the principle of autonomy, depriving multiple rights of persons with disabilities (in Response to Paragraph 75 of the State Report).....	33
Barriers and discrimination faced by PWDs in the exercise of their legal capacity (in Response to State Report Paras. 76-79)	34
Article 13 Access to justice	35
Limited application of legal aid affects right of access to justice by PWDs (in response to Paragraphs 80, 81, and 88 of the State Report)	35
PWDs in legal proceedings unable to receive procedural accommodation	36

Access to justice for persons with mental and intellectual disabilities (in response to Paragraphs 80-84, 88-93 and 97 of the State Report)	38
Systematic and differentiating discrimination of the persons with intellectual/ psychosocial disabilities in the criminal code (in response to Paragraph 88 of the State Report)	39
Require judicial, law enforcement, and medical personnel to receive regular training (in response to Paragraphs 94, 95, and 97 of the State Report)	40
To establish support mechanisms for PWDs incarcerated in detention facilities (in response to Paragraphs 105-107 of the State Report).....	41
Article 14: Liberty and security of the person.....	42
Mandatory hospitalization regulated by the Mental Health Act indeed a form of deprivation of liberty of the person (in response of Paras. 98-103)	42
Mental Health Act falling into a measure of social control.....	43
Not all persons subject to compulsory hospitalization are able to file petitions to contest such measures (responding to Paragraph 126 of the State Report)	45
Compulsory hospitalization is not the only option. The State should explore alternative treatment options (response to Paragraph 191 of the State Report)	48
Article 15 Freedom from torture	49
Solitary confinement of prisoners with psychosocial disabilities (in response to Paras. 135-138)	49
Article 16 Protection against exploitation, violence and abuse.....	50
Persons with Disabilities facing domestic violence and sexual assault (in response to Paragraphs 112 and 116 of the State Report)	50
Table 16-1 Report on victims of domestic violence - People with disabilities (2015).....	51
Table 16-2 Report on victims of sexual assault - People with disabilities (2015)	51
Article 17 Protecting the Integrity of the Person	51
People with disabilities are more likely to be pressured into accepting abortion and sterilization procedures	51
Article 19 Independent Living and Integration in Society	52
Support Services Distant, Burden Continues to Fall on Individuals and Families (in response to Paragraphs 130 to 132 of the State Report).....	52
Common living environment full of barriers and segregation, government social housing should further promote community integration (in response to Paragraphs 133-5 of the State Report).....	55
Other personnel support services.....	57
Article 20 Individual Mobility.....	57
High prices make appropriate assistive devices unaffordable (in response to Paragraphs 50, 137, and 181 in the State Report)	57
Insufficient child-centered support equipment	58
Article 22 Respect for Privacy	59
Failure of Government Departments to Receive Approval Before Exchanging Information on people with disabilities (in response to Paragraph 161 of the State Report).....	59
Right to Privacy for Persons with Mental Disabilities (in response to Paragraph 165 of the State Report).....	59
Easypass card does not protect personal privacy.....	60

Article 23 Respect for home and family	60
People with disabilities do not receive appropriate fertility and family planning education (in response to Paragraphs 170, 192 of the State Report)	60
The government does not provide assistance to People with disabilities in raising children ..	60
Article 24: Education	61
Separate education systems for mainstream and special education resulting in exclusion and segregation (in response to Paragraphs 11(2), 175, 176, 178, 202 of the State Report).....	61
Legal basis for the participation of students with disabilities in an individualized education planning conference (in response to Paragraph 180 of the State Report).....	63
Inadequacy in professional knowledge and skills for special education among teachers in general education and special subjects under an inclusive education system (in response to Paragraphs 176, 178, 182 and 184 of the State Report)	63
Inadequate cooperation in teaching among general/subject teachers and special education teachers.....	65
Difficulty in providing stable and appropriate support services among assistant personnel for special education students (in response to Paragraph 183 of the State Report)	66
Barrier-free environment and accessibility of places for learning and activities (in response to Paragraphs 46, 58, 180 of the State Report)	67
The right to education through bedside learning or homeschooling for students with disabilities yet to protected	68
Vocational training, adult education and lifelong learning for persons with disabilities (in response to Paragraph 188 of the State Report)	68
Promoting cultures of sign language and mother tongue as official languages of the State.....	69
Article 25 Health	69
Unfriendly Medical Services Prevents PWDs from Using Medical Resources (Response to Paragraphs 190, 211, and 212 in the State Report)	69
Right to Insurance for Persons with Disabilities (In Response to Paragraphs 78 and 210 of the State Report)	71
Preventive Care, Pregnancy, and Childbirth for Disabled Women Ignored	72
Right to Health of a Child.....	73
Sexual Rights of PWDs.....	74
Article 27: Work and Employment	75
Job discrimination being defined too narrowly and threshold for complaint too high (in response to Paragraph 227 of the State Report)	76
Support Services for Employment Limited in Effectiveness in Promoting Equality at Work ..	77
Vocational training and job market environment for people with disabilities	78
National examination as direct/indirect exclusion of persons with disabilities (in response to Paragraph 246-249 of the State Report)	78
Closed environment of a sheltered workshop (in response to Paragraph 251 of the State Report).....	80
Right to work for people with mental disabilities.....	81
Article 28 Adequate Standard of Living and Social Protections	82
PWDs are mostly invisible poor with unstable economic circumstances	82
Article 29: Participation in Political and Public Life	84
Inadequate protections for PWDs' right to vote	84

PWDs who are subjected to declaration of guardianship automatically have their right to vote taken away.....	84
Article 31 Statistical Research and Collection of Data (in response to Paragraphs 300 to 301 of the State Report)	85
Issues concerning the “population” of people with disabilities.....	85
Statistical surveys that reflect the fulfillment of CRPD duties	86
Article 33 State Implementation and Monitoring (in response to Paragraphs 306-310 of the State Report)	88
State Report does not provide explanations on implementation and monitoring measures in accordance with requirements under CRPD Reporting Guidelines.....	88
Paragraph 1, Article 33: Implementation Committee under the Executive Yuan has an ambiguous role and lacks efficiency	88
Paragraph 2, Article 33: NHRC should be established to take on the independent monitoring role	90
Paragraph 3, Article 33: Government should ensure that Persons with disabilities and civil society are actively involved.....	91

List of Tables

Table 14-1 Compulsory Hospitalization Review Cases and Approval Rates	47
Table 16-1 Report on victims of domestic violence - People with disabilities (2015).....	51
Table 16-2 Report on victims of sexual assault - People with disabilities (2015)	51

Executive Summary

Covenants Watch was established in December 10, 2009, a member organization composed of human rights groups, human rights workers, lawyers and scholars. Its objective is to monitor the government in fulfillment of its human rights obligations under core United Nations human rights treaties.

Covenants Watch has successfully coordinated a coalition of NGOs (68 NGOs in 2012-2013 and 80 NGOs in 2015-2016) to participate in the shadow reporting in the previous two international reviews of the government's implementation on the Two Covenants (the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights). Based on these experiences, Covenants Watch has organized a series of shadow report writing workshops and CRPD training courses since July 2015. In collaboration with many disability rights movement groups, the workshops aimed to ensure high-quality shadow reports by familiarizing advocates for People with Disabilities with Taiwan's unique human rights treaty self-review procedures and strengthening their understanding of CRPD.

This report was co-authored by 16 groups, with more than half of them being organizations of persons with disabilities (OPDs). Other organizations include veteran human rights groups engaged in comprehensive human rights issues, judicial reform, promotion of the abolition of the death penalty, prison reform, legal aid, and economic and social rights promotion. This collaboration has contributed to the general human rights organizations' awareness of the issues faced by People with Disabilities and the strategies used to in rights defense and advocacy. In addition, it allowed for OPDs to gain a deeper understanding of human rights principles and frameworks. For detailed information on participating organizations, please refer to *Pages ii-vii*.

This report was generated as follows: The topics are first grouped by subject matter and relevance. Group leaders then gather teams to discuss and revise preliminary drafts. Finally, several executive editors reorganize the content to improve the flow between related articles with differing content, thereby making the draft more coherent and consistent. It is worth noting that in order to increase the representation and weight of this report, the responses to each and every provision mentioned have gained the consensus of all participating groups. With regards to issues that have been debated amongst the groups, we have chosen to be frank about our disagreements and have described each stance for the purposes of review by international experts. One such example is the issue of prenatal screening and rights pertaining to related issues such as advice for abortion due to abnormalities, abortion rights and abortion timeframe. (Please refer to Article 10 of this Report.)

We would like to thank all participating groups for their invaluable contributions, the executive editors, volunteers who have lent their assistance in translating the report, as well as the support for Covenants Watch by many individual donors, for without their help, this report would not have been possible.

Covenants Watch, Taiwan

June 2017

Overview

1. Our government continues to view persons with disability through the lens of charity or medical treatment, often applying an attitude of “care, love, service” to address related issues. This fails to realize the meaning of “enabling persons with disability to enjoy the same foundation for rights as other people” under the *Convention on the Rights of Persons with Disabilities* (hereinafter “CRPD”). Not only is the government unable to advance policies that promote equal rights, but also ignores the participation of persons with disability in the policy process.
2. Official recognition of persons with disability is restricted to individuals with persons with a disability guide, which forms the basis all national statistical data in the national report. According to this definition, the proportion of disabled males stands at 5.62% of the total male population, and women with disabilities account for 4.27% of the total female population. This is far lower than the global average which stands at around 10%.
3. According to the *Act to Implement the Convention on the Rights of Persons with Disability*, (hereafter the “CRPD Implementation Act”), the government is responsible for screening and comparing existing laws and executive orders with the CRPD. However, as most government departments still lack comprehension and training concerning the issues, the required screening and monitoring work stipulated under the *Implementation Act* has not been implemented effectively.
4. Not only the central government lacks a comprehensive understanding of the CRPD principles, government authorities at the local level have even less understanding and awareness of the content of CRPD. This results in local laws and regulations, special laws, or administrative regulations enacted by local governments or departments (such as prison) have a very high risk of violating the provisions in the CRPD and the domestic *People with Disabilities Rights Protection Act* (“*the Rights Act*”) without even being aware of it.
5. The government's understanding on *accessibility* is limited to the physical environment. The barrier-free accessibility policy on existing buildings only cover some specifically nominated buildings and not all existing government buildings.
6. The overall resources (including policy formation, financial and resource allocation) provided by the government are insufficient, leading to difficulties in removing existing obstacles in society, and people with disabilities are often unable to obtain sufficient support. In 2016, for example, the government allocated TWD4,671 billion for social welfare expenditure and TWD13.3 billion for the persons with disabilities, accounting for only 0.66% of the total government budget for the year. According to the survey in 2013, there were 7,575 social workers in the

country, of whom only 1,230 specialized in working with persons with mental and physical disabilities.

7. The government does not provide a holistic support assessment centered on the persons with disabilities. It only passively accepts individual requests for personal services from the Persons with Disabilities, thereby fragmenting the services provided, making it difficult to meet the needs of Persons with Disabilities.
8. The government has not yet recognized the importance of *reasonable adjustment* in the implementation of the rights of Persons with Disabilities, nor does it require employers or service providers the obligation to provide reasonable adjustment.
9. Many of the relevant laws, including the *Rights Act*, can be seen only as an aspirational declaration and not enforceable, lacking concrete implementation and monitoring mechanism. For example, the lack of enforcement rules, unclear in justiciability, high entry barrier and costs for appeals / litigation, lack of penalties, etc. Officials who deal with appeals often take a mediation manner and conciliatory approach, with little use of penalties.
10. Although the government has set up the Committee for the Promotion of the Rights of Persons with Disabilities under the Executive Yuan after the enactment of the *Implementation Act*, the work of the Committee has not been effective and the Committee is unable to work on issues across different government agencies. Similar limitation and inadequacy also impedes the work of similar Committees being set up by local governments.
11. Government have not implemented comprehensive assessment of their policies, laws and social services to determine their impact on people with disabilities and to ensure their right to equal participation and have their specific needs addressed. We recommend the Government should carry out comprehensive Disability Impact Assessment in the early stages of policy-making and legislatively process.

Special challenges facing indigenous persons with disabilities

12. Indigenous peoples encounter many obstacles and hardships due their racial status in society. Indigenous persons with disabilities often encounter even more inconveniences in daily life, barriers at work, and discrimination against their mental or physical disabilities, as well as their Indigenous origin. All these intersectional factors lead to discrimination against Indigenous persons with disabilities on multiple fronts, and this is even worse for Indigenous women with disabilities. There is an urgent need to establish a protection scheme specifically addressing the situation and the need of Indigenous persons with disabilities,

further strengthening their basic rights, including social, civil, education and employment rights.

13. The government agencies that are directly mandated with addressing the issue of Indigenous persons with disabilities should be the Ministry of Health and Welfare and Council of Indigenous Peoples. However, these two agencies have not set up a specific unit or allocate staff member in charge of Indigenous persons with disabilities. Furthermore, The State Report does not specifically address the current situation of Indigenous persons with disabilities. This reveals that the national policies and system do not take into consideration the specific needs of Indigenous persons with disabilities. In addition, there is no representative from the Council of Indigenous Peoples or non-government Indigenous Peoples organizations included as members in the Committee on the Protection of Rights of Persons with Disabilities set up by the Social and Family Affairs Administration, Ministry of Health and Welfare (See Paragraph 10 of the State Report). The challenges and specific needs of Indigenous persons with disabilities could not be reflected and discussed in such Committee.
14. The Ministry of Health and Welfare only started to collect relevant statistical data on Indigenous persons with disabilities in 2014. Comparing Indigenous statistics with the national data, it shows that the proportion of Indigenous persons with physical disabilities and mental disabilities is higher than national proportion while the proportion of Indigenous persons with chronic psychosis is lower than national proportion. However, the numbers collected are submitted by the local governments based on the number of disability cards or other certified documentations issued. There is no way to verify the accuracy of these numbers. There is also the need for further research and investigation on the gap of the classification of disabilities between the Indigenous and national proportion to clarify if the gap is caused by Indigenous Peoples' particularities in terms of cultural, economic, political and social perspectives.
15. The causes of Indigenous persons with disabilities should be addressed more. factors might include physical disabilities caused by being exposed to high risk working environments, or mental disabilities caused by difficulties in social adjustment and historical colonizations. Indigenous persons with disabilities living in urban or rural areas should receive the same level of protection. Indigenous persons with disabilities living in urban areas are particularly vulnerable to the feeling of loneliness and insecurities, having left their existing social network and support in their hometown and facing the daily pressure of livelihood. Indigenous persons also experience many challenges integrating into mainstream society due to loss of their traditional land and the fast pace of societal modernizations. This

significantly increases the rate of education dropout, unemployment, alcoholism, and suicide compare to the general population. However, current psychological counselling and physical and mental health branches of government have no strategies in place to provide the assistance needed to address these specific challenges facing the indigenous people. National policies and frameworks on indigenous people also ignores the specific psychological need of the group, therefore failing to provide adequate systematic protection.

16. The government framework in determining and assessing physical and mental disabilities do not take into account of specific culture and language differences between indigenous people and the general population. Key indicators of learning assessment should take into account the student's own unique cultural and societal backgrounds. In 2013, the government passed Regulation on the Method of Assessing and Determining Students with Physical and Mental Disorders and Gifted Students. Article 10 of the Regulation provides that in the process of assessing a child's learning disability, one should exclude influencing environmental factors such as insufficient cultural stimulation and inappropriate teaching methods. However, according to the Ministry of Education's Special Education Transmit Net, the number of indigenous students with special needs is higher than non-indigenous students. Many indigenous students are assessed to have learning difficulties, developmental disabilities and Attention Deficit Hyperactivity Disorder (ADHD) by the assessing authorities purely because of their different structural upbringing within their families. For example, an indigenous student may lack Chinese language skills because they were brought up by their grandparents speaking their native languages, this can also influence their world view being more aligned to that of their local community than the views shaped by mainstream education. In addition, the severe shortage of special need educators with indigenous specializations means many indigenous students are labeled with learning difficulties by mainstream teachers, causing further harm to the students. We strongly recommend that the identification and assessment process of indigenous students with special needs should involves parents, regular and special need teachers to minimize cultural and societal bias during the process.

Article 1 General Principles

Definition and population of persons with disabilities (in response to Paragraph 4 of the State Report)

17. The World Health Organization (WHO) estimates that 10% of the world's population live with some form of disability, while in the UK and in the US, *persons*

with disabilities (PWDs) make up between 19-20% of the total population. In Taiwan, as stated in Paragraph 4 of the State Report, there are approximately 1.15 million PWDs carrying disability certificates or a disability card, which account for 4.92% of the total population. It should be noted, however, that the Taiwanese statistics diverge hugely from those of the UK, the US and even of the world. In fact, PWD prevalence depends on the availability of government resources as well as on how the State allocates relevant resources and manpower, but the Taiwan Government have never carried out any survey on the number of PWDs among the total population while conducting a census.

18. We recommend that during the next census, the government should adopt the “6-question disability measure” published by the WHO to obtain preliminary proportion figures of PWDs in Taiwan, and they should also, based on the above census data, launch the second phase of the survey focusing on demands of PWDs. Current surveys in this regard select only the PWDs with a disability card or disability certificates as sample subjects, which makes it rather difficult to obtain an accurate estimate of the resources required (see [Article 31](#)).

Imbalance between classification procedures of PWDs, demands assessments and requested services

19. The main classification criteria should be the demands of PWDs instead of their impairment, whereas the latest version of the classification procedures in Taiwan is still dominated by a medical mindset. A new version of “Classification System of PWDs and Assessment on Welfare Services” was launched in 2012, and some major differences between the new version and the previous one are as follows: the number of disability categories has been reduced from 16 to 8; the size of team in charge of the classification has been enlarged, consisting now a group of professionals including medical professionals, social workers, special education teachers and career assessment specialists in contrast to one single physician formerly; and the “International Classification of Functioning, Disability and Health (ICF)” designed by the WHO has been introduced via the new version as an assessment tool. Although the ICF is generally considered an epitome of the social model given that the criteria of “Activities and Participation” (code D) and “Environmental Factors” (code E) are included, how Taiwan implements it shows a different reality: it is carried out predominantly by medical professionals along with classification procedures done mostly in assigned medical institutions. In addition, the Taiwan Government provide only a summary translation of the ICF and regards it merely as a set of codes without highlighting the underlying ideas

and principles of this system. The 8 disability categories currently presented are all items taken from “body functions and structures” (code B/S) of the ICF, and seem less intuitive and realistic compared to the previous 16 categories. Under the new classification system, many people with physical disabilities, for instance, are put in the category 1 alongside those with intellectual disabilities according to the structure of their nervous system. As for the 8 categories of which body function impairments are the main classification criteria, they still fail to include all types of PWDs, such as certain rare diseases patients who cannot pass the required evaluations made by physicians or be certified with a disability card which guarantees them with resources to protect their own rights.¹

20. The cost of assessing PWDs is huge; however, the government may not have in mind an aim to provide relevant services when allocating resources. The current “Assessment Form for PWDs” is designed in a way that benefits more the government than PWDs, thus failing to make comprehensive and dynamic assessments on the demands of PWDs. Upon obtaining an assessment form at a district office, PWDs have to check off items placed under “disability category” and “demands on welfare services” for which they would like to undergo an assessment. In the case of the forms distributed within Taipei City, there are three types of welfare items under “demands on welfare services,” the first being those entitled to all certified PWDs, while the second and the third being those that require the PWDs to file additional applications as well as pass demand assessments such as a disability evaluation, an evaluation or a career counseling interview.² However, a frontline worker poorly aware of disability issues is oftentimes not able to guide the PWDs that s/he is helping to check off the items that correspond best to their own conditions. When services provided fail to meet actual demands of the applicant later on, the applicant will need to spend extra time, energy and money filing the same assessment application for a second time. Even if the applicant passes the required assessments and evaluations, the local governmental offices in charge may lack resources to provide the services requested, or even give out contradicting instructions or shirk responsibilities one after another.
21. To persons with invisible disabilities such as those with mental disorders, the cost of undergoing various types of assessments is too huge. They would have to go to

¹Yen et al. (2015), “Assessing the ability of PWDs to participate in activities: what it means and how it impacts the Taiwanese Classification System of PWDs,” *Community Development Quarterly*.

²“[Application form of PWD certificates for the Taipei City, with explanations for demands on welfare services](#) (in Chinese),” website of the Department of Social Welfare, Taipei City Government.

assigned local hospitals or medical centers for assessments, pay fees for regular return visits, and request their supervisors in the workplace to approve their sick leave for each return visit, and so on. In addition, the disability card or certificates they succeed in obtaining not only fail to offer them sufficient protection of rights, but may also become an obvious target to be discriminated against by the society as well as the owner's employers and colleagues. The fact that the safeguarding certificates eventually become a stigma-carrying label leads many persons with invisible disabilities to give up possessing these documents. In view of the above, we strongly encourage the government to review the current assessment procedures for PWDs, in order to work towards meeting certain dynamic demands of PWDs by putting forth measures that are more flexible. Examples of such measures include lowering the threshold for certain types of service to allow the PWDs who have difficulty obtaining a disability card or disability certificates to file an application of demand assessments with their health record, diagnostic reports or major illness/injury certificate.

Article 2 Definition; Article 5 Equality and Non-discrimination

Lack of integral anti-discrimination laws

22. According to Paragraphs 19 and 20 of the Concluding Observations and Recommendations adopted by the International Review Committee in January 2017 during the review of the Second Reports of the Government of Taiwan on the implementation of the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights* ("ICCPR" and "ICESCR," or "Two Covenants" as a whole), it is stated that the Taiwan Government have put forth various laws prohibiting discrimination based on certain types of grounds (such as the prohibition of employment discrimination stipulated in the Employment Service Law). However, the government is yet to draft an integral set of anti-discrimination and equality laws which not only further prohibits discrimination based on all types of grounds listed in the International Human Rights Law, such as gender, race, national origins, religion and disability, but also stipulates clearly the positive duties that the government and other duty-bearers should bear to achieve substantive equality.
23. We sincerely invite the Review Committee to support the recommendations adopted by the International Review Committee of the Two Covenants, in order to strongly encourage the Taiwan Government to implement comprehensive anti-discrimination provisions. Not only should such provisions encompass all forms of direct and indirect discrimination as well as positive duties which are legally

binding to the public and the private sector alike, but they should also oblige the government to ensure formal and substantive equality for the people.

