

Replies of Taiwan NGOs to CRPD LOIs

人權公約施行監督聯盟	Covenants Watch
民間司法改革基金會	Judicial Reform Foundation
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

Covenants Watch, Taiwan

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[Purpose \(art.1\), Definitions \(art. 2\), General principles \(art. 3\), General obligations \(art. 4\)](#)

2. [Please explain how the concept of a human rights model of disability is used to determine disability beyond the ICF system currently being used.](#)

Replied by Covenants Watch and Taiwan International Medical Alliance

1. The inconvenience of disability could be offset by the social security and welfare system the Government has provided. However, these would only endow disabled people with the necessary conditions to equal rights, while lacking the sufficient conditions. According to the CRPD human rights model, disability could be created by the interaction between impairment and environment. Hence, if the system and the environment are more inclusive, people with disabilities would be more capable to enjoy various rights. The Government should not only provide cash benefits, allowances, and subsidies, but also carry out systematic and environmental reforms. The Government's response has once again proved that it views people with disabilities as welfare receivers, not as holders of rights.
2. During the constructive dialogue and through the Concluding Observations and Recommendations, we would like to suggest the Review Committee to introduce and instruct the Government what is a human rights model and how to implement it via regulations and actions.
3. [Please describe the concrete steps taken to amend national legislation and regulations to include the concept of reasonable accommodation and the recognition that the denial of reasonable accommodation constitutes a form of discrimination, and to ensure its application in practice in the public and private sectors.](#)

Replied by Covenants Watch

3. In regard of the Government's response on Issue 2 and paragraph 17 of its Initial Report:
 - (1) We would like to ask the Review Committee to request the Government to provide statistics on the number of appeals received, how many have been upheld, and the outcomes.
 - (2) We would like to ask the Review Committee to request the judicial authorities to provide statistics on the number of discrimination lawsuits that harmed the rights of people with disabilities and the outcomes of court judgements that benefit the plaintiffs.
 - (3) We would like to ask the Review Committee to request the Government to make reference to the report (A/HRC/34/26) the OHCHR has made following Article 5 of CRPD (especially paragraph 40 of that report), and request the Government to draft and amend acts.

Replied by Taiwan Access for All Association

4. The Government's response merely reiterate existing legal provisions protecting persons with disabilities and did not respond to the inadequacies within the system as pointed out in paragraph 177 ("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"), 178 ("Professional subject teaching environment full of learning obstacles"), and paragraph 176 ("revamping the course syllabus for on-the-job training among general education teachers, and establishing a database on the training of teachers") of the Parallel Report by Covenants Watch. The Government also failed to formulate a concrete action plan with implementation timeline, seriously impacting on students with disabilities' right to receive education.

5. The Government's response on the issue of higher education admission; Although some discriminatory language has been removed from enrolment regulations but in practice the issues pointed out by paragraph 171 of the Parallel Report relating to difficulties and indirect discrimination faced by students with disabilities still exist and the Government failed to respond to the recommendations made in paragraph 172.

6. The Government's response on National Examination:

(1)The basis for providing assistance for persons with disabilities is determined on the basis of a diagnostic report provided by a medical doctor is contrary to the spirit of the social model promoted by the CRPD. Doctors are asked to determine the exact need of the persons with disabilities participating in the National Examination often during a very short consultation time that is available, running contrary to their professional ethics.

(2)Candidates who have physical and mobility disabilities, are granted a uniform extension of twenty minutes for every examination period to "compensate" for their difficulties in reading and writing examination questions. This seriously misunderstands the different types of disabilities and ignores the reality that "every human being may experience some degree of disability in their life through a change in health or in environment". This further ignores persons with different types of disabilities may face different challenges during the examination period and will need different kind of assistance.

(3)The Government should implement a comprehensive assessment scheme that aims to provide assistance to allow every candidates participating in the National Examination to perform to the best of their ability.

4. Please indicate what steps are being taken to amend legislation to include a definition of universal design and how it will be regulated in areas such as: education, health, transportation, and the built environment.

Replied by Taiwan Access for All Association

7. In response to the Ministry of Education's response (please refer to our response to Issue 3: The Government did not address paragraphs 167 and 170 of the Parallel Report where students in public schools with disabilities are forced to be segregated to receive their education, especially in language, maths, science, and vocational training, in resource rooms and not with general classes. Students with severe disabilities who are using respirators but have no family member or caregiver to accompany them are prevented from attending school all together and are forced to be placed in scattered classes of counselling on tour where they are only visited at home once or twice a week. The Government also failed to engage with recommendations put forward in paragraphs 168, 172, and 180 of the Parallel Report. In addition, the Government failed to respond to paragraphs 186 and 187 of the Parallel Report regarding establishing effective home schooling for students with disabilities and required facilities such as video conferencing system.