State does not provide a clear definition of reasonable accommodation

24. In response to Paragraph 7 of the State Report: while the Taiwan Government admitted that on their part, no clear definition of “reasonable accommodation” has ever been provided, their awareness of the issue never turned into self-evaluations with an aim to review relevant laws and proposing schedules and plans for making or amending laws. To be sure, the People with Disabilities Rights Protection Act in place may reflect the idea of reasonable accommodation with certain articles: Article 16 stipulates that all public and private sector organizations should provide PWDs with “multiple appropriate assistances” when holding public examinations; Article 30 stipulates that the competent authorities in charge of education should, upon providing education and holding entrance exams for PWDs, provide resources in need to the PWDs based on the category and degree of their disability as well as on their learning and living needs, in order to create fair and reasonable opportunities and conditions for them to receive education and attend these exams; and Article 33 stipulates that persons with disabilities or their guardians may file applications to the competent authorities at all levels in charge of labor with an aim to receive individualized and professional occupational reconstruction services, such as “occupation redesign.” Yet, such individualized requests made by PWDs within educational institutions or in the workplace are often rejected. In fact, the People with Disabilities Rights Protection Act does not state clearly what the duties and who their bearers should be with regard to “reasonable accommodation,” nor does it provide objective criteria of the term “reasonable” or stipulate any penalty in case of denial of reasonable accommodation. According to the CRPD, reasonable accommodation should be practiced in every aspect of life additional to educational and professional realms. But since the idea of reasonable accommodation is not yet defined under Taiwanese law, duty-bearers who refuse to provide accommodations or enter into negotiations upon receiving requests from PWDs will almost not be deemed as behaving in a discriminatory manner. Such outcome is all the more inevitable when it comes to job-seeking PWDs, and remains unchanged despite efforts to solve the problem through litigation or administrative appeals.

Article 6: Women with Disabilities

25. With regard to the multiple and intersectional discrimination faced by women with disabilities in public and private sectors, no comprehensive plan has been put forth by our government to improve the current situation. There has been no extensive data or survey statistics compiled to date to reflect, specifically, the difficult conditions in which women with disabilities are subjected to. In addition, there is a lack of gender perspective in the current government legislation pertaining to the rights of persons with disabilities. Finally, different departments and agencies are separately responsible for varying issues including but not limited to: gender equality, women's welfare, people with physical and mental disabilities, social security, education, employment, medical care, justice, resulting in a lack of information sharing and resource integration.
26. It is recommended that the following actions be taken:
 - (1) Implementing data collection and research to present accurate statistics pertaining to the kinds and types of discrimination women with disabilities face;
 - (2) Improving communication between authorities and agencies to allow better integration of human resource and resource sharing, so as to propose and fully implement a comprehensive plan for the protection of the rights of women with disabilities by involving all stakeholders including government agencies, civil society and women with disabilities in the process;
 - (3) Devising future courses and workshops on human rights education for all civil servants.
27. In response to Paragraph 20 of the State Report: Globally, one in ten people are considered as Persons with Disabilities (UN Women Watch, 2016), of which 51% are women (Disability Awareness in Action, 2015). Compared to developed countries such as Sweden where Persons with Disabilities account for 16% of the total population, ours is significantly lower at 5%. While the population of women in our country aged 30 and above outnumbers that of men, the number of women with disabilities at all age groups is lower than that of men with disabilities. This phenomenon differs from trends seen globally. For example, in Sweden the population of women with disabilities outnumber that of men with disabilities. It begs the question: Do these statistics accurately reflect actual numbers or are they a gross underestimation? Perhaps it can be attributed to the fact that Taiwan's definition for Persons with Disabilities deviate from the norm. It is recommended that more studies be conducted to ascertain the cause of this phenomenon.

The Gender Equality Policy Guidelines lacks specific provisions to protect the rights of women with disabilities (in response to Paragraph 21 of the State Report)

28. The Gender Equality Policy Guidelines, enacted by the administration in December 2011 and amended in January 2017, serves as the fundamental premise for programs and policies pertaining to issues of gender equality in our country. However, we are concerned that the Guidelines do not adequately address and protect the rights of women with disabilities. Firstly, there was no consultation or involvement of bodies representing women with disabilities during the various phases of development, implementation and revision of the Guidelines. Moreover, while the proposal did raise the subject of women with disabilities and the disadvantages they deal with in their private and public lives, it was sorely lacking in concrete measures and action plans to counter the problem.

Employment Challenges for women with disabilities (in response to Paragraphs 22 and 23 of the State Report)

29. The employment rate of women with disabilities in Taiwan is 11.8%, well below that of men with disabilities (22%) and women in the general population (48.7%). In addition, 23.5% of unemployed women with disabilities reportedly suffer discrimination and unfair treatment, a percentage that is higher than that of their male counterparts (15.1%). In the Gender Mainstreaming Executive Plan of 2014-2017, the Ministry of Labor pledged to provide and/or create 1,500 jobs for women with disabilities each year, but there is no statistic available indicating how many women with disabilities who have successfully entered the workforce through the scheme. The report also stated that the Ministry planned to increase vocational courses and training rates amongst women with disabilities from 48% to 48.5%. It is unclear whether these schemes have been effective in improving employment and training rates in women with disabilities. In addition, the government has not provided appropriate resources and assistance to women with disabilities whose obligated duties in the home hinder their active participation in training and return to the workforce.
30. It is recommended that the following actions be taken to improve the employment rate of women with disabilities:
- (1) Undertaking effective measures such as reviewing quota systems in the workplace, encouraging job redesign to better accommodate the characteristics of people with disabilities, and providing access to vocational training and jobmatch service.

- (2) Analyzing and determining the barriers present to women with disabilities who are seeking gainful employment and implementing effective measures to improve the situation.

Barriers to education due to gender inequality amongst Persons with Disabilities (In response to Paragraphs 24 and 25 of the State Report)

31. Women with disabilities have lower levels of education: According to the 2011 Assessment Report on the Living Conditions and Needs of women with disabilities, the illiteracy rate amongst women with disabilities is 26.43% (compared to 7.35% for men with disabilities). In contrast, while 38.7% of the general population aged 15 and over possess college and above qualifications, only 11.12% of People with Disabilities possess similar qualifications; with women with disabilities at 7.3% and Men with Disabilities at 13.99%.
32. The current regulations and policies have not adequately addressed the problems of low school attendance rates amongst women with disabilities and gender inequality in education. As the State Report and the annexed Table 6.2 indicate, during the academic period of 2011-2015, the average enrollment of women with disability in all levels of education was 32.92%, a number that is significantly lower than that of men with disability (67.08%). If the Government argues that there is sufficient legislation and support systems available to ensure that the discrimination barriers have been removed, why is there no significant improvement in education statistics of women with disabilities during those academic years?
33. To ensure that women with disabilities enjoy equal rights to education, we recommend that the government commission a comprehensive and in-depth survey to better understand and determine the barriers to education they face. This includes survey statistics of women who receive other forms of education (for example home education) and impact assessments of social prejudice, gender roles and stereotypes, accessibility disparities between urban and rural areas, sexual violence/abuse and personal safety, and the lack of a barrier-free and gender-sensitive infrastructure.

Insufficient opportunities for women with disabilities to participate in policy-making (in response to Paragraphs 21 and 26 of the State Report)

34. In recent years, while the government has actively promoted the one-third gender principle to executive committees from various organizations in order to increase

women representation in all areas of governance, women with disabilities remain sidelined. Specific requests were made in the Gender Equality Policy Guidelines for all relevant parties, including the gender equality task force, the Municipal Women's Rights Council and gender equality advocacy groups, to increase the representation and participation in governance and policy-making of women and LGBTQ people who are from the indigenous group, new immigrants, in older age, with disabilities, in employment and from the agricultural and remote areas. However, with the exception of activist groups for women of disabilities, there remains little to no representation of women with disabilities in the offices of the central government and municipal councils and even organizations representing equal rights for women. There are regrettably no seats in our current legislative council who represent the interests of women with disabilities.

35. We recommend that the government consult the CRPD, as well as the General Comments and the "Incheon Strategy"³ presented by the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) in 2012 to develop incentives and/or action plans encouraging active participation of women with disabilities in areas of policy-making and legislation.

Article 7 Children with disabilities

36. Currently, decisions on matters relating to children with disabilities are mainly based on the opinions of parents, guardians and relevant professionals, instead of actively listening to and engaging the children themselves. We recommend that the government should provide a supported decision-making mechanism that is suitable for children's age and maturity, as stipulated under Article 7(3) of CRPD, in order to ensure the right of children to fully participate in and to express their own decisions.

Segmented, incoherent system of service in early intervention (in response to Paragraphs 28 and 29 of the State Report)

37. Early intervention involves cooperation across professional disciplines, and requires collaboration from parents, pediatricians or pediatric neurologists, child psychiatrists, clinical psychologists, physio- /vocational/speech therapists, special education teachers, social workers, and other professionals in order to provide the most appropriate plan for the development of children with disabilities. This

³ United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), 2012, ["Incheon Strategy to 'Make the Right Real' for Persons with Disabilities in Asia and the Pacific"](#).

requires the administrative support of government departments (including social, educational, and health departments), hospitals, relevant organizations and schools, in providing a system for the planning of various services, establishing a center for notification and referral services, and a joint center for evaluation, in order to realize the provision of early intervention service.

38. Currently, early intervention service at various stages and aspects face the problem of being segmented and incoherent. The State has not established a comprehensive system for reporting and case follow-ups (including recording the development process of children with disabilities, assessing whether they are receiving proper service in early intervention and compulsory education, whether the caregiver has enough knowledge for providing care and awareness on the existence of advisory, support and referral services and so on). This results in a lack of supportive plan for integrated services targeted at children with disabilities. Moreover, given the imbalance in distribution of resources between urban and rural areas, most parents would transfer their registered address to areas with better resources, leading to a discrepancy between registered address and residential address for children with disabilities. Not only would the household registration office find it difficult to monitor the actual residential place of these children and to follow-up on cases, the children with disabilities themselves may not be able to take advantage of services provided locally (e.g. rehabilitation buses).
39. We observe that due to the myth of a 'golden window for cure', many children who were judged as being slow in their development have long experienced tremendous physical and psychological stress and pain while receiving early intervention. Therefore, we have some doubt as to what medical experts have considered as 'progress'. If a child needs to undergo such great stress in treatment in order to meet the standards of 'progress' as defined by the adults, we question if this is keeping the best interests of the child as primary consideration as required by Article 7(2) of the CRPD.
40. We recommend:
 - (1) Once a child's disability has been diagnosed and identified as such, the State should initiate a mechanism of communication chain, involving the departments of household registration, social affairs, health, police, and education, in order to establish a comprehensive reporting and referral mechanism, to ensure that children with disabilities will all receive the care, assistance and support as they should receive during each stage of their growth and development.
 - (2) Every child with disability should have one or more social worker to provide long-term service and consultation. When it comes to service and support for Children

with disabilities, there should be no difference between urban and rural areas. In allocating budget, the State should apply standards of equality in the support of these services and related facilities for Children with disabilities regardless of their location.

41. With regards to the rights of access to healthcare for children with disabilities, please refer to Paragraphs 204-206 of Article 25 of this Report.

Neglected right of Children with disabilities to play

42. Regardless of whether a public playground is established by private or public funds (including parks, school compounds, dedicated playgrounds, etc.), there should be barrier-free facilities adapted for use by children, such as toilets, tables and chairs, counters, and information signage. The intended facilities and equipment of such playgrounds (game equipment) have to incorporate inclusive designs to enable children with disabilities to interact and enjoy themselves with other companions. Stationary spaces of display or performance should also consider the right to equal participation for children as performers or as audience.
43. With regard to the capacity of children in mobility and the issue of assistive devices, refer to Paragraphs 158-160 of Article 20 of this Report.

Rights of children with epilepsy (responding to Paragraph 31 of the State Report)

44. Although the Ministry of Education indicated in the State Report that there are policies to protect the rights of children with disabilities to attend schools, many of these policies were not implemented. It is difficult for children with multiple disabilities to attend schools in the vicinity of their homes, and it is not uncommon for them to be bullied in schools. Take children with refractory epilepsy as an example, because of limitations in mobility, frequent episodes of attack, and intractable medical conditions, they encounter difficulties in daily lives and schools. Families who are unable to take care of the children have to seek assistance at nursing homes, but are often rejected because of the severity of their conditions. The support and care services stipulated in Article 50 of the *People with Disabilities Rights Protection Act* were inadequate for the families, consequently children with epilepsy often could not receive timely treatment and education. Regarding the environment for education, the Ministry of Education should enhance teachers' ability to recognize symptoms of neurological disorders such as epilepsy, and

equip them with the ability for emergency care of common types of epilepsy episodes such as generalized tonic-clonic seizures.

Sexual Abuse and Maltreatment in Special Education School & Institution (in response to Paragraph 36 of the State Report)

45. There have been many reports of sexual abuse, harassment and use of physical punishment in Special education schools and institutions. Teachers and administrative officers in these affected schools and institutions often attempt to resolve incidences of abuse through suppression and cover-ups, while the governing agencies in the Ministry Education take a passive stance. In the high profile case of systemic group sexual abuse committed in Tainan Special School, an investigation by the Humanistic Education Foundation found there were 164 sexual abuse and sexual harassment cases between 2009-2011 among a student population of just over 300. Out of these cases, 70 cases were never reported to the local authority in accordance to the law, 87 cases were not reported to the Ministry of Education, 44 were never investigated or dealt with by the school, while 17 were dealt with by the school in a manner contrary to the law. Merely 18 months after the initial investigation, the school reported a further 32 cases of sexual abuse or sexual harassment, clearly showing the problem was never properly investigated and resolved, and government agencies were still taking an administrative monitoring role, rather than actively investigating and taking appropriate actions. The Government should take active steps in reflecting in-depth the systemic problem that exists within the special education sector, formulate comprehensive response strategies in order to resolve the systemic and structural causes of abuse within the special education sector.
46. The existing structural deficiencies means the special education framework cannot cope and engage with incidents of sexual harassment and sexual abuse. Some of the causes include inadequate professional training of special education teachers and deficiencies in the certification and evaluation framework causing school staff unable to cope with reports of abuse; shortages in teaching and management staff means most schools adopt a centrally administrative scheme to manage issues, making them unable to respond to specific needs of individual students, or unable to effectively manage and monitor staff working in the school due to severe management pressure. Furthermore, the government funding to special schools remain inadequate, causing institutions to hide and suppress reports of sexual abuse and other inappropriate behaviors in fear that they will lose funding if the reports are publicized.

47. There is a lack of understanding towards persons with disabilities from the general public as well as among teachers, this leads to a dismissive attitude toward issues affecting persons with disabilities and a reluctance to proactively resolve problems. Students who lives in school and those who are institutionalized long term often do not receive proper sexual abuse education or awareness raising from the school, leading to victims of sexual abuse at the hands of other students or even teachers turning around to using sexual favor or to perpetrate sexual abuse for revenge. This vicious cycle within the group turns sexual abuse victim into sexual abuse perpetrators.
48. Students with intellectual impairment often cannot articulate their abuse clearly, causing them to end up being in the 'black hole' of reporting sexual abuse and mistreatment. During the five-year investigation of the Tainan Special School case, the investigator only focused on cases of abuse among students with hearing impairment and ignored the possible abuse perpetrated against the over 150 students with intellectual impairment.
49. Ministry of Education's disciplinary actions against the teachers and administrative staff involved in the case of Tainan Special School was inadequate and insufficient. Perpetrators only received warnings or had demerits recorded against their record. Further, the Ministry of Education Gender Equality Committee's investigation into the case uses dismissive language in their findings to explain causes of serious sexual assault allegations: "Teaching staff lacks the requisite sensitivities towards gender equality issues", "boarding students supervisor and bus guardian were ignorant and careless in their attitude", "School was not able to protect the physical security of the victims, or lack the willingness to engage with victim's concerns", "School failed to provide adequate and sufficient counselling services tailored to the students affected", "some teachers lack adequate sign language skills causing miscommunications between students and teachers". Given the seriousness of the sexual abuse allegations, the findings of the government investigation and the disciplinary actions shows a lack of seriousness taken by the government in tackling sexual abuse in special education schools. This is in contradiction of Article 7, paragraph 36 of the State report, which stated that "the Criminal Code has a special punishment increase provision to strengthen the protection of children and people with disabilities in sexual assault cases".
50. Other than sexual assault cases, there have also been cases where special education teachers have received criminal sanctions after excessive physical punishment of their students. There have also been many reports of special school staff perpetrating physical abuse and violence against their students. In 2013, the Humanistic Education Foundation received several complaints of physical abuse

from special schools in Taichung and Tainan, but in most cases, the school adopts a deny and stall tactic to respond to these allegations raised by the foundation. We recommend that in order to protect special needs students' right to education and to ensure they can receive that education free from fear, the Government should actively formulate substantive and meaningful actions to prevent this all abuse from repeating itself in impunity.

51. We recommend: Special education schools have the primary objective of providing a suitable and adapted learning environment for students with disabilities and special needs. This should be achieved through appropriate teaching tools and pedagogy as well as with specially qualified teachers who are passionate and patient, allowing the students with disabilities to learn and develop skills in independent living as well as making future contribution to society in a safe and professional environment. If the school fails in its duty to provide the necessary learning environment, the Government should consider allowing professional groups who are not part of the government educational system to take over the schools. The Government should also increase and emphasizes the responsibility of the school system in the caring, protection, and education of students with disabilities, and severely punish school officials who fail in their duty, through appropriate disciplinary measures, dismissals, or a permanent ban on teaching. We recommend the Government and relevant educational agencies can work together with Special education schools and institutions to properly reflect and reform any potential for harm within the special education framework to develop and implement appropriate protection mechanism to ensure abuses within the school never occur again.

Article 8: Awareness-Raising

52. Even when persons with disabilities reach adulthood, the general public still regards them as a child or an incapacitated person who is in need of protection, often restricting their participation in social life on the grounds of safety, and resulting in their lack of confidence in enjoying equal rights. Lack of awareness of all types of disabilities is also the source of bullying, mockery and discrimination, for example, children with epilepsy being mocked by their schoolmates when suffering from a seizure in the school.
53. Discriminatory descriptions and wordings are still commonly used in existing regulations and laws. For instance, article 26 of *Enforcement Rules of the Prison Serving Act* and article 7 of *Enforcement Rules for Statute of Progressive Execution of Penalty* used phrases such as "crippled" and "retarded" to refer to persons with

disabilities. The MOJ should take the initiative to eradicate discriminatory wordings in laws by screening the contents and phrasings of all regulations referring Persons with Disabilities.

54. Despite the fact that National Communications Commission (NCC) have the power to impose disciplinary sanctions on media outlets reporting in a discriminatory manner, as well as the establishment by national media companies of a Self-Discipline Committee, the media still lacks the correct understanding and sensitivities in accordance to their journalistic ethics relative to disabilities issues. Reports often link adverse events to some kind of 'suspected' mental or physical disabilities without the proper verification process being carried out first. For example, the media often overstate the risks posed to the society by drivers who have a physical disability, or that exaggerating persons with disabilities as 'emotionally unstable', 'dangerous', 'ticking time bomb' in the reporting of criminal events.
55. The Government need to adequately address:
 - (1) How can the public education system, especially in the compulsory education sector, other than specialized education program in higher education, do to raise awareness and understanding of the general public on issues relating to persons with disabilities and their rights
 - (2) Is there any in-depth education and advocacy for different types of Persons with Disabilities in the government's awareness-raising programs targeted for media institutions and employers, especially about persons with mental disabilities, and how is its proportion?
 - (3) If the dissemination of content involves discrimination and stigma, the government should declare whether the National Communications Commission (NCC) and other mechanisms have been involved to implement disciplinary actions, and whether it has published these rulings identified and also comment on their effectiveness, including whether the punished media was subject to correction of its report.

Article 9 Accessibility

56. Absence of a comprehensive accessibility policy framework: The government should be held responsible to include accessibility into preliminary plans of public policies and urban development. Accessible environment should be established through budgetary screenings, suggestions and evaluations, rather than passive, slow, and scattered improvement based on individual complaints.

57. Uneven distribution of resources due to insufficient evaluation: Existing accessible facilities are insufficient, and not designed to be adaptable for different needs. For example, insufficient accessible facilities and wheelchair accesses in theatres, railroad systems and mass transportation services results in difficulties for persons with disabilities and competition among them to use those facilities, or lead to extended waiting time.
58. Persons with disabilities are unable to live independently due to lack of technological integration: The tendency of segregating persons with disabilities from general services is still widely observed. Persons with disabilities cannot access ticketing services over the internet, and are unable to designate a companion seat during the booking process. Persons with disabilities still rely on assisting personnel to operate ticketing (or 'specialized' depending on what is appropriate) kiosks as they are not designed with accessibility in mind.

Physical accessibility (in response to Paragraphs 44-53 of the State Report)

59. In response to Paragraphs 44 and 49: Current barrier-free legislations only covered the physical building itself, limiting wider participation of persons with disabilities. For example, the definition of "public space" in the *Tobacco Hazard Prevention Act* refers to any space that is designed for public use. However, by comparison, the definition of "public space" in Acts that regulates accessibility is limited to fixed buildings. Surrounding environment such as non-fixed facilities and temporary exhibitions are not covered by the Acts. We recommend that when legislating laws concerning rights of persons with disabilities, the government should actively consider all aspects of the overall life experiences of persons with disabilities before carefully placing their different needs into categories for more detailed analysis to correctly enumerate the improvements that are needed. Other than fixed buildings themselves, government should also take into consideration the facilities and services, including traffic flow design and information provision, that can be made available to persons with disabilities using all forms of public transport, their stations, ports, and facilities, as well as parks, sporting grounds and outdoor recreational spaces.
60. We recommend:
 - (1) Government in raise current minimum standards on regulatory requirement for barrier-free access: We recommend the government expands the scope to develop better barrier-free access to historical sites and monuments, heritage buildings, and barrier-free access laws regulating existing buildings. Government should hold periodic discussions assessing each individual complaint and increase the

participation of persons with disabilities in those discussions. Finally, periodic nationwide meetings of Accessibility Advisory Panels should be held to facilitate the exchange of recommendations and best practices, making available best practice examples and networks.

- (2) Unnecessary restrictions in the law should be abolished: Public spaces that are accessible by the general public, whether they are publicly or privately owned, should be required to provide services that will allow persons with disabilities to access those spaces on an equal basis with others. This should include all public spaces, such as restaurants, hotel, civic centers, bookstores, theatres, opera halls, community clinics, recreational areas, and camping grounds. Current laws only regulate the actions of government agencies, leaving private company and individual owners skirting their social responsibilities. Where the reasonable distinction can be made between private and public entities in the provision of barrier-free access, that should be based on the extent of burden required (for example, limited barrier-free access in privately owned public space to ensuring access corridors, reception areas and toilets are accessible to persons with disabilities), and not be determined on the physical size of the public space.
 - (3) A comprehensive barrier-free access requirement and auditing framework should apply to all public building that is specific to the type of building and their use (except simple expansion and addition to existing buildings). Government should development appropriate barrier-free programs and trainers, as well as requiring the participation of government agencies, contractors and subcontractors, building supervisors and auditors with the aim to increase the general capacity of barrier free access principles and standards among these professionals.
61. In response to Paragraph 45 of the State Report: There are currently no regulation governing barrier-free access to pedestrian sidewalks. There are also no remedies available where sidewalks are blocked after barrier-free improvements. Despite the fact that the Government have allocated 366.03 million NTD on 'arcade leveling projects', many sections were then blocked by nearby shops with impunity through stacking goods, parking motorbikes and bicycles and road blocks to prevent these sections to be used by others. These roadblocks are often also found blocking barrier-free access entrance to parks and buildings preventing persons with disabilities effective access into these areas. This demonstrates the government's fund are misplaced in targeting providing physical access only, without serious consideration being given to the right of persons with disabilities to move and live independently.
 62. In response to Paragraph 46 of the State Report: Barrier-free access in education institutions remain restricted to teaching buildings only. This impedes the rights

with persons with disabilities' right to fully integrate and participate in campus life. Significant barriers continue to exist in classroom podiums, lecture theatres, libraries, gymnasiums, school shops, activity centers, club and society venues, and even in dormitories. For example, despite all schools are required to have accessible toilets, due to inadequate location planning and numbers of toilets, students with disabilities find it difficult or impossible to use the toilet during the short recess time between classes. Access to classroom podiums and assembly hall stage is often impeded by steps or door threshold, while access to school gates and other entrance pathways are often blocked by physical barriers. Barrier-free vertical access to different floors of school buildings are often inadequate or inconveniently located, causing students with disabilities difficulties in accessing special subject classrooms, activities centers and assembly areas. Students who needs specialized assistance such as a portable hoist or personal assistance often have to bear the burden of paying for these needs. Some schools even require that members of the student's family live with the student in the dormitory to provide required support.

63. Installation of assistive devices by schools should serve the objective of actively improving the participation of school life by persons with disabilities. School should not demand students with disabilities to adapt and use existing second-hand assistive devices. Some schools go even further in preventing students with disabilities from taking assistive devices provided to them by the school outside of school ground, or demand the return of these assistive devices that have been individually assessed and tailored for the student's use upon leaving the school permanently (such as graduation). Individually tailored assistive devices are not necessarily suitable for the unique condition of another student with disabilities, rather than helping students, this is more likely to cause resources displacement and wastage.
64. Schools not only should fulfil the rights of persons with disabilities to receive an education without discrimination and on the basis of equal opportunity in accordance to Article 24 of the CRPD, they also serve the important function of allowing persons with disabilities to practice independent living and receive appropriate vocational training. However, students with disabilities are often excluded from participating in laboratory, physical education and classes with practical component. We recommend schools should collaborate with vocational training teachers to design and implement the necessary assistive devices and workflows to allow students with disabilities to fully participate in practical and laboratory classes, as well as ensuring that teaching materials are suitable for the challenges of the students' future career.

65. Regarding how these issues impact on right to education of students with special needs, refer to article 24 of this Report.
66. Recommendations:
- (1) Each school should establish a committee to promote barrier-free access, with membership that include current students with disabilities and their parents. All out of campus class and field trip activities should ensure barrier-free access to students with disabilities, including transportation and any other assistive services that are required.
Committees that supervises rights of persons with disabilities shall be included in official institutional design of school administration, current students and guardians shall be included as commissioners. Accessible programs shall be included in plans of field trips or outdoor activities, providing accessible transportation and assisting personnel.
 - (2) When planning and allocating resources for future long-term policies, especially in the area of education, social, and labor welfare, The Government should adopt a person-centered philosophy and design, ensuring the development assistive strategies are individualized to the specific need of each person with disabilities. The government should take the person-centered stance and design the allocation of resources, devices and assistance based on education, social welfare, labor welfare and long term nursing policies in the aim of individualized assistance.
 - (3) The Ministry of Education should provide specialized training programs that meets the special needs of students with disabilities for teachers to allow them to facilitate students' full participation in practical and vocational training classes and increase their capacity to meet future living and vocational needs. Some examples might include establishing a database of specialized educational material, research and workshops on design of assistive devices, and drafting adjustment plans and accessibility plan for practical and vocational training classes.
67. In response to Paragraph 47 of the State Report: How can it be possible to improve employment situation without an adequate support system in vocational trainings? Currently improvement to workplace accessibility relies on passive adjustments made in response to specific situation. Due to the fact that offices and factories are not regulated by existing barrier-free laws, it can be difficult for persons with disabilities to even access the workplace premise for their recruitment interview. Because of this lack of accessibility and movement space for persons with disabilities in workplace environment, it is often not possible for persons with disabilities to participate in career skill training courses or on-job training.

68. Vocational counseling and assessment should be used as a tool to help persons with disabilities to realize their potential, rather than another barrier for them to effectively participate in the workplace. However, vocational training facilities, including those run directly by the government, or those under contract or receive grant from the government still don't have adequate barrier-free access for persons with disabilities. A case in 2013 involving a wheelchair-bound person who were evaluated to have failed the written test component of their vocational assessment process, solely because they were not able to access the testing venue due to lack of an elevator in the venue illustrate the continued inadequacies. Currently, vocational training courses targeting persons with disabilities are specifically designed and limited in the fields covered. The government continue to ignore improvements need to address barriers facing persons with disabilities in the workplace.
69. Recommendation: All vocational training facilities receiving government support, whether it is under government contract or grant and including computer/IT training, cooking and auto mechanic training, should adopt and implement appropriate barrier-free access guidelines. Facilities should also provide participants with disabilities with the necessary individualized support services, as well as assistive personnel and devices.
70. In response to Paragraph 50 of the State Report: Article 54 of the "Housing Act" provides protection for the right of persons with disabilities to equality of access to housing. However, the realization of such right remain difficult as the law is inflexible to deal with different situation. For example, the installation of a pitiless elevator would often be the most ideal solution in the confined space of existing aging apartment buildings; however, the Government is not actively seeking to amend existing law on lifting devices for better barrier-free access. Even if person with disabilities is successful in gaining government subsidy to improve barrier-free access to common areas in the building they reside in, it is often met with objections from other residents in the building claiming infringement to their property rights and refusing to consent to the work required. Although the "Housing Act" would override other autonomous ordinances and executive orders, the implementation and enforcement of the protections provided for in the "Housing Act" remains difficult. Even if persons with disabilities can improve the accessibility within their residence, they are effectively locked inside their home and unable to access the rest of the building.
71. In response to Paragraph 52 of the State Report: Barrier-free access to financial services remain unrealized. Current legislations require banks to ensure their physical premise be made barrier-free, however there are currently no legislative

requirement for banks to install barrier-free Automatic Teller Machines (ATMs). It was not until 2016 when the government started to take actions in improving existing situations. However, barrier-free ATMs remain limited in its distribution and numbers. Finally, existing counters in most banks are too high causing difficulties persons with disabilities to perform necessary banking functions such as signing documents.

72. In response to Paragraph 53 of the State Report: Government policies towards providing barrier-free access to outdoor recreational areas are shallow and avoid tackling the deeper accessibility issues facing persons with disabilities. For example, the “Principles for the Establishment of Accessible Facilities at the Main Entrance of Urban Parks and Greeneries”, enacted by the Ministry of Interior in 2014, only require barrier-free access to main entrances to these spaces. This means an outdoor space would be in compliance with the law even if only one of its entrances have barrier-free access. It is not required that other entrances, or any other facilities inside the park, such as adult exercise and children’s playground facilities’ to be made barrier-free. This results in persons with disabilities unable to exercise their rights to enjoy these recreational areas equally to all others. Finally, Government regulations on National Parks and National Scenic Areas only extend to physical buildings, ignoring other facilities such as outdoor footpaths, traffic flow planning, and observation areas without barrier-free access requirement.

Public information (in response to Paragraph 54 to Paragraph 56 of the State Report)

73. Information relating to barrier-free access provided by the Government are often difficult to access. The most common platform for information dissemination has been through the use of mobile apps. But persons with disabilities who needs to access these apps would be required to own a smartphone that is capable of running these apps. Many people with disabilities, especially elderly people, lacks the economic capacity and the technical knowledge to access the platform. Current information is also provided in a segregated and singular manner. For example, information regarding barrier-free (step-free) buses is not incorporated into the existing bus scheduling apps. A person with disabilities who wishes to access such information would first need to use an app to find out the schedule of the bus they require, then use another app to confirm that the bus used for that time has step-free access, making the information difficult to access and use.

74. We recommend:

- (1) Activities and events that are organized by government agencies, or receive funding from the government should clearly indicate related barrier-free access information available in both promotional material and at the venue. Event organizer should ensure that such information includes, in a clear and easy to access format, location and barrier-free transportation options to get to the venue, available facilities, and how they can access regulatory required assisting staff and services that must be made available to ensure barrier-free participation of the event. Any limitation to these facilities will need to be clearly explained. We also recommend the Government should introduce legislation that stipulate the requisite barrier-free facilities in these events.
 - (2) Other than the main pages of governmental portal websites, event-oriented themed website should also actively update and integrate accessibility information.
75. Barrier-free access to information for hearing impaired persons: Currently sign language translation is only available in one news program broadcasted by the Public Television Service (PTS). While other channels provide sign language translation during the broadcast of significant news events, the sign interpreter usually only occupies approximately $\frac{1}{8}$ of the screen, and is often blocked by news tickers, subtitles and other graphics shown by the broadcaster. This often results in the sign language interpretation being blocked anyway and persons with hearing impairment are still not able to access the content of the translation.
76. We recommend:
- (1) Legislate mandatory sign language interpretation during news broadcast across all TV stations. Sign language interpreter should take up at least $\frac{1}{6}$ of the available screen space. The Government should further prohibit and punish any covering, cutting or omission of sign language interpretation.
 - (2) Legislate to require news broadcast should be provided with Subtitles to make news more accessible to hearing impaired persons.
 - (3) Government should broaden the use of sign language interpretation across different activities and events, not only limited to presidential election debates, but also extend sign language interpretation to cover municipal, district mayoral and legislative representative elections as well.
77. Barrier-free access to information for visually impaired persons: Despite the availability and convenience of electronic books, publishers are not required by law to provide formats that can be accessible to both visually abled and visually impaired persons. Visually impaired persons therefore have to rely on third party voice over software, delaying their access to the same material. We recommend

that all publications should be required by law to be published in barrier-free accessible formats, as well as providing services to those who have other difficulties access conventional printed publications.

78. The Government should legislate to require the availability of barrier-free access to information: Whether it is material available physically or those published online, the information should have a barrier-free access version. This can be achieved through a combination of graphics, symbols, colors and texts to create easily recognizable and understandable information for persons with both physical and mental disabilities, allowing them to fully integrate into the society.

Transportation and Communications (in response to Paragraph 57 to Paragraph 60 of the State Report)

79. In response to Paragraph 57 of the State Report: The Committee for the Promotion of Accessible Transportation Environment, established by the Ministry of Transportation and Communications have invited representatives from organizations of people with disabilities and relevant experts and scholars to serve as members of the Committee. However, the work of the Committee is not open for more persons with disabilities to participate directly. The Committee members appointed by the Government lacks true representation of persons with disabilities' interests, it is difficult for persons with disabilities to submit feedback in a timely fashion, and the Committee members lack actual authority to affect changes within the urban planning process. We recommend all meeting minutes of the Committee should be made public, as well as allowing for attendance and participation of the public. Persons with disabilities should account to at least one-third of the Committee membership, and their appointment be recommended by civil society groups.
80. In response to Paragraph 58 of the State Report: Until 2016, more than 46 percent of buses in urban areas were upgraded to non-step models. However, due to interregional gap, for the countryside with underdeveloped transportation system, insufficiency is more apparent than ever before. Upgrading program targeting freeway schedule bus services that initiated by the government in 2014 were not successful. There are only one to three accessible buses per route, which are not included in ordinary services. Schedules are not transparent, thus rendered this program useless.
81. In response to Paragraph 59 of the State Report: Even though station for High Speed, Taiwan Rail, Mass Rapid Transit, and Light Rail Transit systems are in

conformity to accessibility regulations, the actual carriages of these systems still lack a comprehensive and cohesive barrier-free access design and plan. There is currently a severe shortage of wheelchair and companion seats in public transport carriages. In addition, barrier-free seats on Taiwan's High Speed and normal train services cannot be booked online, causing unnecessary inconvenience for persons with disabilities. High Speed Rail (HSR) stations are mostly located in suburban area where shuttle service is needed to get to the city center. However, the buses used in these shuttle services are not completely barrier-free, causing persons with disabilities taking more time to travel from HSR stations to city center than using HSR itself. Despite the fact that barrier-free access enabled taxis were included in the Government's transportation policy, the number remain extremely low, with only 404 taxis equipped with barrier-free access out of approximately 90,000 taxis across Taiwan according to a 2014 survey.

82. Recommendations:

- (1) Public transport should be subjected to legislative requirement to include gradual improvement and performance indicator targets. Vehicles used in public transportation can be re-designed through multi-purpose design strategy to increase the number of wheelchairs they can accommodate. We recommend that every carriage should have space for at least four wheelchair seats. Designs in the door and aisle of carriages should be done with multiple use in mind, allowing for additional wheelchair spaces spread across the carriages. This can be done through fold-up seating in the carriage for example. All seating options shall be available through online ticketing services.
- (2) In areas where public transport resources are scarce, priority should be placed to increase the number and ratio of barrier-free access enabled minibuses and taxis, as well as providing subsidies to allow persons with disabilities the freedom and flexibility to choose the method of transport that is most convenient for them. We recommend the Government to further legislate to require the number of barrier-free access enabled taxis to be at or above 20% of the total number of taxis within the next five years. Interior design of the taxis should also be multi-purposed, with seats that can be fold up easily to accommodate passengers with disabilities.

83. In response to Paragraph 60 of the State Report: The responsibility for providing barrier-free access to passenger ships falls on the Maritime Port Bureau, Ministry of Transportation and Communication, with the planned completion of the "Regulation for Administering Passenger Ships" by the end of 2016. However, hardware facilitating barrier-free access at ports and onboard passenger ships remain inadequate and limited, with assistance primarily coming from staff

working at these facilities. The Regulation does not even specify the minimum ratio of wheelchair seats that must be made available in ports and onboard passenger ships. We recommend the Regulation should include: Passenger ships should be designed with the need of wheelchair-bound passengers in mind, working towards a multi-purpose design model. Ships should be required to have more than merely 1% of wheelchair space made available to passengers who require it. Ships and ports should be equipped with barrier-free toilets, and announcement of important information should be made in both voice broadcast and text display on screen. Information relating to boarding and ticketing and any necessary human resources to assist passengers with disabilities should also be taken into account in the planning and design of the facilities. Government should conduct comprehensive audits of ports and docking facilities, making the result public, and coordinate a reasonable timeline for implementation of improvements in consultation with civil society groups representing persons with disabilities.

84. Recommendations:

- (1) The Civil Aeronautics Administration should develop and enact comprehensive procedures targeting services provided for passengers using electric wheelchairs. This should include regular education and trainings and a simplified complaint mechanism to handle complaints arising from the use of, battery limitations, and the transportation of electric wheelchairs in accordance to international regulatory framework.
- (2) State and people representing persons with disabilities should engage with commercial airlines, encouraging them to lift restrictions on the number of persons with disabilities that are allowed to board any flight, the selection of seats, use of wheelchairs and type of wheelchairs that can be on board, as well as not confiscate the battery of necessary assistive devices needed by persons with disabilities while onboard.

Other facilities and services

85. It is recommended for the government to develop and draft design guidelines and guiding documentations on providing barrier-free access that can be adapted to different type of public venues and facilities. The documentation should include recommendation for venue administrators to provide basic barrier-free access facilities, information, additional resources, and incidents response mechanisms designed for people who have physical, mental, hearing, and visually impairment. Government should also promote the guidelines through regular training covering both government and privately owned spaces.

86. Public spaces should provide support or respite areas for persons with disabilities. Currently facilities available in public spaces ignores needs of persons with mental disabilities that are invisible to others, leading to an exclusion of the protections they are entitled to. Utility spaces for flexible use shall be provided in public spaces.
87. The lack of support and respite areas causes persons with mental disabilities, including emotional and chronic psychological sufferers, persons with psychiatric illness, and persons with Tourette Syndrome, to be admitted into hospital or be subjected to compulsory hospitalization orders as their only option in time of needs. This negatively impacts on their ability to complete their studies and work, leading to further stigmatization by society of them evading their responsibilities or unable to handle pressure.
88. People who require to perform peritoneal dialysis in public places face severe limitations. Most public places lack spaces that are suitable for people needing dialysis. It is a common misconception that the procedure can be done in barrier-free restrooms as these restrooms often lacks the required hygiene standards to be suitable for dialysis procedures. Specifically designed medical room is still uncommon in public places, where persons requiring dialysis are often prevented from using nursing / breastfeeding rooms as management of the public place may feel that the use of nursing room for this purpose is against regulation. The lack of suitable dialysis space severely restricts the liberty of persons who requires it, but is currently not protected under any legislation.
89. For persons with autism spectrum conditions and Tourette syndrome, quiet personal spaces are essential in public places. It is recommended that public places should be equipped with suitable private space, providing preventative and incident support.
90. Places for public use should be equipped with the necessary assistive devices to fully a realize barrier-free life for persons with disabilities. Portable hoists should be made available in hospitals and hotels to allow persons with severe disabilities to easily get on and off their bed. Swimming pools should also be equipped with portable hoists, accessible changing facilities and wheelchairs that are suitable for underwater use. These assistive devices should not be restricted to only specific persons with disabilities, but designed in such a way to allow all who might have the need to access various assistive devices available at the venues.
91. The realization of Barrier-free housing. The housing environment should be made barrier-free in residence of persons with disabilities, rented residence, school, dormitory and even at remand centers and prisons. Facilities should incorporate

resources that are specifically designed for each individual to provide for reasonable and appropriate support to persons with disabilities.

92. Accessibility in working environments and trainings, refer to Article 27, Paragraph 218-219 of this Report.

Article 10 Right to Life

Doctors Should Not Actively Recommend Abortion

93. In response to State Report section 67: According to Article 11 of the Genetic Health Act, if a fetus is found to have abnormalities during a prenatal examination, it is the duty of the physician to inform the patient and/or their partner and, if deemed necessary, make recommendations for an abortion. Article 9 states that in the event where the pregnant woman, her partner and/or their biological parents suffer from any form of hereditary, infectious or psychiatric disorders, the mother has the right to seek abortion procedures voluntarily. However, due to the general discrimination against people with disabilities, women with disabilities are routinely subjected to strong persuasions by physicians to terminate their pregnancies. Without adequate support and know-how, many feel pressured to take the advice of their treating doctor and 'voluntarily' seek abortions. We recommend that the law is amended to include a legal obligation for treating physicians to inform the pregnant mothers and provide them with assistance and appropriate consultations. Doctors should not influence the mother's decision on her fetus' right to life. Instead they should approach the matter with a neutral attitude and collaborate with social workers and other professionals to provide pregnant women with sufficient resources and information so that they can make their own informed decisions. This also deals with the reproductive autonomy of persons with disabilities, with reference to Article 17, Paragraph 142, and Article 23, Paragraph 164 of this Report.
94. It is worth noting that in the preparation of this report, we found that there were vast discrepancies among human rights groups, women's groups and disability groups with regards to their opinion and stance on prenatal screening and fetal diagnoses. Related issues such as advice for abortion due to abnormalities, abortion rights and abortion timeframe are highly contentious amongst these groups. Human rights and women's groups tend to believe that women should have reproductive autonomy, the right to freely decide whether to give birth to the offspring with disabilities, and the right to decide for abortion without a stipulated

timeframe. They argue that an arbitrary time frame placed without medical basis would only add to the stress they are under. In addition, many political philosophers such as Martha Nussbaum believe that the genetic health laws are not discriminatory against people with disabilities. In particular, it is noted that only a few genetic diseases can be effectively detected during prenatal screenings. If these pregnancies were terminated, it will not affect the overall gene pool or genetic diversity of the population. However, the parties involved in the report and disability rights group do not agree with the above position. We suggest that the words "abnormal" and "obstructing eugenics" be removed from the Genetic Health Act. In summary, all parties agree that the duty of the physician lies solely in informing the concerned parties of their diagnoses. Unlike stated in the Genetics Health Act, they should not be responsible for actively advising abortion for pregnant women whose fetus have been found with abnormalities.

Article 11: Dangerous Situations and Humanitarian Emergencies

95. In response to the Paragraphs 70 and 73 of the State Report: The State Report does not concretely address how to provide assistance in disseminating key information to persons with different types of disabilities on disaster relief, evacuation, and during emergencies. For example, guides can use signs and/or flashing lights to assist persons with hearing disabilities. We would like the Government to explain how the current "Disaster Prevention and Protection Act" accounts for the varying needs of persons with different disabilities in disaster relief and rescue exercises to ensure the protection of persons with disabilities (PWDs) during emergencies.

Incomplete disaster relief system may endanger people with disabilities who depend on electrically powered devices (in response to Paragraphs 71 and 73 of the State Report)

96. Doubts in the capability of the decentralized notification mechanism of each county and municipal government to respond to emergency: According to the "Table on County- and Municipal-level Communication Windows for Handling Issues Relating to Persons on Electrical Breathing Assistance during Blackouts" published by the Social Assistance and Social Work Department of the Ministry of Health and Welfare, section chiefs, section members, or even contracted personnel are responsible for providing frontline disaster information in twelve counties and municipalities. This is contrary to the stipulation that police departments, fire departments, and township and neighborhood chiefs or their staff take

responsibility for such tasks under Article 30 of the “Disaster Prevention and Protection Act.” The response ability of these communication windows during the chaos of blackouts, communication breakdowns, and severe weather during non-office hours are consequently of concern.

97. The Government is unable to guarantee supply of emergency electricity provision systems in-residence, forcing PWDs on life support systems to evacuate to hospitals to escape from disasters: According to 2015 statistics from the Ministry of Health and Welfare, there are 8,784 families with PWDs that depend on breathing machines, oxygen producing machines, phlegm removing machines, or similar equipment to sustain life. The Ministry of Health and Welfare has established a list of individuals who are in need of secured reserve electrical generators, and created an “Emergency Rescue and Repair Request Agreement” template to facilitate the emergency procurement of equipment during disaster relief. However, when Taipei City and some other counties and municipalities received emergency notices, they do not follow Ministry of Health and Welfare plans in delivering electricity generators to the homes of individuals on the list. Instead, they dispatch ambulances during severe weather to send the PWDs who need life sustaining machines but have no other medical needs to the hospital emergency rooms simply in order to ensure access to electricity.
98. Consequently, we ask the government to:
- (1) Ensure a standardized disaster reporting and handling mechanism between central and local governments are properly implemented: During emergency events, PWDs, primary caregivers, and all local township and neighborhood heads should be able to notify the crisis response center of their situations through police and fire department units, and activate central and regional disaster rescue and relief plans.
 - (2) “Emergency Electrical Supply System for Life Support Equipment” should be included in central and local disaster rescue and relief plans, with demands for implementation by responsible government agencies. Such efforts should include: establishing a name list (of PWD households that use electrical life support equipment), stockpiling small electricity generators and diesel fuel, completing contracts for emergency rescue and repair templates during disasters. The Government should further compile statistics and release reports on care for PWD users of life support systems during unexpected stoppages of electrical supply during disasters and emergencies.

Article 12 Equal recognition before the law

The system of appointing guardians under the Civil Code violates the principle of autonomy, depriving multiple rights of persons with disabilities (in Response to Paragraph 75 of the State Report)

99. The current system of guardianship and its related regulations can be said to comprehensively violate Article 12 of CRPD and against the interpretation of the General Comment No. 1. Under Article 15 of the *Civil Code*, a person who has had a guardian legally appointed (the term used in the State Report is a “person who has become the subject to the order of commencement of guardianship”) lacks legal capacity. Article 75 of the *Civil Code* further states that an expression of intent made by persons without legal capacity is invalid. Therefore, the impact on the rights of such persons is not limited to the area of “property management” as described in the State Report. Rather, the impact extends to all types of legal activity requiring expression of intent, such as marriage, leaving a will, serving as a representative for any public or private juridical person (e.g. as a member of a civic organization, which impacts the rights to freedom of association), disposition of property, expressing consent to medical procedures (which impacts rights to health and personal liberty), election rights, etc. Under Article 5-3 of the *Social Welfare Act*, such persons are deemed to be unable to work. It can be said that their entire social life is highly damaged. At the same time, the system does not include any system of periodic review as required by Article 12 (4) of CRPD. In addition to the full guardianship system, the *Civil Code* Article 15-1 provides for ordering “assistance”, which is a reduced form of guardianship that also restricts the right of persons under such order to make expression of intent.
100. Therefore, according to the interpretation of this article in General Comment No. 1, we call on the government to review the system of guardianship that completely takes away personal rights. Instead, it should move to develop an “assisted decision-making system”. In particular, the government should reform the following aspects of the system of “ordering the commencement of guardianship and assistance”:
- (1) Raise procedural protections: Under the current system of ordering guardianship or “assistance,” the procedure begins with a joint determination by the applicant, a doctor, and a court that the PWD in question has attained a “level requiring protection.” Although the Civil Code provides that PWDs have the right to be applicants, it does not stipulate how a person’s rights will be protected if s/he is not the applicant. Therefore, we propose amendments to the law that would guarantee an independent representative who could advocate the rights of the PWD during any proceedings that could lead to a determination of guardianship;

moreover, such a representative should also have the power to initiate the procedure to cancel the limitations of rights after guardianship has taken effect.

- (2) Establish a periodic review system: Under the current system, once a guardianship or “assistance” has been ordered, there is no duration, unless another application is made to revoke such order. Moreover, courts do not proactively initiate related inquiries. Therefore, we propose that the government should amend the laws to require establishment of fixed duration for guardianship, as well as a periodic review system. The independent representative mentioned above should also be empowered to participate in this procedure.
- (3) Amend the trust system: Although the Trust Law provides a protection mechanism for the property of PWDs, it makes the application for guardianship a prerequisite condition. In other words, PWDs have to first relinquish other rights before they can avail themselves of this protection, which does not comply with the principle of autonomy under the CRPD. We propose that trusts and other financial services be separated from the system of rights limitation, so that PWDs may be able to decide for themselves how to exercise their property rights.
- (4) Consider establishing an “assisted decision making” system: The government should establish a working group to study such a system and prepare a legislative timetable. When studying such a system, reference should be made to the examples of more advanced systems, such as Ireland’s Assisted Decision Making Act, and a wide range of views from PWDs should be sought.
- (5) Until related legal amendments have been completed, when courts are reviewing orders of guardianship, they should consider whether the current Civil Code is compatible with the CRPD. If any incompatibilities are found, the court should apply for constitutional interpretation from the Council of Grand Justices. In such cases, the review process should cease pending the result of the interpretation.

Barriers and discrimination faced by PWDs in the exercise of their legal capacity (in Response to State Report Paras. 76-79)

101. The Civil Code, the Banking Act, and regulations governing the insurance sector recognize the PWDs who are not under orders of guardianship have legal capacity. However, in practice PWDs face many barriers and even discrimination in the exercise of this capacity. For example, persons without disabilities need only produce a stamp and two forms of identification to open a bank account. Whereas, people with visual impairments or persons with cerebral palsy must be accompanied by 2 witnesses, and in addition to open a checking account requires

notarization. The insufficient government support is revealed when people with visual impairments cannot read contract documents, or persons with cerebral palsy are not able to communicate clearly with bank personnel, or people with hearing impairments lack services in sign language or through writing. Such persons must arrange on their own for professional assistants to accompany them in order to open an account or apply for a loan, in contrast to persons without disabilities, who can conduct many affairs very conveniently over the telephone.

102. Therefore, we believe that the government must fulfill its obligations of assistance under CPRD Art. 12 (3), both to urge financial institutions to modify unreasonable provisions, and to provide individual assistance to PWDs who need it. For example, financial institutions should provide reasonable accommodations for PWDs who have difficulty even to leave the house, such as making home visits to open accounts and enabling the use of internet banking.

Article 13 Access to justice

Limited application of legal aid affects right of access to justice by PWDs (in response to Paragraphs 80, 81, and 88 of the State Report)

103. Article 8 of the “Implementation Act” requires the State to provide legal services to PWDs “in accordance with the law” when they seek remedies for violations of their rights. However, the current legal system only provides such service to persons with mental disabilities and other designated disabilities during criminal proceedings. According to the national “Legal Aid Act,” legal aid is first made available to those who are “structural, mental, and intellectually damaged or incomplete, unable to give complete declarations, and have not appointed legal counsel during investigation and trial; or have not appointed any agent during trial, but one is deemed necessary by the judge.” PWDs other than those with psychiatric or intellectual disabilities cannot seek legal aid if they are unable to meet other legal criteria (such as having no financial ability or indigenous status). According to national regulations on judicial procedures, only the “Code of Criminal Procedure” is the only available law on judicial procedure that requires mandatory defense for persons with intellectual or psychosocial disabilities. There is no such legal requirement for administrative and civil proceedings. Consequently, there is doubt whether intellectually disabled persons with intellectual or mental disabilities can invoke the “Legal Aid Act” and receive legal aid in administrative and civil proceedings.

104. We maintain that the current implementation of the “Legal Aid Act” as applied to PWDs is unable to ensure the right of access to the legal process and recommend that the Government conduct a comprehensive review with a view to reforming the Act.
- (1) Expand the scope of legal aid applicability in legal procedures to ensure access to the legal process. Legal aid should be comprehensively available in areas of civil and administrative litigation and non-litigation proceedings beyond criminal and juvenile criminal cases.
 - (2) If comprehensive legal aid is not practicable, PWDs should receive comprehensive legal aid to some degree. For example: legal aid for PWDs in institutions or facilities or those who lack financial ability due to poverty.
 - (3) There should be an amendment to the law that mandates responsibility for the courts, prosecutors, police, social workers, and prison personnel to inform PWDs that they are eligible for legal aid. Related agencies should prepare information on whether legal aid is available to PWDs.

PWDs in legal proceedings unable to receive procedural accommodation

105. In response to Paragraph 85 of the State Report, the State has to ensure physical, facility, information, and communication accessibility by PWDs in legal proceedings: In its Equality and non-discrimination under Article 5 of the CRPD Report (A/HRC/34/26), the Office of the United Nations High Commissioner for Human Rights stressed in Para. 35 that the concepts of “excessive or improper burdens” does not apply to procedural accommodation in legal proceedings. Protections should not be restricted by concepts of “excessive or improper burdens.” The inability to provide procedural accommodation during the exercise of legal right to justices has its foundations in discrimination toward PWDs. Moreover, the CRPD Committee stressed that the detention of PWDs based on claims that they are unable to stand trial or bear criminal responsibility violate regulations in Article 14 of the CRPD when passing Section VIII of the Guidelines on Article 14 of the Convention on the Rights of Persons with Disabilities during the 14th session in September 2015.
106. The need for accommodation reflects the fact that legal procedures or conventions may be incompatible with the practical needs of individual PWDs. Therefore, apart from reviewing, amending litigative powers under the current legal procedures, and regulations on the ability to stand trial, there is an imperative to explore accommodation in legal procedures relating to surveillance, investigation, and

litigation to account for the needs of individual PWDs. The following situations often occur in practice under the existing legal system: Before a PWD appears in court, the court does not prepare accessible information beforehand. Such services are also not provided during the litigation counselling window. Only when a court session starts is there a realization that there is a need for sign language interpretation, electronic files, easy-to-read versions of instructional documents, or readers. Consequent hasty efforts to seek assistance are unable to fully provide accessible information and do not allow equal and effective legal protections.

107. The Government needs to explain:

- (1) Are there statistical data on the number and content of various litigation cases brought by PWDs to the courts?
- (2) Do the buildings used by the Courts, Prosecutors' Office, police departments, police stations, social work offices, and legal aid offices meet accessibility standards that allow access by PWDs with different types of disabilities?
- (3) Do various agencies provide professional sign language translators, Braille, touch devices, expanded and alternative approaches to provide or obtain information or communication and dissemination? If so, what are the numbers and quantity, frequency of use, accuracy of sign language translation, have the sign language translators received professional legal training, who pays for the sign language translation, and who pays for the Braille and related facilities?
- (4) Are accommodations made for PWDs with special needs?
- (5) How is technology used to achieve the above accessibility requirements?

108. Recommendations to the Government

- (1) Comprehensively review and amend litigation powers, regulations on the ability to stand trial in existing legal procedures to enable PWDs to have sufficient support to participate in all legal processes.
- (2) To explore and develop straightforward principles and scope for procedural accommodation that account for individual PWD needs.
- (3) Use statistical data on the number of cases brought by PWDs and their results to establish an "accessible court" on a trial basis. Collect feedback on the trial to understand the practical needs and accommodation necessary for different types of PWDs.
- (4) Accessible information: Establish a complete set of standardized workflows to effectively provide PWDs with accessible information beforehand.

- (5) Consider providing professional stenographers (not clerks) to record notes on court proceedings, investigations, and appeals based on the varying needs of different disabilities.

Access to justice for persons with mental and intellectual disabilities (in response to Paragraphs 80-84, 88-93 and 97 of the State Report)

109. When PWDs are arrested for suspicion of committing a crime, Taiwan's legal system does not have a plan for "competence to stand trial" assessment. Apart from family members, police interviews do not need to involve the participation of support persons, legal counsel, or experts to ascertain a person's competence to stand trial. In practice, the police tend not to initiate a pause in questioning simply because a person undergoing the interview may be a person with intellectual or psychosocial disabilities. Instead, the police would use the inability of the person to understand the right to silence and the need for assistance from legal counsel to act recklessly during interviews. Such actions deprive persons with intellectual or mental disabilities of the equal right to procedural protections and standard levels of assistance from the start of the legal process.
110. Once the investigation process and trial procedures begin, current legislation does not permit prosecutors or the courts to halt investigations to ascertain competency to stand trial even if a person with intellectual disabilities was differentially treated during interviews. Instead, legislation permits prosecutors to use investigation conclusions drawn from the person in question during interviews conducted under limited ability, and conduct investigations and raise charges in ways that are disadvantageous to the suspect.
111. Recommendations to the Government:
 - (1) Amend the law to establish a system for mental health professionals to act as support persons for the persons with intellectual or psychosocial disabilities and to ensure that interviews, trials, inquiries, and investigations do not take place without the presence of these support persons or legal counsel. This is to prevent PWDs from receiving discriminatory treatment.
 - (2) Implement education on the equality of PWDs from legal practitioners to common classrooms. There should be no stigmatization or labelling of the persons with intellectual or psychosocial disabilities. Rather, there ought to be recognition that persons with emotional disabilities, psychiatric disabilities, intellectual incapacities, adaptive obstacles, cognitive and neural disabilities are the same as all other persons with illnesses and are part of society. This approach should reduce public

exclusion and segregation of the such persons intellectually disabled to and facilitate contact and integration of them PWDs in society.

- (3) Persons with intellectual and mental disabilities should be included within the scope of any future anti-discrimination legislation: To prevent situations where persons with intellectual or mental disabilities from being excluded and segregated from society, there should be efforts to avoid stigmatization and discrediting of such persons with intellectual disabilities, and the linking of crime with persons with intellectual disabilities.
112. In response to Paragraphs 91-93 and Paragraph 97 of the State Report, we recommend that the Government further explain: Are there efforts to priorities efforts at improving the treatment of PWD groups that face multiple forms of discrimination to ensure their access to legal protection? Such groups include aboriginal PWDs, women and girls with disabilities who experience violence and ill-treatment, institutionalized PWDs, and children with disabilities. Are there reasonable accommodations to provide for the special needs of PWDs of different ages, genders, and types of disability in the legal process?

Systematic and differentiating discrimination of the persons with intellectual/ psychosocial disabilities in the criminal code (in response to Paragraph 88 of the State Report)

113. Despite that the national “Code of Criminal Procedure” does not include regulations on “mandatory defense” that protects the right of certain PWDs (including those with psychiatric, emotional, and intellectual disabilities) to defense before the judiciary. Hence, explanations and applications of substantive criminal law proceedings under substantive law continue to systematically discriminate against persons with psychiatric disabilities.
114. Article 19 of the Criminal Procedure Code requires for state: “There should be consideration of commutation if the act occurs when psychiatric disability or other similar types of emotional and intellectual deficiencies damage or destroy cognitive ability or control functions.” Commutation should be possible regardless of whether it is mental, emotional, intellectual functions, or drug abuse that causes damage to “cognitive ability” (the ability to discern one’s objective and subjective environment) and control functions (the ability to understand, recognize, and control one’s actions when able to discern one’s subjective and objective environment).

115. However, current legal practice the application of Article 19 to psychiatrically disabled persons automatically limits and shrinks the scope for criminal behavior. Apart from psychological psychosis, all other conditions do not qualify as psychiatric disabilities. Excluded are drug abusers, those with personality disorders, and those with emotional illness. We are of the opinion that such an explanation not only violates the legal principle that “criminal law explanations should advantage the defendant.” but also contravenes the rights of persons with emotional and intellectual disabilities of their right to equal treatment during sentencing.
116. Additionally, when the courts decide whether to apply Article 19, they will often seek the opinion of clinical psychologists and psychiatrists. The courts would often directly ask psychologists and psychiatrists to ascertain whether a person “has ability to be fully criminally liable,” which is a legal question. This causes medical professionals with no legal training to ascertain criminal liability and create the following loopholes: Even if doctors ascertain that defendants are confused due to serious paranoia and acute psychiatric disorders; the defendants may still have “full criminal liability.” The courts use legal standards, ignore prognoses of psychiatric disorders, and conclude that the defendant “has complete criminal liability and there is no need for commutation.”

Require judicial, law enforcement, and medical personnel to receive regular training (in response to Paragraphs 94, 95, and 97 of the State Report)

117. The Government should implement Article 13(2) of the CRPD to promote appropriate training: Even though judges and prosecutors receive related training, this training is neither obligatory nor compulsory. There are few classes available and they lack cooperation with PWD organizations. Whether public defenders, lawyers, law enforcement officers, social workers, medical practitioners, and prison officers receive similar training is unclear. Therefore, the Government should explain whether it has planned or opened obligatory, compulsory, and periodic training sessions to ensure that the aforementioned professionals all receive training.
- (1) Strengthen basic familiarity with the CRPD and mental, emotional and intellectual disabilities among legal practitioners, including judges, prosecutors, and lawyers. Establish large- and medium-sized medical facilities for psychiatric, emotional, and intellectual disability within the jurisdiction of each court and police department to provide timely informational services that address questions pertaining to psychiatric disorders and interviews. This can help the respective jurisdictions

establish standardized work flows and service networks among psychologists and psychiatrists to support interviews of relevant parties. Once it is ascertained that a party is a person with psychiatric disability, all inquiries and investigations should cease immediately.

- (2) Strengthen training in basic legal matters and human rights for mental health professionals. In particular, emphasize proper procedures in “the Convention” and “the Criminal Procedure Code to avoid situations where psychiatric evaluations cross the boundaries of professional competence and knowledge, and make legal determinations that ought to be under the purview of legal professionals instead.
- (3) The content of the training above should include convention rights, procedural accommodation, reasonable accommodation, with special emphasis on Paragraph 109-111 and familiarity with related issues in Paragraph 113-116 of this Report.

To establish support mechanisms for PWDs incarcerated in detention facilities (in response to Paragraphs 105-107 of the State Report)

118. According to provisions stipulated under Article 6 of the “Prisons Act,” when a convicted person is unsuitable for incarceration they have a right to appeal and seek relief. However, when the target of litigation is a prison or related agency, most prisons will not provide professional legal advice or support. Most incarcerated persons are unaware of their rights and unable to seek the protections they are entitled to through legal recourse. This is even more so in the case of PWDs who do not have access to procedural accommodation. In responding Paragraph 35 of Article 5 of the CPRD the report of the United Nations Office of the High Commissioner for Human Rights (OHCHR) (A/HRC/34/26) states that providing procedural accommodation to litigant should not be subject to restrictions by the concept of “excessive or inappropriate burdens.”
119. We recommend: To ensure that PWDs receive effective legal protections on the basis of quality, the special needs of incarcerated PWDs should be incorporated for consideration in prison reform plans. These should include the following: apart from establishing the outward supervisory system for a prison, the current mechanisms for appeals should be strengthened through legislation, the judiciary, monitoring, and the creation of an appeals committee consisting of public litigators from across the country; there is an imperative to provide incarcerated PWDs with practicable legal aid resources (such as telephone voice assistance or facsimile assistance) and procedural accommodation. Each corrective enforcement agency should not prevaricate or delay on carrying out these changes. For matters

pertaining to a PWD's ability to function independently, the Ministry of Health and Welfare and social welfare departments should jointly participate in formulating supportive policies to assist PWDs.

Article 14: Liberty and security of the person

Mandatory hospitalization regulated by the Mental Health Act indeed a form of deprivation of liberty of the person (in response of Paras. 98-103)

120. According to Paragraphs 98 and 99 of the State Report, the government claims that “no one in Taiwan shall be deprived of his/her liberty because of their disability”, and justifies the arbitrary detention of persons on medical grounds under certain conditions in the *Mental Health Act* by interpreting the ‘mandatory treatment’ as one necessary measure to protect the right to health of such persons with a mental health condition. We submit that this interpretation is not only contrary to the fact but the State’s obligation under Article 14 Paragraph 1(b) of the CRPD that persons with disabilities ‘are not deprived of their liberties unlawfully or arbitrarily”.
121. The “Mental Health Act” allows for the arbitrary and a forced detention of a person in a medical facility who has been assessed by a ‘specialist physician’ to be at risk of ‘self-harm or harming of others’ against his/her will and wishes. Despite the Act providing for a procedure for the person detained to seek relief after their detention (for example, the person detained or their legal guardian has the right to ‘petition the court’ for a ruling to cease emergency or mandatory hospitalization), we submit that the existence of a procedural process to seek relief after detention does not justify the position advanced by the State Report in para. 98. that no one would be deprived of his/her liberty because of disability. this is done for the protection of the person detained.
122. We maintain that the compulsory detention policy itself constitutes discrimination against PWDs, contrary to Article 14 of the CRPD. We would remind the Government to pay attention to the “Guidelines on Article 14 of CRPD” adopted by the United Nations Committee on the Rights of Persons with Disabilities in September 2015. Paragraph six of the Guidelines makes it clear that there is an absolute prohibition of mandatory detention on the basis of a person’s actual or perceived impairment, even when State legislation provides for “other reasons for their detention, including that they are deemed dangerous to themselves or others.” The Paragraph points out that this is “incompatible with Article 14, while it is discriminatory in nature and amounts to an arbitrary deprivation of liberty”.

The government should adopt a working schedule to reform the *Mental Health Act* to ensure that it is in compliance of the CRPD.

Mental Health Act falling into a measure of social control

123. The compulsory detention provisions within the “Mental Health Act” have been used by authorities to control public for social security reasons, going beyond the ‘protection’ objective of the Act.⁴This is contrary to the conditions placed in the Act.” Persons and those who are not suffering from any mental issues got detained without having criteria of the Act met even those who are not suffering from any mental health issues got detained, as their liberties were arbitrarily deprived. the liberties of these individuals. For example, in 2014, a youth was arbitrarily detained under the Act after visiting Cheng Chieh, the perpetrator of the 2014 Taipei Metro Attack that resulted in four deaths and 24 injuries, in prison and the youth was questioned by police and placed in forced medical detention by Department of Social Welfare. He was only released after the petition of third party advocates that the detention did not fit with the conditions set by the Act. Similarly, in 2016, following Metro attacks in Taipei, another individual (搖搖哥) who are often seen around the National Cheng-Chi University was detained and placed in medical facilities by police and Department of Social Welfare for no apparent reasons. other than vague complaints by pedestrians.⁵ After strong advocacy effort and petitions to the court by NGOs and a court ruling that the detention was in contravention of the conditions required under the *Mental Health Act* as well as the detained person himself expressed his unwillingness of being hospitalized, he was finally released the next day. Both of these cases involved individuals who was not harming themselves or others, nor did they possess the

⁴ After the Taipei Attack that occurred in May, 2014, a youth went visit the perpetrator in prison. He was questioned by police and placed in forced medical detention by Department of Social Welfare. He sought help from the society in the medical center. There was a petition for habeas corpus made by a third party. He was only released after the Court ruled that neither of the two major criteria of forced hospitalization “severe patient” and “imminent danger” was met.

⁵ In 2016, the following day of a random manslaughter in Neihu, Taipei, an individual (搖搖哥) who are often seen around the National Cheng-Chi University was detained and placed in medical facilities by police and Department of Social Welfare for no apparent reasons other than vague complaints by pedestrians. After strong advocacy effort and petitions to the court by NGOs and a court ruling that the detention was in contravention of the conditions required under the *Mental Health Act* as well as the detained person himself expressed his unwillingness of being hospitalized, he was finally released the next day.

risk to do so. These cases demonstrate a callous willingness of the authorities to use arbitrary deprivation of liberty under the guise of 'mental health protection' to maintain public "peace and security."

124. Paragraph 63 of the Concluding Observation and Recommendation adopted by the International Review Committee in January 2017 states: "The Review Committee recognizes that the compulsory hospitalization for the allegedly mentally ill in accordance with the Mental Health Law is not merely a medical matter. The Committee received information that it has been abused on occasion as a measure for the arbitrary detention of controversial persons but not the mentally ill. It recommends that the procedures for compulsory hospitalization be revised in several respects to assure confined persons' immediate access to fair administrative and judicial reviews, including habeas corpus. Furthermore, the Legal Aid Foundation should revise its requirements and procedures in order to facilitate the earliest opportunity for detained persons to receive legal assistance." The Government should take a leading role in increasing public awareness and understanding of people with mental health disabilities. This will avoid the public abusing or misusing the existing notification mechanisms due to fear and stigmatization, which leads to an exclusion of people 'suspected to be a mental disability' simply because they were 'acting strangely' or seemingly insane.
125. The Government should comment and reflect on the procedural deficiencies of compulsory detention or hospitalization of people with actual or suspected mental health disabilities:
- (1) Frontline police and rescue squad personnel are often forced to deal with public reporting of someone suffering from mental disabilities, without the training and capacity to adequately assess whether the person has harmed themselves or others, the risk of self-harm or harming others, or their risk factors and motivations. This can further exacerbate the fear, stigmatization, and mislabeling of persons with mental disability by the general public. We request the Government explain and comment on whether frontline police and rescue squad staffs are trained and know that they will notify local health department officials. The Government should also examine whether local health departments have a sufficient number of social workers and monitoring staff available to ensure sufficient assistance can be provided on top of their daily community support work.
 - (2) The *Mental Health Act* stipulates that the need assessment for compulsory hospitalization requires the agreement of two medical specialists. While this is motivated by the desire to protect the right of the person being detained, in that there is a cross-checking mechanism to ensure the decision to detain is absolutely necessary. However, the hierarchical structure of Taiwan's medical profession,

where decisions of senior doctors often cannot be challenged by junior doctors and the patients themselves, results in that this 'safety mechanism' cannot be meaningfully utilized. If the medical professionals themselves don't have an understanding and awareness on human rights, there will be additional restrictions or further forced medical procedures being placed without the person's consent.

- (3) The "Mental Illness Mandatory Assessment and Community Treatment Review Committee" ("The Review Committee") is made up of medical professionals, family members, and legal professionals. However, the appointment of the Review Committee members lacks openness and transparency, as well as lacking the participation of the persons who is the subject of compulsory hospitalization. The problem of recruitment leads to unwarranted weight on the opinions of the medical professionals while ignoring the views and voice of the persons themselves. Existing cases have demonstrated that those who are vulnerable to multiple levels of discriminations (for example, a mental disorder on top of being a minority on sexual and/or gender identities minority such as transgender or intersex person) are often lumped in with the majority group by the Review Committee, ignoring their specific multi-level vulnerabilities.

Not all persons subject to compulsory hospitalization are able to file petitions to contest such measures (responding to Paragraph 126 of the State Report)

126. According to statistics from the Department of Mental and Oral Health, Ministry of Health and Welfare, although the number of compulsory hospitalization cases submitted to the Review Committee has gradually decreased, the approval rate remains high at 90% or above (See Table 14.1). However, under the *Mental Health Act*, hospitals have the authority to forcibly detain patients for up to five days without the detention constituting 'compulsory hospitalization' as defined by the Act. This type of detention will therefore not count as part of the department statistics; thus we would suggest the reported number by the government paints the process in better light than is actually the case.
127. The State Report seems to imply that the enactment of the "Habeas Corpus Act" in 2014, giving persons with mental disabilities the right to direct petition to the court regarding their detention, have led to the decrease in the number of compulsory hospitalization and arbitrary deprivation of liberty cases. We submit that the two are not necessarily correlated as other reasons could have contributed to the decrease in the number of compulsory hospitalization cases as determined by the Review Committee. While it is possible the Review Committee have strengthened their review standards under the guidance and monitoring of human rights groups, it is also possible that the hospital and the clinic pressuring the patients

into signing consent form to say that they were voluntarily admitted into the hospital. These practices biased the number of cases that are submitted to the Review Committee.

128. In practice, it is extremely rare for persons compulsorily hospitalized under the “Mental Health Act” to petition their case through the courts process. It is rare to receive a positive outcome for the following reasons: Many of the persons with mental disabilities person detained under the “Mental Health Act” are also restricted in their ability to communicate to the outside and to meet with legal representatives. It is very difficult for detained person to petition to the courts without the assistance of in hospital social workers or other help. The petition application process and legal aid assistance have a very high threshold that is difficult to meet, making it difficult to obtain legal help throughout the petition process. The “Habeas Corpus Act” states that the court shall base its review of the legality of the arrest or detention on the legal basis, the alleged factual circumstances that have given rise to, and the procedural legality of the arrest or detention. The Act does not consider whether the petitioner was actually arrested or detained, or whether the arrest or detention was necessary. This leads to the courts in most cases only consider the procedural legality of the detention, and completely ignoring whether the deprivation of liberty was, legitimate, appropriate, and necessary in their consideration.

129. We would recommend:

- (1) The Ministry of Health and Welfare should properly consider Article 14 of the CRPD and it the Committee’s Guideline on Article 14 providing absolute prohibition of detention on the basis of impairment. It can no longer rely on the reason of protection and treatment to justify the deprivation of liberty of a person with mental disabilities.
- (2) If an absolute prohibition cannot be achieved in the short term, the Government should amend the *Mental Health Act* in accordance to Article 14, Paragraph 1(b) of the CRPD, as well as Article 8 of the Constitution of Taiwan to ensure consistency with the principle of legal reservation by the judiciary. Decisions to deprive a person of their liberty through compulsory hospitalization should be made through proper judicial process, the Judicial Yuan should collaborate closely with psychiatric medical professionals and representative groups to create a Mental Health Court, allowing for proper judicial scrutiny of every case. This will avoid and prevent any compulsory hospitalization that is solely done as an expedient way of achieving public and social security but not medically necessary.

- (3) Mental health institutions should adjust its administration process to allow patients sufficient communication channel with the others as well as upholding their right to seek and meet with their legal representatives, the same right that is afforded to those under state detention. The Legislative and Judicial Yuan should aim to strengthen the review process of habeas corpus cases to critically examine the need and necessity of every restriction and deprivation to a person's liberty.

Table 14-1 Compulsory Hospitalization Review Cases and Approval Rates

Date	Number of cases	Approval	Reject	Approval rate	Rejection rate
2008 Jul - Dec	669	578	91	86.4%	13.6%
2009 Jan-Jun	863	782	81	90.78%	9.22%
2009 Jul-Dec	816	773	43	94.73%	5.27%
2010 Jan-Jun	909	858	51	94.38%	5.61%
2010 Jul-Dec	787	753	34	95.68%	4.32%
2011 Jan-Jun	650	625	25	96.15%	3.85%
2011 Jul-Dec	601	578	23	96.17%	3.83%
2012 Jan-Jun	691	666	25	96.38%	3.62%
2012 Jul-Dec	586	568	18	96.93%	3.07%
2013 Jan-Jun	447	425	22	95.08%	4.92%
2013 Jul-Dec	388	372	16	95.88%	4.12%
2014 Jan-Jun	411	383	28	93.19%	6.81%
2014 Jul-Dec	355	342	13	96.34%	3.66%
2015 Jan-Jun	361	338	23	93.63%	6.37%
2015 Jul-Dec	386	365	21	94.56%	5.44%
2016 Jan-Jun	391	372	19	95.14%	4.86%

Compulsory hospitalization is not the only option. The State should explore alternative treatment options (response to Paragraph 191 of the State Report)

130. The current process of compulsory hospitalization is by default triggered when a person who has a mental disability or suspected to have a mental disability shows symptoms that would be seen by medical professionals as indicating a mental disorder. While we acknowledge the importance of making medical care and support accessible to people who have mental disabilities, compulsory hospitalization should not be the only option available in accordance to Articles 14 and 25 of the CRPD. The State Reports pointed out that Article 8 of the *Mental Health Act* required the government to set up cross agency community care, support, and rehabilitation framework, but there has been a general reluctance by the Ministry of Health and Welfare and other government departments to invest sufficient personnel and financial resources to develop alternative and multidisciplinary treatment and rehabilitation support options for people with mental disabilities.
131. Under the current regime that lack sufficient supporting framework, most families of persons with mental disabilities have to take on the burden and responsibility of caring and supporting their family member who suffers from mental disabilities. When family members who find themselves unable to continue to provide such care, their only option is to send their family member to mental health institution through the reporting mechanisms to health authorities to exchange some amount of respite. Medical professionals often file for compulsory hospitalization for persons suffering from mental disabilities because they don't believe the community has the appropriate resources and capacity to provide adequate care. Many patients are forced into the compulsory hospitalization scheme when they can be adequately cared for and supported through appropriately resourced community schemes and would not require full time care in a hospital.
132. The Ministry of Health and Welfare should take the lead in re-assess and appropriately re-distribute resources that are available for mental health treatment and support in order to establish alternative treatment and support mechanisms and respect the choice of persons with mental disabilities. One example would be to invest in capacity building of peer supporting network and groups to meaningfully realize CRPD Article 19's goal of allowing persons with mental disabilities to live independently and their inclusion in the community. Further, the Ministry of Health and Welfare could consider following the example set by some Western countries where a comprehensive transitional unit combining medical professional, social workers, and psychologist support to allow persons with

mental disabilities who are at a high-risk phase or in an emergency situation to receive support beyond the capability of the community but without triggering the process for compulsory hospitalization.

Article 15 Freedom from torture

Solitary confinement of prisoners with psychosocial disabilities (in response to Paras. 135-138)

133. The State Report failed to address issues facing Persons with mental disabilities who are incarcerated, especially those who are placed in solitary confinement. There are many cases where persons with mental disabilities were placed in solitary confinement during their incarceration that resulted in causing further harm. This was highlighted in a report from the Control Yuan that gave a case example: Lin Weixiao, a prisoner in the Taipei Prison, administered by the Correctional Service Department of Ministry of Justice, died on December 1 2014 after being tied up in the prison corridors with metal chains for several hours. Family found several letters begging for help in his belongings, raising suspicion that he was subjected to sexual and physical abuse by his cellmate.
134. The “Study of National Solitary Confinement, their Numbers and Reasons” report published by the Correctional Service Department showed that apart from solitary confinement mandated in law, reasons for prisoners entering into solitary confinement includes ‘violating prison rules’, ‘acts that negatively impact on other prisoners’, ‘serious impact on the group discipline’, and ‘others’. In the Tainan Remand Centre, two prisoners were put in solitary confinement because they had ‘gender identity issues and not suitable to be in the normal prison population, which was a blatant breach of the gender equality principles. Prison authorities also place prisoners in prolonged and unreasonable solitary confinement, sometimes over one year. In Green Island Prison, a prisoner was put in solitary confinement for 153 months (12 years 9 months). Several international conventions place a prohibition on solitary confinement on grounds of its deteriorating impact on a person’s mental health, but this was not mentioned in the State Report, indicating a lack of understanding or willful disregard by the Correctional Service Department.
135. Although the justification and the execution of solitary confinement has been clearly stipulated in Articles 14(2), 15, and 16 of the “Prison Act”, as well as Article 14 of the ‘Detention Act’. In practice, prison officials often use solitary confinement as a form of punishment and a method to maintain order in prison. More

alarming, prison officials often use solitary confinement as a passive way of dealing with prisoners who have mental illness or other special needs without actively managing these needs properly.

136. The Correctional Service Department should implement a comprehensive auditing mechanism to ensure the lawfulness and appropriateness of solitary confinement being used in prisons around the country. The Department should implement an absolute prohibition on prisoners with mental illness being placed in solitary confinement. Prisons and remand centers should implement mental and physical health checkup to all new prisoners. In accordance to Article 14, Paragraph 2 of the CRPD, Persons with disabilities should receive reasonable accommodation that is appropriate to their specific need with consultation with relevant health care providers. Prisons and remand centers should also ensure all prisoners receive periodic physical and mental health checkups.

Article 16 Protection against exploitation, violence and abuse

Persons with Disabilities facing domestic violence and sexual assault (in response to Paragraphs 112 and 116 of the State Report)

137. According to the State Report, intimate partner violence involving persons with disabilities account for only 3% of the total number of cases reported. This low statistic may be attributed to the fact that people with disabilities often do not have the means to seek help and even when they do, may have difficulty in communicating their abusive experiences. Hence, it is hard to obtain accurate statistics on the situation.
138. According to Zhou et al. 2016, the number of people with disabilities who have been sexually assaulted increased from 581 in 2008 to 1,100 in 2014. Official statistics on domestic violence and sexual assault cases in 2015 reveal that the proportion of female victims is much higher than that of male victims. In addition, women with disabilities are more susceptible to abuse; with twice the number of domestic violence cases and four times that for sexual assault compared to other women. (refer to Tables 16-1 and 16-2)
139. It is recommended that the Government increase the sensitivity and awareness of front line personnel (teachers, law enforcement and judicial officers, social workers, health care personnel etc.) to violence issues so that they can better detect signs of abuse. In addition, women with disabilities should have access to sex education and gender equality education, so that they will be equipped with the necessary knowledge and skills that allow them to better assess dangerous situations and

seek out relevant resources for assistance and protection. The government should review the current channels of assistance provided, or examples, emergency shelters, protection and resettlement, counseling, and legal assistance, in order to determine if they have adequately met the diverse needs of women with disabilities. In addition, they should engage the use of multiple media platforms and channels to increase publicity and bring attention to these schemes.

Table 16-1 Report on victims of domestic violence - People with disabilities (2015)

Victims	Total	Male		Female		Unknown		National Population	Total	Male	Female	Victims	
	Number of people (A)	Number of people (B)	Percent age (B/A)	Number of people (C)	Percent age (C/A)	Number of people (D)	Percent age (D/A)		Number of people (E)	Number of people (F)	Total (G)	Male (B/F)	Female (C/G)
Total	63,730	17,300	27.1%	45,877	72.0%	553	0.9%	Total	23,492,074	11,712,047	11,780,027	0.148%	0.389%
People without Disabilities	57,336	14,962	26.1%	41,896	73.1%	478	0.8%	People without disabilities	22,336,424	11,056,603	11,279,821	0.067%	0.371%
People with Disabilities	6,394	2,338	36.6%	3,981	62.3%	75	1.2%	People with Disabilities	1,155,650	655,444	500,206	0.202%	0.796%

Table 16-2 Report on victims of sexual assault - People with disabilities (2015)

Victim	Total	Male		Female		Unknown		National Population	Total	Male	Female	Victims	
	Number of people (A)	Number of people (B)	Percent age (B/A)	Number of people (C)	Percent age (C/A)	Number of people (D)	Percent age (D/A)		Number of people (E)	Number of people (F)	Total (G)	Male (B/F)	Female (C/G)
Total	6,215	939	15.1%	5,228	84.1%	48	0.8%	Total	23,492,074	11,712,047	11,780,027	0.008%	0.044%
People without disabilities	5,144	760	14.8%	4,347	84.5%	37	0.7%	People without disabilities	22,336,424	11,056,603	11,279,821	0.007%	0.039%
People with disabilities	1,071	179	16.7%	881	82.3%	11	1.0%	People with disabilities	1,155,650	655,444	500,206	0.027%	0.176%

Article 17 Protecting the Integrity of the Person

People with disabilities are more likely to be pressured into accepting abortion and sterilization procedures

140. In response to Paragraph 124 of the State Report, the Government should strengthen the protection of the integrity of persons with disabilities. They should not be pressured into voluntary abortion or sterilization.
141. Under the Genetic Health Act, when a person or his or her spouse suffers from hereditary, infectious or psychiatric disorders, he/she may voluntarily undergo abortion (article 9) and sterilization (article 10) and physicians are obliged to

“recommend” treatment for the patient. In the event where the disease is not curable, and it is deemed necessary, the physician “must” recommend abortion and/or sterilization procedures (article 11).

142. Among the different types of disabilities, persons with mental disorders are particularly discriminated against. The scope of the "hereditary, infectious or psychiatric disorders" in the Genetic Health Act is set by the competent central authority, namely the Ministry of Health and Welfare. This implies that people with mental illnesses are automatically deemed to be unsuitable candidates for reproduction, regardless of whether the condition has been medically proven to be hereditary or infectious. With regard to people under assistance and guardianship, the family's legal guardian, auxiliary persons, and spouse can forcibly "persuade" them to undergo sterilization and abortion, which grossly violates the autonomy of Persons with disabilities. For more information on the shortfalls of the guardianship scheme, refer to Article 12, Paragraph 99 of this Report.
143. Forced abortion and sterilization greatly impacts the physical and mental health of individuals, and also violates the right to life of fetus(es) of persons with disabilities (refer to Article 10, Paragraph 93-94). Reproductive autonomy is closely related to the Right to Family Life (refer to Article 23, Paragraph 164).

Article 19 Independent Living and Integration in Society

Support Services Distant, Burden Continues to Fall on Individuals and Families (in response to Paragraphs 130 to 132 of the State Report)

144. : Even though our “People with Disabilities Rights and Protection Act” clearly states that PWDs should receive various support services to promote independent living, However, there are no mechanism to involve and consult PWDs as to their specific needs. This results in service options being unsuited to practical subsistence needs or overly stringent criteria for qualification that cause difficulties for PWDs to access needed resources and underutilize services.
145. In 2009, almost 80% of PWDs didn't know that government provided personal care services and family support services. For those who used the services, the most popular was ‘home care services’, accounting for 4.43% of PWDs, followed by ‘daytime and residential care’ services, accounting for 2.01%. Only 0.7% of the PWDs utilized ‘independent living support services’ offered by the government. According to another set of data from the Ministry of Labor compiled in 2015, Taiwan has 208,600 family caregivers whom families and individuals pay out-of-pocket, which implies that roughly the same number of PWDs are unable to receive

Government support. In addition, as the Ministry of Health and Welfare replied our letter of inquiry, there are only 370 PWDs who are using personal assistant service in the year of 2016, a number that is less than 0.03% of the population of PWDs. Support that PWDs require continued to fall on individuals or families, while support from the government in providing services remains low.⁶

146. PWDs who currently live in their “residential homes” stand at 92.84 percent, those who live in “educational and care facilities” account for 6.82 percent. According to studies 69.56 percent of PWDs who live in stay-in facilities do so because family and relations are “unable to provide care,” while 7.96 percent do so were under “Government arrangements.” Neither group chose their living arrangements voluntarily. In recent years, incidents of caregivers committing suicide, or caregiver killing or starving to death the person under their care due to family burdens or excessive pressure from caregiving occurs once every three months on average. These violate Paragraph 3, Section 2 in Article 28 of the Convention.
147. Restrictions on Application Eligibility: Those who wish to apply for government support face eligibility restrictions that include the location of registered residency, family assets and income conditions. If PWDs employ foreign caregivers out-of-pocket, they are prohibited from applying for residential services. In particular, limitations in the design of need assessment tools often exclude PWDs with psychological disabilities, the vision impaired, and intellectually disabled from opportunities to access residential services, personal assistant services, and other personnel support services.
148. Limitations in Service Content: Most assistive devices are expensive and Government-provided personnel services have many restrictions attached, making support for truly independent living by PWDs in the community difficult. For example, financial assistance for Government-approved personal assistants are too low, while sign language translation services are only open to application through specially designated programs. Such conditions make it hard to meet the varied needs coming from different aspects of routine daily life. Residential services do not include assistance to PWDs for bathing, application of medicine, food preparation, and other basic daily needs. To facilitate vacation-time and avoid complications, service agencies are often unwilling to arrange service personnel shifts at night and during state-designated public holidays. The Government has yet to exercise its proper responsibility for oversight and willfully ignores the situation. Moreover, given that existing rules stipulate that pay for such services

⁶ 2009 Demands Assessment Survey for PWDs , p. 160 , Table 5-62 .

during nights and public holidays must double, PWDs are often forced to drop service instead.

149. Recommendations

- (1) Since the Government initiated the “independent living support service” for PWD, statistics regarding its implementation, such as the budget used and the number of people served, are dispersed among the local offices of social welfare. According to professor Chou Yueh-Ching and the survey by the Peace Foundation, only 0.025% of PWD are in use of personal assistant in Taiwan. The Ministry of Health and Welfare should collect and release the official statistics as soon as possible and show the rate of PWD utilizing the support services.
- (2) When the government establishes services for PWDs, it should consistently ensure that processes are open and transparent and have PWDs with different conditions participate in discussions. PWDs with different conditions should make up more than half of the persons involved in discussions. This should apply at the policy formulation, standard setting for applicant need assessments, and discussions about the content of different assistance programs. There should also be effective monitoring mechanisms to ensure service quality.⁷
- (3) Services should widen eligibility criteria: Firstly, household registration restrictions should be abolished. The location of residency registration should not be a reason PWDs face exclusion from the right to apply for services. Secondly, since PWDs are often among the most economically vulnerable in society, any review of financial assistance for different services should be based on separate assessments of the assets and incomes of adult PWDs, as well as the size of their households. Please see Article 28, Paragraph 229. Fees for services should have a ceiling set at a reasonable out-of-pocket amount to avoid situations where PWDs with more serious conditions are made to pay a higher proportion of fees out-of-pocket, leading to unequal treatment based on disability. Thirdly, the eligibility criteria and financial assistance standards when applying for personal assistant should be amended to include persons with mental disabilities who also require such services.
- (4) The Government should not contribute to the exploitation of migrant labor as a means to shirk the responsibility for care: The Taiwan Government imports large numbers of foreign caregivers who work long hours with low compensation to resolve the high demand for caregiving. This shifts responsibility to individuals and families. Applicants for service must also personally bear the costs and risks

⁷ 2016 Study by the Peace Foundation; Chou Yueh-Ching, “Difficult for Persons with Disabilities to Live with Dignity in Communities,” June 7, 2017.

associated with a foreign caregiver. Recent years have seen numerous incidents of foreign caregivers being put under virtual house arrest, beaten, verbally abused, and sexually assaulted. This year, the case of an Indonesian caregiver being put under virtual house arrest for fourteen years emerged. Ill-treatment of migrant workers is becoming an increasingly serious problem. The Government should abolish restrictions that prevent PWDs with foreign caregivers from applying for residential services, establish a comprehensive service for dispatching residential services, and create a labor oversight mechanism in light of migrant labor policies. This can help prevent migrant workers from being exploited by agents and experiencing abuse of their human rights.⁸

- (5) **Unstable Financial Status of Care and Support Services:** The Taiwan government refuses to comprehensively adjust redistribution policies, and instead rely on returns from tobacco tax and the charity lottery to fund long-term care and personal assistant services. This creates instability in revenue streams. Users are also unable to successfully apply for adequate services given the lack of resources. The Government should establish a fair taxation system to reduce the wealth divide and increase Government revenues. Personal assistant services and other activities that support community life should be formally incorporated into the Government's official budget.

Common living environment full of barriers and segregation, government social housing should further promote community integration (in response to Paragraphs 133-5 of the State Report)

150. **General home conditions:** For PWDs currently living at home, most live in "detached houses without elevators" (51.88%), followed by "residential complexes without elevators" (17.67%). Persons with limited mobility find it difficult to go out, and may be trapped at home for decades, unable to go to school or find work.⁹ However, PWDs who wish to apply for financial assistance for barrier-free access to their homes often meet opposition from inadequately informed members of the community and landlords. See Paragraph 70, Article 9 on Barrier-Free Access.
151. **Government-run public housing:** The proportion of Government-provided public housing is inadequate, rentals are high, and locations out of the way. There are

⁸ "Caretakers' Shattered Dreams! Under House Arrest for 14 Years, Migrant Worker Toils Days and Nights," TVBS, February 2017.

⁹ 2011 Ministry of Health and Welfare Assessment and Study Report on the Living Conditions and Various Needs of Persons with Disability.

many barriers and obstacles in these housing units and their surroundings, which make them unfavorable to PWDs.

152. Recommendations to the Government:

- (1) To fully implement Articles 53 and 54 of the “Housing Act” to ensure equal rights to housing for PWDs, the Government should amend related rules and regulations or approaches to managing financial assistance in order to protect the rights of PWDs to live in a community.
- (2) Housing support: Rent for social housing should not exceed one-third of the monthly incomes of PWDs, while the out-of-pocket payment for rental housing should not exceed the monthly income of a family with PWDs by more than a third. Government financial assistance should make up the difference. Housing support should include the Government becoming a mediator between and supporter for landlords and PWDs.
- (3) Social housing: The Government should consider the construction of social housing as part of urban renewal programs to increase social housing to above 5 percent of the overall housing stock. Social housing should be situated in locations accessible by public transport and adopt common design, and be mixed use to promote social integration and avoid stigmatization, labeling, or antagonism among groups.
- (4) Community planning: The overall planning of a community should include comprehensive barrier-free facilities, transportation, and include possibilities for the upgrade of community services. Planning should also include facilities, services, and management means necessary for persons with psychological and social disabilities to integrate into the community.
- (5) The Government should plan for concrete timetables and methods to promote de-institutionalization and toward a community service-based approach: There is an increased reliance on institutional services to care for PWDs in Taiwan. PWDs suffer forced control in institutional settings, and may be tied to their beds or wheelchairs, causing them to lose freedom and dignity. There have even been many cases of abuse in recent years. Taking the Taipei City Municipal Yangming Retirement Home as an example, studies by scholars such as Chou Yueh-Ching show that it cared for 357 persons with intellectual disabilities and has a budget that reached NT 299 million in 2016. A rough averaging puts spending per person per year at NT 840,000. However, the investment of Government resources does not focus on community service-based approaches, violating the spirit of independent living emphasized in the Convention.

Other personnel support services

153. Insufficient personnel (special education assistants) to support students with disabilities in school, see Article 24, Paragraph 181 of this Report.
154. PWDs face difficulties in receiving personnel support during medical treatment, see Article 25, Paragraph 190-192.

Article 20 Individual Mobility

High prices make appropriate assistive devices unaffordable (in response to Paragraphs 50, 137, and 181 in the State Report)

155. Subsidy regulations for aids are overly strict: According to the latest version of the “Basic Subsidy Standards Table for Physical Aid Expenditures by Persons with Disabilities” released by the Ministry of the Interior, the thresholds for applications for subsidies on various assistive devices include various types of disabilities and severity of disability. Consequently, if an applicant does not meet the threshold disability standard, they cannot begin the process for professional assessment of disability. This assessment is necessary for eligibility for financial assistance. For example, electric wheelchairs and high mobility wheelchairs are only available for persons with severe or profound physical disabilities. A person with moderate levels of disability whose upper body is unable to use a hand-powered wheelchair will not be qualified to apply for financial assistance on electric wheelchairs due to regulatory restrictions.
156. The amount of financial assistance is low, but the cost of assistive devices remains high: Even if a PWD receives financial assistance, the amount is calculated using a proportion of the fixed price for a particular item. Many of the higher-quality assistive devices available on the market remain unaffordable to PWDs as their pricing are above the recommended price required under current financial assistance rules. Taking persons with hearing disabilities as an example, a good set of hearing aids can reduce up to 70% of the obstacles in daily life. However, a hearing aid for one ear alone costs NT40,000, which is equivalent to three or four months’ disposable income for lower to lower middle-income family. In comparison, electronic ears cost upward of NT one million, putting it out of reach for families without a high level of economic ability.
157. Recommendations
 - (1) The Government should expand the eligibility criteria for financial assistance applications for the categories of assistive devices listed under the “Basic Subsidy

Standards Table for Aid Expenditures by Persons with Disabilities” as well as the upper limit for financial assistance. The Government should also strengthen its ability to assess the physical conditions of individual PWDs, their lifestyles, environments, and individual needs. The Government should include concepts of preventive health care into its regulatory considerations to facilitate adequate provision of assistive devices.

- (2) The Government should initiate a comprehensive, interagency plan for supporting PWDs who need assistive devices rather than to divide responsible agencies along the lines of labor, social policy, and education simply for the sake of administrative expedience. PWDs should be the central concern when adjusting finances and resources, and strengthen the mediation windows among various professional personnel and resources. This can support PWDs in their multifaceted needs as a person.
- (3) Apart from Government-established physical aid centers, the Government can also propose initiatives to encourage private industry and organizations to provide physical aid loan services. This can increase the supply of assistive devices and the proximity of service to better account for the needs of PWDs.

Insufficient child-centered support equipment

158. Given the varied needs of children with disabilities for assistive devices, and the short periods of use along with high rates of replacement, assistive devices represent the greatest expenditure for children with disabilities. The Government presently restricts financial assistance to “four items within two years.” Further, the design of most assistive devices caters mainly to adults. There is a lack of interest in developing assistive devices for children among Taiwanese firms. This reduces the relative choice of assistive devices for children with disabilities, and does not meet their needs while growing up. Some assistive devices are expensive and available financial assistance too low, forcing low income families to adopt cheaper assistive devices that are unsuitable for children as a means of addressing their financial burdens.

159. In reference to aids schools provide to students with disabilities, see Article 9 Paragraphs 63 of this Report.

160. Recommendations:

- (1) As well as providing support for the livelihoods of low and medium-low income households, the Government should also consider the special needs of children with disabilities for assistive devices in the process of growing up. To reduce the economic burden for families the Government can broaden financial assistance

categories and amount based on age. To raise the practicality of assistive devices suitable for children with disabilities, the Government can recognize commercial firms for innovation in assistive devices for children.

- (2) Invite families with children with disabilities and professionals (such as physical, skills, and language therapists, orthopedic surgeons, and physical therapy doctors) to jointly explore suitable financial assistance levels for children's assistive devices.

Article 22 Respect for Privacy

Failure of Government Departments to Receive Approval Before Exchanging Information on people with disabilities (in response to Paragraph 161 of the State Report)

161. After a PWD receives certification of status upon successful application, social services agencies will exchange personal information with other related official agencies to facilitate the handling of social benefits unless the person concerned separately applies for "non-exchange of information." However, given the seriousness of continued stigmatization and discrimination in society, many PWDs who do not wish to reveal their disabilities to employers when receiving certification. Consequently, official social service providers should inform PWDs about the potential consequences of information sharing to protect the right to sufficient and independent decision-making; various Government departments should first receive the explicit approval in-writing by PWDs before proceeding with the exchange of personal information.

Right to Privacy for Persons with Mental Disabilities (in response to Paragraph 165 of the State Report)

162. According to Article 24 of the "Mental Health Act," there should be no voice recording, video recording, filming, or disclosure of name and address without a patient's consent or that of the patient's guardian. However, hospitals often disclose treatment records to the media when major social incidents occur. Journalists and officials being interviewed also recklessly infer or conclude that a suspect's alleged criminal behavior relate to the person's mental illness. The Government should take the lead in strengthening respect for the right to privacy among officials and medical professionals. The Government should actively counsel or discipline violators rather than await complaints from the party involved.

Easypass card does not protect personal privacy

163. When a PWD uses the Easypass Card on public transport, others are able to discern the status of the person through the sound effect from the system and the designs on the card (such as a heart design on the card). As a result, many persons with invisible disabilities (such as those with psychological disabilities or major organ disabilities) are often asked to present proof of disability. The Ministry of Health and Welfare should explore a replacement for the current system to ensure the privacy of PWDs when they use their Easypass Cards.

Article 23 Respect for home and family

People with disabilities do not receive appropriate fertility and family planning education (in response to Paragraphs 170, 192 of the State Report:)

164. The Government merely describes services provided for women's reproductive health (mainly subsidies for prenatal screening and fertility regulation) but has not been able to provide concrete plans to provide vital family planning education catering to people with disabilities in accordance to article 23, Paragraph 1 of the CRPD. This makes it difficult to ensure that people with disabilities are well equipped to “freely and responsibly form decisions on family planning”. Specifically, what educational resources and support measures are provided by the Government to ensure the protection of People with disabilities of their rights to fertility and family life? (Refer to Article 17, Paragraph 142-143, and Article 10, Paragraphs 93-94.)

The government does not provide assistance to People with disabilities in raising children

165. People with Disabilities do not receive relevant support in the process of child rearing. Existing policies and services do not incorporate support for People with disabilities, including the provision of relevant support services (such as personal assistant support), care of young children (feeding, washing diapers, bathing) and other related aids.

166. Due to discriminatory attitudes about the ability of People with Disabilities in raising children, children of people with disabilities are more likely to be discriminated against and/or forcibly removed from their homes by social welfare personnel. It is suggested that the government surveys and compares the home replacement statistics, including number, proportion and gender, of children with parents with disabilities to that of regular families.

Article 24: Education

167. While the education system for people with special needs is said to be mainstreamed from a previously institutionalized system and developing towards an inclusive education system, it still lacks sufficient support. There is social segregation and indirect discrimination within such an 'inclusive' environment, and students with disabilities are often excluded.
168. The government has to recognize and push for the implementation of an inclusive education, which depends on the efforts in execution across different departments. Different departments and organizations should follow the guidance of General Comments No 4 on the right to inclusive education, so as to rectify the current education environment, increase barrier-free facilities, and establish an effective mechanism for supervision and timeline for realization, in order to safeguard the right of students with disabilities to an inclusive education.
169. With regards to the issue of gender inequality in education for people with disabilities, refer to Paragraphs 31-33 of Article 6 in this Report.

Separate education systems for mainstream and special education resulting in exclusion and segregation (in response to Paragraphs 11(2), 175, 176, 178, 202 of the State Report)

170. Public education (below pre-university level) - there are three main avenues for the placement of students in schools for normal education in accordance with the severity of the disability suffered by the student: normal classes (with additional classes in resources rooms at specific timings, according to capability and needs), dedicated special education classes and scattered classes of counselling on tour (including home education service provided once or twice a week by touring special education teachers doing counselling on tour). Some people with severe disabilities would be placed in special education schools. Speaking at parliamentary hearings in the past, principals from schools providing special education would reject students with severe disabilities who are using respirators and have no family member or caregiver to accompany them from attending school, citing lack of relevant professionals in place to provide the necessary support.
171. Higher education (tertiary institutions level): Apart from the usual avenues for entering higher education, the government is to conduct 'admission examinations for enrolment of students with disabilities to tertiary institutions', by providing additional places. However, individual institutions still decide on their own whether to open up enrolment, the number of additional places and target groups

(with disabilities or not); they are not completely open and also restricted by several conditions. For example, the enrolment regulations would clearly write: “Those who wish to engage in teaching work upon graduation, should apply to study professional education courses in accordance with regulations of our school, and should consider factors relating to teaching: being able to move freely in the classroom, being able to operate teaching equipment or devices required for assessment, as well as possessing effective two-way communication abilities in listening and speaking”; “courses in our department is based mainly on verbal teaching, and places emphasis on communication, comprehension and expression skills, please consider carefully”; or they may stress that “courses in this faculty in performance, directing and movements, also often involve physical movements, hence students who have problems in mobility are advised to consider carefully”; “this faculty is situated on a slope, please take into consideration any problem in accommodation”. All this would constitute what Paragraph 18 in General Comments No 4 of the Convention terms as ‘indirect exclusion’.

172. In accordance with Paragraphs 37, 38, 40, and 41 of the CRPD General Comment No 4, we recommend :

- (1) The State should not maintain separate education systems for mainstream and special or segregated education. It should instead consolidate the overall aims of the Convention, to reexamine and set out a timeline, in order to continuously, gradually and fully realize the various rights of all students under the education system including those students with disabilities.
- (2) Abolish direct or indirect exclusion in admission: The State should take measures immediately, to amend Item 1 of Article 25 in the University Act, to include students with disabilities under a special category of students; or to ban any direct or indirect articles of exclusion in ‘admission examinations for enrolment of students with disabilities to tertiary institutions’ or in any regulation for admission at any faculty, so as to fulfil the three core rights in Paragraph 41.
- (3) Measures for equal rights of teachers and students with disabilities: In order to fulfil the equal rights of teachers with disabilities in employment, the government should provide statistics of teachers with disabilities among various education levels, for the purpose of providing investment and support in their employment and training, and for the removal of obstacles in the education sector, so as to effect a positive example. The government should take actionable measures that would be positive in promoting equal rights of students with disabilities at the level of higher education.

Legal basis for the participation of students with disabilities in an individualized education planning conference (in response to Paragraph 180 of the State Report)

173. It is recommended that the State should immediately amend Article 28 of 'Special Education Act' and relevant sub-laws, so as to give legal status and make implementations for students with disabilities to take part and discuss the legal status of the IEP conference.
174. Although every student receiving special education at higher and intermediate level or below would already have his or her own Individualized Education Plan (IEP), they are often excluded from participating in the formulating of their own IEP. Article 28 of Special Education Act and Article 9 of Special Education Act Implementation Guidelines includes the participation of parents, school administrators, and special education and general education teachers in the formulation of the IEP; however, the students themselves, who would be the subject of the IEP could only participate upon invitation when deemed necessary. In fact, at classroom sites for education at pre-university levels or lower, participation in discussion by students with disabilities at IEP meetings is very rare. This completely contravenes General Comments No 4 of the Convention with regards to Paragraphs 7, 29 and 45 on the safeguarding of the rights of children to participate in drafting Individualized Education Plans.
175. Paragraphs 8 and 9 in CRPD General Comments No 1 more explicitly point out that people with disabilities remain a group whose legal power has most often been deprived of, or placed under a system of proxy decision-making in legal systems worldwide. Paragraph 12 reiterates that legal power refers to the possession of power and obligation (legal status), as well as the ability to exercise such power and obligation (execution of legal power). Such ability is the key to meaningful participation in social life. Our children should not be deprived of the opportunity to learn to exercise such legal powers from the early stages of their education.

Inadequacy in professional knowledge and skills for special education among teachers in general education and special subjects under an inclusive education system (in response to Paragraphs 176, 178, 182 and 184 of the State Report)

176. The government should take prompt and concrete steps in revamping the course syllabus for on-the-job training among general education teachers, and establishing a database on the training of teachers: From the allocation of budget for education,

the training of teachers, the recognition of teachers' qualification to the operation of the schools, the education system in Taiwan has not provided teachers of general education and special subjects with sufficient knowledge and skills in actual operation for special education. This leads to many teachers having a very negative attitude in the push for inclusive education. General education teachers are only required to study 3 credits of an introductory course on special education during their training. After their appointment as teachers, each education unit may provide its own on-the-job continued study (including conferences on administration, teaching and academic research in relation to special education), but general education teachers are only required to fulfil three hours of learning per year. The lack of an on-the-job education training course that is comprehensively and systematically designed makes it difficult for teachers of general education and special subjects to identify the uniqueness and differentiation among different students of disabilities in their capacity, demands, forms of learning and acquisition of knowledge. This affects their ability to implement an inclusive education in terms of management of classes, classroom planning, course design and customization, and teaching assessments.

177. Adapted physical education has not been pushed for implementation: Whether it is the design of course material, strategies in teaching pedagogy or adjustments in teaching facilities, the professionalism and capacity in teaching among adapted physical education teachers are severely inadequate; teachers of health and physical education courses often cite safety and protection as a reason to request students with disabilities to proceed to special classrooms, offices or libraries and substitute it with unrelated activities. Special education schools would also request parents to accompany them in class, or students with disabilities would not be allowed to take part in water adaptation courses. Although the State Report has cited the number of adaptive physical education upgrading seminars, teaching demonstrations and teaching workshops as well as number of participants, it is still unable to provide enough teaching staff in adaptive physical education, and to upgrade teaching quality and capacity, in order to meet the demand of multi-faceted learning for as many as 4,000 classes of pre-university level or lower, or nearly 90,000 students with disabilities.
178. Professional subject teaching environment full of learning obstacles: Many subject classrooms in schools are not conducive for usage by students with disabilities in terms of traffic flow, desks and chairs, as well as facilities or operational platforms (such as microscopes, cooking utensils, art equipment and so on), affecting their opportunity in equal participation and practice. Furthermore, in special education schools which admit students with severe and multiple disabilities, warm-water

swimming pools are usually set at a temperature of 28°C according to usual regulation, but this temperature is too low for students with severe disabilities who exercise less, leading to hesitation among parents in allowing students with disabilities to participate in water adaptation classes. If one were to refer to the experience of Prof. Lin Man-hui from adaptive physical education department, Taiwan Normal University, the water temperature for training swimming pools was set between 30 and 32°C during a one-year course in 2005 on 'water adaptation physical education class for people with severe disabilities', which goes to show the importance of adjustments in the physical environment as part of inclusive education.

Inadequate cooperation in teaching among general/subject teachers and special education teachers

179. An invisible form of segregation in inclusive education system: Schools at pre-university level or below have all instituted meetings by course development committees and in subject teaching research/focus areas, in order to facilitate professional dialogue among subject teachers of seven areas (language, health and physical education, social studies, arts and humanities, mathematics, natural and living technology, and combined activities), to implement development of basic courses in schools. However, in terms of operation, while these organizations may include school administrative representatives, teachers' representatives of various levels and various areas, representatives among parents and districts, however, they often lack participation by special education teachers and representatives among parents of special education students. Special education professionals find it difficult to enter a dialogue on such platforms, which makes the situation more unfavorable structurally speaking for students with disabilities under an inclusive education system.
180. Hence, the State should follow Paragraph 71 of General Comments No 4 of the Convention, to initiate immediately training courses in education at various levels for all teachers (including teachers of general education, teachers of special education and administrators), in order to equip them with core capabilities and value systems as necessary for work under an inclusive education environment, to establish a common teaching plan, to determine the division of labor and responsibility in teaching and to conduct cooperative teaching, so as to push for a transformation in the inclusive education system.

Difficulty in providing stable and appropriate support services among assistant personnel for special education students (in response to Paragraph 183 of the State Report)

181. Schools at pre-university level or below in our state may have provided teachers' assistants and assistants for special education students, in order to help students with disabilities in learning to cope with life in school, but the following problems remain:

- (1) Service of assistant personnel is based on degree of students' disabilities instead of demand: Teachers' assistants provide services to students with moderate disabilities, whereas assistants for special education students are targeted at students of severe and multiple disabilities. Service is therefore provided based on the severity of students' disabilities instead of based on actual needs in accordance with Individualized Education Program (IEP).
- (2) Disparity between service of assistants and actual needs: The types of assistant personnel as well as service period and frequency as required by each school is currently decided by the education departments of various local governments. There is no uniform standard to make that decision. The service that assistant personnel may provide is often incompatible with the actual needs, such that even the daily needs of students with disabilities may not be met, not to mention their specific needs in studies. Some parents of students with disabilities are even requested to make trips to the school just to assist students to go to the toilet.
- (3) Low remuneration of assistant personnel and unstable service quality: Apart from professional teachers' assistants as provided according to 'Guidelines on the establishment of special education classes in schools of pre-university level and below, of responsible units and the employment of personnel', who are relatively stable in number and in service quality, other teachers' assistants and all assistant personnel for special education students are all selected and employed by the schools themselves. These part-time personnel receive very low hourly wages. Their working hours are also fragmented, with no work available during winter and summer vacations, and they lack year-end bonus and other welfare or forms of security, which naturally affects the stability in the number and service quality of assistants.
- (4) Doubts on the professional capabilities of assistant personnel: Although all assistant personnel are required to undergo 36 hours of pre-employment training, and 9 hours per year of on-the-job training, given the overall instability of the sources of assistant personnel, can the content of these courses really help develop professional capability to support students with disabilities of various types,

degrees and different needs in special learning? Students with disabilities, parents as well as teachers often have doubts with regards to this.

182. It is recommended that the government establishes a system of professional specialization with different service items, and also a talent database to reassess the allocation of assistant personnel.

**Barrier-free environment and accessibility of places for learning and activities
(in response to Paragraphs 46, 58, 180 of the State Report)**

183. The barrier-free environment in school campuses remain to be enhanced, as it is still difficult for students with difficulty in mobility to use: refer to Paragraphs 62-66 of Article 9 in this Report.
184. Issue of urban-rural divide and barrier-free traffic environment: At the level of national education, although the government has made traffic subsidies available, it still does not resolve the difficulty in reality for students with special needs in going to and from school. At the level of higher education, as there is a great disparity between the geographical locations of various colleges and barrier-free traffic environment, it is affecting the right of students with disabilities in the freedom of enrolling in colleges and faculties of their choice.
185. Barriers and segregation during participation of excursion activities: As administrative personnel in schools do not have adequate professional knowledge and skills for special education, and do not hold discussion together with students with disabilities, parents, special education teachers and instructors in the planning of learning activities outside school, including camping, graduation travel and other activities. This may lead to barriers and segregation during the journey and at the venue of these activities. On the transport, if the school does not hire large tour buses with elevation facilities, students with disabilities would have to apply for rehabilitation buses or arrange for parents to drive, hence rendering them unable to travel with the class throughout the journey. Some schools lacking in funding would even refuse to make arrangements for assistant personnel to accompany special education students, and also cite safety in order to request parents to accompany in the activity. This hinders the wish of students with disabilities in participation, and some are even forced to give up on excursion activities.

The right to education through bedside learning or homeschooling for students with disabilities yet to protected

186. Even though children with disabilities who are physically ill or weak have to receive treatment and recuperate in a hospital or a special safe environment, therefore unable to receive education with students of the same age in school for a short period of time, and can only attend touring counselling classes, they should still be equally respected with regards to their learning ability and motives. Currently, most children with disabilities receiving homeschooling can only attend classes by touring teachers of 2 to 4 periods, once or twice a week, which hardly satisfies their needs in learning. However, when the children with disabilities recover and are able to return to the education system in school, they would face problems of falling behind in competence, gaps in the courses and psychological adaptation, due to lack of resources in learning during homeschooling.
187. Distance learning through video conferencing should be fully promoted and realized: Although 'Implementation guidelines for course syllabus and teaching methods in special education' has explicitly included 'distance learning' legally, our State is yet to fully install a system for distance learning through video conferencing. Beitou National High School of Taipei city conducted a study on professional knowledge and skills for special education during the 2010-2011 academic year, where the topic on 'Clarification on practical implementation of distance learning through video conferencing for students with illnesses' was included, but only one success example was presented, with no widespread implementation ever adopted. Considering the hardware facilities available in our state, it is not impossible for the government to install a distance learning system through video conferencing for homeschooling of students with disabilities, it is really a matter of lacking in will!

Vocational training, adult education and lifelong learning for persons with disabilities (in response to Paragraph 188 of the State Report)

188. Provision of adult education and lifelong learning for persons of disabilities lack comprehensive planning: current law only stipulates that local governments in conducting adult education should reserve at least 5% of the available quota for persons with disabilities. It does not emphasize that this should cater to their learning needs, or address the accessibility of courses, teaching staff, activity venues and traffic, comprehensive planning for barrier-free access and budget allocation.

Promoting cultures of sign language and mother tongue as official languages of the State

189. Sign language is not only a language of communication, but also an important cultural capital and basis of respect for the hearing impaired as a unique community. However, the formal education system at the moment does not provide students with the chance to learn sign language. It is recommended that sign language be listed as an official language of the State, and 'local education courses' should incorporate sign language as an elective alongside Taiyu, Hakka and aboriginal languages, to enable hearing impaired and hearing students alike to study it.

Article 25 Health

Unfriendly Medical Services Prevents PWDs from Using Medical Resources (Response to Paragraphs 190, 211, and 212 in the State Report)

190. Seeking Medical Treatment: The State has yet to mandate barrier-free accessibility for regular medical clinics. There are often steps to the entrance of many clinics and narrow spaces in clinics. Treatment tables also tend to have limited flexibility for adjustment. Article 24 of the *People with Disabilities Rights Protection Act* demands that each county and municipality designate special clinics for PWDs based on the population of PWDs and their needs. However, only dental services have currently reached the target of having at least one special clinic per county or municipality.¹⁰
191. Consultation: Despite the fact that the "Regulation for Managing Special Medical Consultations for Persons with Disabilities Regulation" stipulates that hospitals need to establish procedures that are convenient for PWDs to access, but medical personnel are insufficiently familiar with the uniqueness and variety of disabilities. Moreover, the medical conditions of PWDs are often complex: They often need to attend several consultations in one visit, and do not have the physical stamina to bear long periods of waiting. There should be the provision of friendlier consultation processes for persons with severe disabilities. For example, there should be the provision of more convenient procedures for follow-up visits by PWDs who require life-support systems twenty-four hours a day. Additionally, most clinics only have one waiting room. During crowded periods, this situation can intensify anxieties among persons with emotional disabilities, while raising the risk of secondary infection among PWDs weakened by illness and already at risk of

¹⁰ See the "[Chart for Special Dental Clinics Designated by the Health Bureau in each County and Municipality](#)" issued by Ministry of Health and Welfare in 2011.

infection (especially children). Such PWDs often see their medical conditions worsen as they are unable to successfully seek treatment.

192. Hospitalization: Most PWDs need special spatial arrangements, equipment, and personnel assistance during hospitalization. Such resources are currently limited. For example, wheelchair users need larger hospital rooms, which increases the financial burden of hospitalization on them since the National Health Insurance currently does not provide for accessible hospital rooms. A PWD will therefore need to pay out-of-pocket cost for a single or double room. Patients with serious scoliosis who lie down for long periods require air mattresses to reduce pressure and prevent bed sores and other conditions from developing. PWDs with weak muscles regularly face difficulties in operating hospital emergency call buttons and are unable to seek help from medical personnel in a timely manner. Hospital rooms that only provide seated shower seats and access chairs are inaccessible to persons who are unable to adopt suitable postures. Bathing and the use of toilet facilities present another major challenge. According to current regulations, PWDs are unable to apply for community support service personnel (such as residential services and personal assistant services) to provide support during hospitalization. This seriously affects the rights of PWDs to health and quality of life.

193. We recommend:

- (1) Hospitals should ensure that waiting rooms, consultation rooms, instruments, and equipment meet the needs of PWDs. These include wheelchair accessible, access assisted changing rooms as well as separate and quiet waiting rooms for the use of PWDs who require emotional stability.
- (2) All hospitals should provide a suitable proportion of safe and accessible hospital rooms under the National Health Insurance scheme. Hospitals should install care beds, air mattresses, and bathing beds suitable for PWDs with different needs in bathrooms. The design of the emergency call buttons in hospital rooms should consider the need of patients without sufficient strength in their arms. Hospitals should have communications facilities that enable PWDs to convey their needs to medical personnel with ease.

194. According to Article 23 the “Physically and Mentally Disabled Citizens Protection Act,” hospitals need to provide a discharge plan that includes recommendations on home care, physical therapy, home environment improvement, assisted device assessment and usage, transition services, lifestyle rebuilding, psychological counseling services, as well as an introduction to community treatment resources and other matters relating to hospital discharge. We recommend a legislative amendment to include a section on “Hospital Discharge and Recovery Follow-Up”

to encourage hospitals to continually grasp recovery conditions, and to provide timely advisories as well as recommendations.

195. PWDs who use breathing aids may receive financial assistance from the National Health Insurance Bureau under the “Citizen National Health Insurance Comprehensive Advance Payment for Care of Persons Dependent on Breathing Aids” pilot program. However, the pilot program excludes residential care organizations (Residential Care Centers). The National Health Insurance Bureau should provide an explicit list of supplies that the government should provide under the pilot program, and implement regular visits and inspections to prevent inconsistency in the provision of services by residential care centers, which could affect the rights of PWDs.
196. Insufficient medical resources in rural incarceration facilities: PWDs held at incarceration facilities in rural areas such as Green Island, Taiyan, and Yanwan face higher health risks and risk of death. The remote locations of these facilities, where access is susceptible to weather and sea conditions, create challenges for communication and transport. Medical facilities in these areas also lack personnel and resources. Such conditions are contrary to Article 75 of the “Physically and Mentally Disabled Citizens Protection Act,” which stipulates that PWDs should not be kept in environments where they face the risk of danger or harm.

Right to Insurance for Persons with Disabilities (In Response to Paragraphs 78 and 210 of the State Report)

197. Most PWDs are excluded from commercial insurance due to discrimination: Under Article 7 of the “Insurance Industry Solicitation, Underwriting, and Claims Handling Methods” issued by the Financial Supervisory Commission of the Executive Yuan, insurers cannot treat clients unfairly even if they are PWDs. In practice, insurers tend to produce risk assessment data that have no medical or scientific basis, and are only willing to insure PWDs whose disabilities did not result from illness (for example, insurers tend to reject persons with persistent epilepsy), regard disabilities as illnesses and reduce coverage, or refuse coverage for risks and conditions unrelated to a person’s disability (such as insurance for cancer). Persons under guardianship for intellectual or psychological disabilities are also unable to purchase personal or group insurance. The Financial Supervisory Commission encourages insurers to offer “micro life insurance policies,” but the terms of these policies tend to be annual and no different from regular accident insurance. Such policies have insufficient coverage and untransparent premiums, resulting in differential treatment of PWDs.

198. For example, there was a lady who had been surgically cured of epilepsy, but was nonetheless required by the insurance company to provide medical proof that there would never be epilepsy attacks, otherwise her premium would be increased. Agents in the insurance company revealed that the company were not willing to cover clients with epilepsy because it was difficult to differentiate the causes of incidents and the probable contribution of epilepsy.
199. The government should prohibit the insurance companies from arbitrarily declining clients with disabilities. Medical experts and insurers should participate in consultations on how to establish standards for calculating and estimating appropriate premiums for PWDs with different types and degrees of disability. For example, since there is a wide range of symptoms for epilepsy, the nature of risks and dangers encountered will vary accordingly. The Financial Supervisory Commission should invite the four main insurers in Taiwan along with the Taiwan Epilepsy Society and related epilepsy societies, practitioners with experience of caring, and patients & their families to jointly discuss reasonable ways to insure persons with persistent and regular epilepsy.

Preventive Care, Pregnancy, and Childbirth for Disabled Women Ignored

200. Women with disabilities face difficulties finding community-based preventive care services: The Health Promotion Authority under the Ministry of Health and Welfare, together with the health bureaus, health offices, and hospitals of each county and municipality have adopted “Mammography Vehicles,” “Pap Smear Vehicles,” and other similar programs to tour communities and provide cervical and breast cancer screening. However, these touring vehicles all have steps, which prevent women with disabilities from boarding and receiving the appropriate screening. Further, mammogram devices on these vehicles only operate on standing individuals. If women with disabilities wish to go to a hospital or health center for screening, the limited number of rehabilitation and health buses that provide transportation for PWDs mean that seeking preventive treatment remains inconvenient. We recommend the Ministry of Health and Welfare gather data on number and proportion of women with disabilities who receive health check-ups, breast cancer screening, and cervical cancer pap smears to improve barrier-free access to medical facilities and equipment (including medical examination equipment and instruments, community touring screening vehicles, and shuttles for community hospitals etc.).
201. Women with disabilities are not expected to become mothers and consequently do not easily receive health information and adequate service: Pregnancy, childbirth,

and postnatal care for women with disabilities are even more challenging to access when compared to women without disabilities. The design of examination tables, delivery tables and related equipment are ill-suited for use by women with disabilities across the board. Pregnancy health education, postnatal infant information, and related material tend to be unsuitable for use by women with disabilities. Designers seem not to have fully considered the needs of women who have special visual, intellectual, and physical needs.

202. The right of reproductive and childbearing autonomy for women with disabilities are ignored. We recommend that the Ministry of Health and Welfare collected and publish statistical data on the number of women with disabilities who underwent forced sterilizations or non-voluntary abortions.
203. We recommend that the Ministry of Health and Welfare strengthen education and training for medical personnel through multi-media materials. This allows medical personnel to provide women with disabilities with adequate health education relating to pre- and postnatal services (including infant care information).

Right to Health of a Child

204. In response to Paragraph 30 of the State Report, although the Government has permitted the establishment of children's hospitals, the clinical environment remains insufficiently friendly for children with disabilities.
205. Currently, the "Children's Hospital Assessment Criteria and Quantification Scheme" has explicit stipulations relating to barrier-free access, but has no explicit requirements on the specialized facilities that children with disabilities may need when seeking medical attention. For example, during ophthalmology consultations, children with disabilities need to be carried and shifted around physically by parents to use testing equipment. Orthopedic doctors require children who have weak muscles from serious scoliosis to sit upright to undergo x-rays, ignoring their difficulties. Currently, only small-sized beds for infants and small children have restraint bars that can be raised to prevent falls, but there is a lack of medium-sized beds with a similar capability for smaller-sized middle school-aged children. Hospitals also lack communication equipment to effectively convey the intentions during consultations and hospitalization of children who are conscious but unable to speak or have no control over their bodies.
206. We recommend that the "Children's Hospital Assessment Criteria and Quantification Scheme" should include equipment to assist children with

disabilities during medical treatment as part of its assessment standard, and incorporate improvements to such facilities as key criteria for annual assessments.

207. Please see Article 7, Paragraphs 37-41 of the Report for early intervention and education for children.

Sexual Rights of PWDs

208. Sexual rights are universal human rights, but the sexual rights of PWDs are often ignored: The State Report only emphasizes efforts at preventing sexually transmitted diseases (STDs), but has yet to adopt active attempts to recognize, promote, respect, and protect the sexual rights of PWDs. According to the 2011 Assessment Report on the Conditions and Needs of PWDs, 48.47% of PWDs have spouses or live-in partners. This data allows the presumption that slightly less than half PWDs have regular sex partners and sex lives. PWD service organizations in Taiwan have long distanced themselves from discussing the sexual rights of PWDs. It was not until 2013 when two gay activists (one of them a PWD) started 'Hand Angels', an organization that facilitate volunteer providing masturbation services to people with severe disabilities, that the call of 'sexual rights is human rights' was brought to realization for PWDs.¹¹

209. Recommendation:

- (1) The Government should produce additional chapters on PWDs in sex and sexuality education curricula in schools, acknowledging the importance of sexual rights for PWDs. Additionally, the Government should increase personalized assistance and services relating to sexual needs based on age, gender, and other factors in current PWD benefits and services.
- (2) The Government should follow Supreme Court Ruling No. 666, including going through "Reasonable and Clear Controls and Penalties" to regulate sexual services only when absolutely necessary. We ask local governments to expedite the establishment of sexual service areas under Article 91-1 of the "Social Order Maintenance Act" to provide venues where persons can satisfy sexual needs. With regard to PWDs with more limitations on mobility and no financial ability, the Government can consult legislative examples from the United Kingdom and Europe to allocate a budget that allows sexual services to be included as part of the benefits for PWDs.

¹¹ Translator's note: for more information about the Hand Angels, please check their official website at www.handjobtw.org.

Article 27: Work and Employment

210. According to statistics quoted in Paragraph 229 of the State Report, the labor participation rate for persons with disabilities is only one-third of the general population, namely at 19.7%, while unemployment rate is three times that of the general population, namely at 11%. In fact, for persons with disabilities who are able to enter the job market, the types of jobs available to them are very limited: 'low-level technician or laborer' emerges at the top with 31.3%, followed by 'service and sales personnel' at 20.2%, the third being 'administrative assistance personnel' at 12.1%, and the fourth 'administrative assistance or personal support (including receptionists, communication or administrative staff) at 11.6%. Of these, the vision impaired are mostly employed in the massage field (19.9%). Furthermore, there is great disparity in employment rate among persons with disabilities of different categories and degree, for example vision impaired at 16.2%, autistic persons at 13.8%, persons with chronic mental disabilities at 14.9% and persons with multiple disabilities at 7.0%. Employment rate for persons with extremely severe and severe disabilities is 7.5% and 8.9% respectively.
211. Following from the last Paragraph, according to a 2014 survey by the Ministry of Labor, the government has noticed that out of 136,274 employees who were people with disabilities, 32.5% were engaged in part-time work, temporary work, dispatch work and other informal work, earning only TWD\$16,046 a month of regular wages, which was lower than the minimum monthly wages of TWD\$19,273 of the same year in Taiwan. Further scrutiny of the wage figures for people with different types of disabilities will show that If one were to scrutinize the differentiation among disabilities, people with mental disabilities who were employed on monthly wages clearly had lower income than people of other disabilities, including: 'patients of chronic mental illnesses' (TWD\$18,549), 'dementia' (TWD\$17,291), 'people with mental disabilities' (TWD\$15,886) and 'autistic mental disabilities' (TWD\$15,433); as for people with mental disabilities who were earning hourly wages, employers often allocated fewer numbers of working hours in a discriminatory manner, for example the autistic often received monthly wages of only \$7,646.¹²
212. The government should formulate effective policies aimed at increasing the employability of persons with disabilities, especially targeting at addressing challenges facing persons with severe or mental disabilities in a dynamic and comprehensive manner. Regarding women with disabilities, it is necessary for the government to acknowledge the additional societal burdens placed on women to

¹² Ministry of Labor (2014) 'Survey on Labor Situation of People with Disabilities', Table 6, p. 10.

look after their family and the impact on women with disabilities seeking employments. The Government should focus on removing barriers and challenges facing women with disabilities seeking employment. Regarding the double difficulty that women with disabilities face in entering the job market, please refer to Article 6 of this Report.

Job discrimination being defined too narrowly and threshold for complaint too high (in response to Paragraph 227 of the State Report)

213. According to Article 5, Article 6 and the 'Implementation Guidelines' of the Employment Service Act, the employer is not to discriminate against job seekers or employees on the grounds of 'disabilities'. However, the act does not give further explanation on the nature and form of discrimination, but refers the power of discretion to city or county authorities and a committee on job discrimination formed by relevant government departments, units, labor organizations, representatives of employers' organizations and experts. Furthermore, as the forms of discrimination such as 'indirect discrimination', 'associative discrimination' and 'refusal to provide reasonable accommodations' (refer to Paragraph 24 of Article 2) have not been formalized in law, people with disabilities find great difficulty in declaring their right has been deprived and making a complaint successfully under the current law.

214. Recommendation to the Government:

- (1) In reference to the examples of cases in job discrimination among people with disabilities in the country in 2015 (see Paragraph 227 of the State Report), to explain in detail the reasons in these 25 cases for which discrimination was found and punishment meted out, or discrimination was not found, case was revoked or not accepted. Also, to call on the government to provide an improvement plan, to explain how such channels for appeals based on one's rights might be more easily known to and used by the public.
- (2) In reference to the examples and interpretation on forms of discrimination in the report by the Office of the United Nations High Commissioner for Human Rights regarding Article 5, to develop a comprehensive law on equality or specific to employment, in order to broaden the definition of job discrimination.

Support Services for Employment Limited in Effectiveness in Promoting Equality at Work

215. In response to Paragraph 238 of the State Report, regarding an employment quota system: An employment quota system is not able to provide people with disabilities with a stable job opportunity, the job opportunity created and the group benefiting from the system being limited. For example, many public organizations (especially schools) in releasing one lot of temporary job vacancy per year, would actually stipulate that as soon as there is personnel change among other employees such that the employment quota is reached, such a temporary personnel would have to leave the job. Private enterprises on the other hand tend to seek students with disabilities in schools to do part-time work similar to internship, hence avoiding formal employment of people with disabilities. Students as such are unable to gain access to formal work, and have to leave as soon as they graduate. Those who gain work opportunities through an employment quota system are mainly persons with light disabilities, while those with moderate or severe disabilities would not benefit from it. Furthermore, in order to conform to the regulations for employment quota, many employers choose to employ the vision impaired for massage service with basic wages, hence limiting again the opportunities for the vision impaired to develop plural career opportunities.
216. In response to Paragraph 234 of the State Report, regarding the redesigning of job scopes: Under 'Implementation Methods and Subsidy Guidelines in redesigning service for the job scope of people with disabilities' and 'Amended Rules for implementation plans in the promotion of redesigning service for the job scope of people with disabilities', the 'redesigning of job scope' refers to "measures for improvements in helping to remove job obstacles for people with disabilities, to improve on work efficiency and promote employment". Job redesigning is one of the important approaches in providing reasonable adjustments. However, this 'Implementation Plan' is based on subsidies and incentives, requiring employers and other relevant parties to take initiative to apply for it, hence lacking in legal obligation and power, in fact it is unable to protect the demand of people with disabilities for job redesigning in a job market. For example, many employers are unwilling to provide or allow personal assistants to help in the job market, the same situation being found even in public departments. See Paragraph 222 of this Report.
217. With regards to people who acquire disabilities later in life, the State Report only elaborates on the service plan for life rehabilitation provided by the Ministry of Health and Welfare, but has not elaborated on how to provide support at the job

market or how to make appropriate adjustments on the job, in order to help one return to the job market.

Vocational training and job market environment for people with disabilities

218. In response to Paragraphs 187, 231 of the State Report: according to a survey by the Ministry of Labor, only 7.8% of people with disabilities have participated in vocational training. As for the reason, four out of five 'unemployed' persons with disabilities or those 'with ability and intention to work but non-working' have answered 'not sure where to find vocational training'. Even though the Ministry of Labor has attempted to push for 'inclusive vocational training' said to be barrier-free, people with disabilities show have participated in inclusive vocational training have not reached so much as 4% of the total participants in training (see Table 24.8 in the appendix of the State Report), lower than the ratio of people with disabilities in the total population. Furthermore, even though the government has appointed external organizations to organize vocational training, it has not made it a compulsory precondition of the contract for training venues and training courses to be barrier-free, hence affecting the equal opportunity of people with disabilities in taking part in vocational training.

219. In response to Paragraphs 47, 48, 235 of the State Report: Although the Ministry of Labor has cited a barrier-free environment as a criterion for shelter workshops, factories and offices generally do not come under old buildings which are stipulated to install barrier-free facilities under Chapter 10 ('barrier-free buildings') of Regulations of Architectural Technology. Most workplaces still have problems with stairs or height difference, lack of platform lifts and barrier-free toilets. For the vision impaired, requirements in software and hardware in barrier-free facilities and devices are even more serious than the improvement of the physical environment. Currently, the most commonly faced difficulty is computer for the vision impaired: many computer systems in public and private departments are incompatible with the software of computers for vision impaired.

National examination as direct/indirect exclusion of persons with disabilities (in response to Paragraph 246-249 of the State Report)

220. There is unreasonable requirement in physical checkup: According to 'Guidelines on physical checkup for examination of civil servants', civil servants taking various types of examination are required to go through physical checkup, except that the standards are left to be determined by each set of examination regulations. Many areas of specialization still exclude people with disabilities, and have not

scrutinized the rationality behind the restriction or the principle of ratio. For example, the examinations for sheriffs, foreign service or consulate personnel, foreign service administrators and international business personnel have all directly excluded people with severe vision impairment, hearing impairment or physical disability from eligibility for a second or third examination, without assessing in each individual case whether the disability 'leads to an incapacity in handling the job'. Furthermore, while the second examination for personnel of the Investigation Bureau would include physical test on cardiovascular fitness, upon a check on the description of job scope for level 4 examination with 'assistant administrative work' under Ministry of Justice - such as communications surveillance, personnel, accountancy, general affairs, secretariat, dispatch, file management and so on, the job responsibility for such work does not entail a necessity for such physical test on cardiovascular fitness as stated.¹³

221. The national examination lacks reasonable adjustments for the sitting of examination: Currently, assistance for people of disabilities is provided at the examination venues under the 'Key points to implementation of protection of human rights in the participation of examination by people of disabilities for the national examination'. However, with regards to both the degree of disability posing a challenge to writing by people with disabilities, and the type of examination (multiple choice or essay questions), the duration of examination, whereby only 20 minutes of extension may be allowed, is hardly fair. The government should collect past case studies to produce a standard handbook for reference, so that state examinations and private examinations alike will have precedence to refer to.
222. Even public departments are unable to provide suitable redesigning of jobs. For example, under the rules of special examination for investigation personnel of the investigation bureau under the Ministry of Law, appointments made upon third level examination (including information technology, electronics, medical science or forensic chemistry, construction or maintenance section and investigative work section selecting personnel with special language competence) should be able upon completion of training to be sent to work as office staff for the relevant professional units. However, as part of the operation of the investigation bureau, it should be stipulated that those who have completed training should all accept work in the field before being sent to work in office units.

¹³ Content of tasks in Examination in 2015 for investigation bureau personnel in Ministry of Justice as special examination for civil servants.

Closed environment of a sheltered workshop (in response to Paragraph 251 of the State Report)

223. Conflict between sheltered workshop and freedom in choice of occupation: with regards to those 'having intention to work' and 'having inadequate ability to work', arranged by the government to be employed as people with disabilities at sheltered workshops, they may have long stayed in the same working environment with colleagues who are mostly people with disabilities (except for the few employment counsellors). Hence, they are unable to train better capability for more diverse work and work flexibility, thereby gaining better chance to enter an open, inclusive labor market and work environment.
224. Unfavorable labor condition in sheltered workshop employment: As mentioned in Article 40 of Protection of the Rights of People with Disabilities Act, People with Disabilities in sheltered workshop employment are not applicable for regulations on basic wages according to Labor Standards Act. Their wages have to be determined by their 'productivity' upon negotiation with employers and them as sheltered workshop employees, and filing reports to the labor administration agency. According to June 2016 statistics, 42.6% of sheltered workshop employees earn wages less than \$6,00, while 34.1% fall between \$6,000 and \$9,000 in wages, 20.2% between \$9,000 and \$15,000, with only 1.3% of employees enjoying wages that reach basic wages. In comparison with average income standard of \$11,448 among low-income households of 2016 in Taiwan, most people with disabilities working at sheltered workshops have an income far below the poverty line.
225. We call upon the government to fully reexamine the system of sheltered workshops based on the principle of the Convention, in order to ensure that people with disabilities will have the right to freely choose and accept job opportunities to make a living, in an 'open, inclusive and barrier-free labor market and working environment'. Also, as emphasized in Paragraph 47 of the 'General Comments' in No. 23 of the International Covenant on Economic, Social and Cultural Rights, people with disabilities should enjoy equal remuneration for work of equal value, and not be discriminated against in any application of wages due to a *perceived* reduced capacity for work. We request the government to clarify as to whether there are problems of people with disabilities in sheltered workshops being underestimated with regards to their capacity for work or productivity, leading in fact to unequal remuneration for work of equal value?

Right to work for people with mental disabilities

226. In response to Paragraphs 232 to 234 in the State Report: As the general public in society may have a poor regard or misunderstanding towards people with mental disabilities, people with mental disabilities are generally reluctant to obtain a certification of mental disability (see Paragraph 21 of Article 1), for fear that an identity of mental disability may affect their chance in finding jobs (with regards to the issue of right to privacy, see Paragraphs 188-189 of Article 22). Even as one enters a job market, it would also be difficult to apply for job redesigning. Employers are not able to comprehend what needs a person without any physical disability may have. Case managers for vocational rehabilitation are also limited in knowledge, and often refuse to open up cases to serve people with mental disabilities, citing reasons that they are unable to take up employment 'currently' or 'at the current stage'. If people with mental disabilities also carry other non-mainstream identities (such as minorities among people with disabilities), they are usually even less willing to come out of the closet. Even if they are willing, the government also lack support personnel with the requisite training and knowledge to provide appropriate support in the job market.

227. Recommendation:

- (1) People with mental disabilities who are unable to obtain handbooks or certification should be allowed to substitute it with medical records, certificate of diagnosis or identity card for major illnesses, in their application for relevant employment support services. One should not cite any doubt as to whether any person with mental disability as the reason to exclude him or her from using such support service.
- (2) While training case managers for vocational rehabilitation, the government should enhance knowledge on people with mental disabilities and other various forms of disabilities, so as to upgrade their professional know-how. Job redesigning should take into account different needs for services among different types of disabilities. For example: one could provide peer counselling for people with disabilities, or allow them to seek their own trusted persons for employment support.

228. The Teachers Act restricts the right to work among teachers who are persons with mental disabilities: According to Article 14 of the Teachers Act, if any teacher is in a state of 'being proven by qualified doctors to have mental illnesses from which one has not recovered', the school may dismiss or stop hiring him or her, or choose not to renew his or her contract. Although the regulations require only that a person with disabilities may be hired as teacher as long as he or she is diagnosed by a medical doctor to have recovered, in reality when a teacher who is a person with

mental disability has a relapse and requires to take leave for treatment, he or she will easily be dismissed or find the contract not renewed as soon as a medical certificate is produced for the school. Even for those who have gone through a period of time in treatment or have managed to keep the condition under control through medication, it is not very likely to be fully recovered. How could one then be able to obtain a certification from a doctor to prove that one has fully recovered? Such restrictions on the right to work among people with mental disabilities is not in keeping with a principle of proportionality, and hence constitutes discrimination.

Article 28 Adequate Standard of Living and Social Protections

PWDs are mostly invisible poor with unstable economic circumstances

229. Older PWDs face difficulties in living independently due to insufficient social security protections and support: As described in Paragraph 229, Article 27 of the State Report, PWDs have low labor force participation and face unemployment rates three times the national average. Without stable sources of income and daily expenditures that are higher than the average citizen, PWDs easily become the invisible poor. Moreover, PWD pensions under the National Pension Insurance provides a basic guaranteed monthly sum of NT 4,872. However, recipients of this scheme cannot simultaneously receive elderly subsistence assistance, PWD subsistence assistance, and other related social benefit or subsidies. Present eligibility to apply for many subsistence-level financial assistance and subsidy programs, including the “Public Assistance Act” and “Management of Subsistence Assistance Fund Disbursements to Persons with Disabilities,” depend on calculations of the monetary value of family income (divided by the number of persons in the household). Many PWDs who are unable to work become dependent on and burdens to their families. If these PWDs start working, their incomes may affect their eligibility for financial assistance. This reduces the incentive for PWDs to alleviate poverty, preventing them from becoming economically independent, self-sufficient individuals.

230. Inadequate subsistence protections for PWDs under incarceration: According to Article 4 of the “Management of Subsistence Assistance Fund Disbursements to Persons with Disabilities,” financial assistance payments cease once a PWD is “sentenced to prison, detained for case investigation, or legally detained.” As families on financial assistance are already economically vulnerable and labor and

living conditions in current correctional facilities are very poor ¹⁴, incarcerated convicts may have to depend even more on support from relatives and friends or illegally work to afford daily items. Correctional facilities also do not offer many opportunities for PWDs to learn appropriate life skills that help them reintegrate in society upon release. Ceasing subsistence-level financial assistance to imprisoned PWDs creates severe negative consequences for individuals and families. Many families in such situations are forced to go into debt or sell personal property to make up for their financial shortfalls.

231. Recommendations to the Government:

- (1) Older PWD applicants for Government financial assistance (such as for assistive devices, personnel support, rental assistance) should have their assets and income calculated separately from those of their family members to facilitate economic independence and independent living. See Article 19, Paragraph 149.
- (2) When dealing with PWDs who are unemployed or do not have stable incomes, governments at various levels of jurisdiction should coordinate cooperative efforts to avoid conflicting regulations governing various financial assistance programs (and should, to the extent possible, allow for a single application). Such a move seeks to avoid situations where PWDs are unable to maintain a basic standard of living.
- (3) Strengthen social safety nets including the “Public Assistance Act,” giving special consideration to persons with multiple needs who are particularly vulnerable. Such burdens should not fall entirely on individual families, and the Government should actively intervene to provide support. These steps can help avoid a repeat of past tragedies when families with PWDs were unable to deal with the burdens of long-term care and looking after children, and turned to killing family members or committing suicide with their children. See Article 23, Paragraphs 165-166.
- (4) The Government should provide materials and data to explain the conditions of incarcerated PWDs (including the labor conditions and incomes of incarcerated non-PWDs for the purposes of comparison) and provide plans to improve living and labor conditions. The Government should review current regulations on subsistence-level financial assistance for incarcerated PWDs, and consider whether to trace past cases and provide some form of retroactive compensation.

¹⁴ Using Taipei Correction Facilities in 2014 as an example, every incarcerated person receives an average annual income of NT1,447. See Civil Media Taiwan’s video archive, [“Inmate Earned Income Does Not Meet Basic Expenditure; Agency of Corrections: Most Firms Do Not Wish to Come into the Prisons.”](#)

Article 29: Participation in Political and Public Life

Inadequate protections for PWDs' right to vote

232. The Central Election Commission has been slow in responding to demands by civil society for reform. As many PWDs face a range of obstacles in going to polling stations, they simply decide to forego voting--their most basic right of political participation. Many polling stations around the country have tables and chairs that are too high for PWDs and do not provide support for assistive devices. Moreover, as the polling day itself tends to be a non-working day when rehabilitation buses do not run, PWDs who are working or going to school outside their registered constituencies face difficulties in returning to vote. Even when a PWD has a family member accompany them to vote, this often violates the principle of voting secrecy and makes the PWD unable to freely cast a vote of their choice.

233. We recommend that the government should:

- (1) Public information relating to elections (including public election bulletins published by the Central Election Commission, news, press briefings, and presentation of political views by candidates) should be made accessible to persons with disabilities. This includes the provision of voice broadcasts, Braille publications, sign language translators, and live closed captioning etc.
- (2) Release the results of the "Polling and Counting Station Accessibility Inspection Table" before polling day, establish hotlines to handle reasonable accommodation requests pertaining to accessibility at each polling station, and remove obstacles that prevent PWDs from voting in secret and exercising their freedom of choice.
- (3) The government should introduce an absentee and out of constituency postal voting system to enable easier voting for PWDs who live long-term at nursing homes or other institutions and unable to easily return to their registered home constituencies.

PWDs who are subjected to declaration of guardianship automatically have their right to vote taken away

234. The CPRD emphasizes the ability of PWDs to participate in public affairs and political decisions "effectively" and without obstruction. This includes the right to freely exercise the right to vote and stand for elections either directly or through a freely chosen representative. According to Paragraph 48 of CRPD General Comment No 1, "a person's decision-making ability cannot be a justification for any exclusion of persons with disabilities from exercising their political rights", regardless of the seriousness of their disabilities.

235. Article 25 of the “International Covenant on Civil and Political Rights” emphasizes that there should not be unreasonable restrictions on the right to political participation. However, Article 14 of the Civil Servants Election and Recall Act stipulates that: “Any citizen of the Republic of China reaching 20 years of age shall have the right of suffrage, unless the declaration of guardianship has yet been revoked.” The existing guardianship system presumes that PWDs and persons with psychiatric disabilities under civil protection have to no ability for “meaningful” political participation, and do not allow them to have the capacity to delegate representatives to exercise such rights on their behalf. We question whether subjecting persons under guardianship declarations to such narrowly defined restrictions will prevent the State from fulfilling its obligation to ensure the reasonableness, necessity and proportionality of electoral laws? (For other questions relating to the guardianship system, refer to Article 12, Paragraphs 99-100.)
236. The government should account for the total number of persons who have their right to vote taken away under guardianship declarations and their proportion within the total population. The government should refer to Paragraph 44 of the 2010 ruling by the European Court of Human Rights in the case of *Alajos Kiss vs Hungary*, and consider the need to amend regulations in the Civil Servants Election and Recall Act that indiscriminately remove voting rights of persons solely based on their disabilities.

Article 31 Statistical Research and Collection of Data (in response to Paragraphs 300 to 301 of the State Report)

Issues concerning the “population” of people with disabilities

237. When conducting statistical surveys on PWDs, it is important to determine who the subjects are. As far as research purpose and application of results are concerned, selecting PWDs who hold a disability card or certificates as subjects can be very different from picking those targeted by WHO’s 6-question disability measure. Statistical results obtained with the latter group of subjects are useful in guiding the government to become aware of the disability prevalence among the total population, a figure that may serve as a reference for resource allocation. Moreover, judging from the relatively broad definition of PWDs stated in the CRPD, all the PWDs among the total population should be selected as a population to be longitudinally monitored with relevant indicators in the future, so as to determine whether the State is continuously fulfilling its duties stipulated in the CRPD. In contrast, the statistical results obtained with PWDs holding a disability

card or certificates reflect the needs for and availability of government services and are thus helpful in knowing about the target groups of certain types of service. But it is worth noting that, despite the changeable nature of how disability is defined as well as the ten-year intervals between censuses, determining the number of the PWDs holding a disability card and certificates among all PWDs is essential. Only with such work are we able to identify the differences in terms of category or degree of disability between the PWDs with a disability card and those without, and to determine the reasons for not holding a disability card, such as finding it unnecessary, or having no access to or being incapable of filing applications for disability certificates and ensuing social services.

Statistical surveys that reflect the fulfillment of CRPD duties

238. With regard to the “Survey on living conditions and needs of PWDs” conducted every five years, the survey design does not, despite the choice of PWDs holding a disability card or certificates as survey subjects, reflect any awareness of rights or include all the rights safeguarded by the CRPD. It is therefore difficult to judge from the survey results whether rights of PWDs are increasingly protected, especially in terms of certain essential aspects of life related to social participation and dignity: autonomy of decision making, support of decisions, effective public participation, and so on.
239. When conducting major statistical surveys (on employment or income, for instance) for official use, the government should always include the question “Are you a person with disabilities?” for the subject being surveyed, so that it will be easier for the differences between PWDs and other social groups to be identified. Such measure, certainly, has been deemed by the government as an action likely to invade privacy or lower response rates. Nevertheless, these concerns should not be mere speculations or used as grounds for rejection; instead, the government should carefully assess them before deciding whether to adopt the measure or not.
240. Human rights budget is an important item in terms of human rights statistics. It is true that due to budget limit, social services available from the government are also limited to a certain degree. Nevertheless, whether or not these services are able to meet the basic needs of PWDs or implement the essential duties stated in the CRPD has never been evaluated in a comprehensive manner. Budget limit is a common reason used on the part of the Ministry of Health and Welfare to respond to requests from PWDs; however, there is a lack of convincing data also on the part of the Ministry for explaining to other government agencies how much budget and how many administrative resources should be increased.

241. In a number of general comments¹⁵, UN core human rights treaties mention the circular process of *indicator-benchmark-scoping-assessment* (IBSA) and recommends implementing it to longitudinally monitor the State regarding its implementation of human rights duties. Such process is all the more vital when it comes to the safeguarding of economic, social and cultural rights over time. To be more specific, the IBSA process comprises the following steps: select representative indicators suitable for monitoring the situations concerning one specific right, obtain quality disaggregated data through research design and surveys based on human rights statistics, produce benchmarks for improvement with regard to the indicators on the part of the State, conduct scoping reviews regarding these benchmarks through constructive dialogues between the International Review Committee and government representatives, and eventually, in four years' time (the interval between two international reviews of the CRPD), start over the same assessment.
242. Both the collection of data and the IBSA tool mentioned in this article require competence in the field of human rights statistics. In fact, during the past few years, human rights groups repeatedly requested the Directorate-General of Budget, Accounting and Statistics to train the personnel from statistical offices on skills of human rights statistics. They also requested the office to make thorough investigations on the methods of categorization, collection and analysis for demographical data regarding official statistics and administrative surveys, in hopes of generating quality statistical data on human rights while respecting the privacy and dignity of citizens. The Directorate-General, however, never agreed to comply on the grounds of political obstacles. In view of the above, it is clear that the State lacks not only an integral human rights policy since the enactment of the Two Covenants in 2009, but also the political will to lay the foundations for human rights work.
243. Specific recommendations for the government regarding the abovementioned issues are as follows:
- (1) The government should conduct censuses to obtain disability prevalence, and to determine the reasons for not holding a disability card or any other certificates, while regarding all PWDs among the total population as the target population on which human rights statistics and indicators will be based.
 - (2) The government should create new administrative surveys by selecting PWDs as main subjects to establish links and comparability with the past surveys, and, more importantly, respond to the CRPD duties with survey questions.

¹⁵ Such as General Comment 14 in the International Covenant on Economic, Social and Cultural Rights regarding the right to health.

- (3) We sincerely invite the Review Committee to make use of the ISBA process in order to encourage the State to make improvements with regard to urgent disability issues following certain objectives and schedules.
- (4) We look forward to seeing the Review Committee state clearly in the Concluding Observations and Recommendations the foundations and training programs required for conducting statistical research on human rights issues.

Article 33 State Implementation and Monitoring (in response to Paragraphs 306-310 of the State Report)

State Report does not provide explanations on implementation and monitoring measures in accordance with requirements under CRPD Reporting Guidelines

244. The State Report did not comply with the requirement of the “Guidelines on treaty-specific document to be submitted by states parties” (CRPD/C/2/3) that sets out the State Reporting obligation under Article 33 of the CRPD. The State Report did not address any measures taken to designate one or more ‘focal points’ in accordance with Paragraph 1, Article 33, nor did it identify any ‘independent mechanisms’ as required under Paragraph 2 that can monitor the implementation of the Convention. The State also failed to report on any measures taken to involve civil society in the monitoring process and the preparation of the State Report. Finally, the State Report did not explain how disability issues can be integrated on the agenda of all government agencies, how their programs and functions are designed and how their budgets are allocated for the purpose of national implementation and monitoring.
245. In the List of Issues, the Review Committee should seek clarification from the Government to address any gaps in the protection mechanisms, coordination mechanism within the government, and budget allocations for the purpose of national implementation and monitoring to promote and protect the rights of persons with disabilities.

Paragraph 1, Article 33: Implementation Committee under the Executive Yuan has an ambiguous role and lacks efficiency

246. According to Paragraph 308 of the State Report, the government, under the Executive Yuan, created the *Committee for the Promotion of the Rights of Persons with Disabilities* (“Implementation Committee”) that is tasked to oversee the implementation of the provisions of the CRPD. The Government did not stipulate

whether the Implementation Committee fits with the definition of a 'designated focal point' under Paragraph 1, Article 33 of the Convention. The Implementation Committee is mandated to meet once every three months in accordance with the requirements under the *Installation Guidelines for the Committee for the Promotion of the Rights of Persons with Disabilities* ("Installation Guidelines"); however, according to the meeting records provided by the Ministry of Health and Welfare, the Implementation Committee have so far only managed to fit two to three meetings per year since it was established, and lacked a clear documented working process and structure. For example, the Implementation Committee was given the power to accept individual complaints under Article 6 of the *Act to Implement the Convention on the Rights of Persons with Disabilities* ("CRPD Implementation Act"); however, there is no clear provisions on the process of handling any individual complaints. There is also no process to establish the administrative and legislative steps following the successful lodgment of an individual complaint. There is real doubt as to whether the Implementation Committee is able to fulfil the mandates as set out under Article 6 of the *CRPD Implementation Act*. Overseeing the implementation of the *CRPD Implementation Act* and coordinating efforts as the secretariat of the Implementation Committee fall under the responsibility of Ministry of Health and Welfare; however, in practice, these duties are being carried out only by a few staff from the Social and Family Affairs Administration Department, making the full realization of Article 6 of the *CRPD Implementation Act* difficult.

247. The Implementation Committee is headed by a Chairperson, appointed from Ministers without Portfolio, while Committee members should include deputy ministers, academic experts and representatives from organizations representing persons with disabilities. The Implementation Committee, through its mandate and membership, should be able to fulfil the requirement of a 'designated focal point' as stipulated under Paragraph 1, Article 33 of the CRPD. However, the Ministry of Health and Welfare does not publish any record of member attendance of these meetings, making it difficult for civil society to know which member was present at these meetings. The meeting minutes also indicated the Chairperson or key members were often not present at these meetings; instead, their functions were carried out by nominated 'proxy' members, and only a few members would speak during the meetings. The Implementation Committee is headed by a Chairperson, appointed from ministers of state, while Committee members should include deputy ministers, academic experts and representatives from organizations representing persons with disabilities. The Implementation Committee, through its mandate and membership, should be able to fulfil the requirement of a 'designated focal point' as stipulated under Paragraph 1, Article 33 of the CRPD. However, the

Ministry of Health and Welfare does not publish any record of member attendance of these meetings, making it difficult for civil society to know which member was present at these meetings. The meeting minutes also indicated the Chairperson or key members were often not present at these meetings; instead, their functions were carried out by nominated 'proxy' members, and only a few members would speak during the meetings. Very few of the 24-member Implementation Committee identify themselves as persons with disabilities and most of the academic expert members are already under government commission or consultant contract in other related projects. We believe this creates ethical conflicts and conflicts of interest with regard to the member's duty and obligation towards the Implementation Committee and the Government.

248. The Review Committee should request the Government to clarify whether the Implementation Committee appointed by the Executive Yuan functions as a designated coordination mechanism. If it does, the Implementation Committee should function in accordance with the requirements under the CRPD and the Government's own *CRPD Implementation Act*. The Implementation Committee should be required to amend the *Installation Guidelines*, conduct meetings more frequently, and oblige its members to attend meetings personally, without the use of proxies. Persons with Disabilities and their representative organizations should account for at least one-third or even half of the membership of the Implementation Committee, and guidelines for avoidance of conflict of interest and an ethical code of conduct should be in place. The above requirements should be applied across all similar mechanisms in other government departments and ministries.

Paragraph 2, Article 33: NHRC should be established to take on the independent monitoring role

249. As Paragraph 307 of the State Report points out, the Control Yuan is empowered by the Constitution to independently exercise a number of powers for monitoring and conducting investigations on government agencies and public servants to protect the rights of citizens. However, since the implementation of the CRPD (through the enactment of the *CRPD Implementation Act*), the Control Yuan has only made one correction in February 2017 relating to the Fund to Improve and Promote Access-free Equipment and Facilities for Persons with Disabilities. The Control Yuan has otherwise not fulfilled its obligations under Paragraph 2, Article 33 of the CRPD as an independent monitoring mechanism. We recommend that the Control Yuan should increase its own expert capacity on the provisions of the CRPD, as well as develop a comprehensive working mechanism and process in order to ensure the Government meaningfully fulfil their obligations under the Convention.

250. The Control Yuan does not meet the requirements set under the 1993 United Nations Paris Principles on National Institutions for the Promotion and Protection of Human Rights, in both the composition of personnel and its functions. Since 1998, civil society organizations in Taiwan have called for the establishment of an independent National Human Rights Institution. This was supported in the Concluding Observations and Recommendations of both the 2013 and 2017 reviews of the Two Covenants, as well as the 2014 Review of the Convention on the Elimination of All Forms of Discrimination Against Women. President Tsai In-Wen finally made a commitment on January 20, 2017 that plans to establish a National Human Rights Institution in accordance with the Paris Principles will be finalized by the end of this year (2017). We strongly encourage the government to fulfil the commitment made by President Tsai, and ensure the independent National Human Rights Institution is tasked with the responsibility of implementing, monitoring, and coordinating the implementation of all ratified human rights conventions, including the CRPD.

Paragraph 3, Article 33: Government should ensure that Persons with disabilities and civil society are actively involved

251. Government should ensure that Persons with Disabilities and their representative organizations are actively involved in all aspect of governance, from policy formation, implementation, to evaluation, in order to ensure the interests of Persons with Disabilities are properly considered and consulted. Apart from the provisions stipulating a proportion of Persons with Disabilities among the members of the Implementation Committee under the Executive Yuan and other government agencies and local governments, no other mechanisms are in place to ensure that Persons with Disabilities are properly involved and consulted in the decision-making process. This falls short of the “Nothing about us without us” principle, as well as the requirements under Paragraph 3, Article 33 of the CRPD.

252. The government should institutionalize civic participation mechanisms by amending relevant laws: the administration currently makes arbitrary decisions when selecting information and processes for disclosures, consulting stakeholders, as well as exercising discretion as to the effect of citizens’ proposals. In view of the above, the Ministry of Justice should propose promptly amendments to the *Administrative Procedure Act* regarding public participation in decision-making, so that they can be reviewed and approved by the Parliament.



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