8. On the issue of built environment, the Government has not responded to the issues raised in paragraphs 62, 63, and 64 of the Parallel Report, and not engaged meaningfully to the recommendations made in paragraph 66 of the Parallel Report. Referring to Paragraph 168 of the Parallel Report, the Government should also take the "integrated approach and to work collaboratively towards a shared agenda" as stated in paragraph 61 of the CRPD General Comment No 4.

5. [Please provide information on the measures taken to ensure the effective realization of the principles established in article 3 in all laws and policies adopted by the State.](#)

Replied by Taiwan Access for All Association

9. In its response, the Ministry of Education focused solely on the audit of discriminatory language or provisions in law, while ignoring the human rights abuse of persons with disabilities, especially their right to education as found in the Parallel Report. The Government should establish legal framework, amend and reform existing practice. Some of the issues mentioned include: "the legal status for students with disabilities participating in Individualised Education Program (IEP)" (paragraphs 173 and 174), "students with disabilities seeking admission to enter higher education often face indirect discrimination" (paragraph 170), "special resource classes often fully or partially segregate students with disabilities from mainstream classes," "students with severe disabilities are forced to receive their education through scattered classes with counsellors making home visits" (paragraph 170), "barrier-free school campus" (paragraphs 183 and 184), "increase mainstream school teacher's capacity and knowledge on special education" (paragraphs 176

and 177), and “cooperation between general teachers and special education teachers” q (paragraphs 179 and 180).

10. In response to the Ministry of Education Response (3), as paragraph 184 of the Parallel Report pointed out, transport subsidies provided by the Government for students with disabilities alone does not resolve the difficulties for these students commuting to and from their schools. We request the Government to provide nationwide statistics on the type of free and subsidized transport options available to students with disabilities across all levels of educational institutions. In response to Ministry of Education Response (4), on the issue of full participation in student life for persons with disabilities, please refer to our response on Issues 3 and 4.

6. Please indicate whether the State provides support to national and local associations of persons with disabilities and how those organizations are involved in decision-making processes concerning legislation, public policies, and budgeting, including organizations of women and of children.

Replied by Covenants Watch

11. The Gender Equality Policy Guidelines, adopted by the Executive Yuan have committed to increase women with disabilities to participate in the relevant committees in each government ministry and department. However, disability organisations’ participation with government department and their involvement in policy making are almost exclusively restricted to the Committees for the Promotion of the Rights of Persons with Disabilities at the central and municipal government levels. It is still rare to see women with disabilities actively participating in other consultative committees at the central or municipal government levels.

Equality and non-discrimination (art. 5)

7. Please provide information about the government’s and the private sector’s role and responsibilities in improving attitudes towards persons with disabilities and in monitoring and combatting direct and indirect discrimination against persons with disabilities in all respects.

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

12. The Government’s response claims to have reformed media reporting of mental health issues through the implementation of the Guidelines on the Media Reporting of Mental Health Issues. However, media reporting of mental health issues is still full of languages that

are discriminatory against persons with mental disabilities and overstating the risk they posed to the society. We recommend that the Government should publish the National Communications Commission and the Ministry of Health and Welfare's statistics on disciplinary actions taken against media outlets as a basis to better facilitate the monitoring and corrective actions that are needed to address the direct and indirect discriminations faced by persons with mental disabilities at all levels.

13. Additional remarks:

(1) The current proposed amendment to re-define the term "severe patient" under Article 3(4) of the Mental Health Act to include patients "exhibiting tendencies to attack and harm others or animals, or suicidal tendencies or self-harm" is likely to lead to more mental health patients being classified as "Severe Patient."

(2) The addition of "police authority" as one of the "competent authorities" medical institutions must report to under Article 29 of the Mental Health Act effectively treats mental health patients as potential criminals. This constitute a serious discrimination against persons with mental disabilities.

Replied by Taiwan Access for All Association

14. In response to the Ministry of Education, the Regulations for Special Education Students to File Complaint and Assistance provided that students with special needs, their guardians, legal representatives are required to direct their complaint to the school when there is a need to apply for special assistance measures to assist the students in their study, wellbeing, and when their rights are being abused. The power is imbalanced and the fact that the schools take on the role of both perpetrator and judge in these disputes means guardians or parents often are left with taking their complaints to their Members of Parliament or the media. The Government should reassess a more effective complaint mechanisms through reforming the hierarchal composition, and function of the Student Grievance Evaluation Committee.

Replied by Taiwan Epilepsy Care Alignment

15. On issues of mass communication: The Taipei 2017 Universiade homepage has used words that stigmatize people with epilepsy, we are really uncomfortable about it, and we request the Government to put efforts to prevent these kinds of situations from happening again.

16. Labour and employment: According to the Government's statistics in June, 2014, there are 1,680 people with epilepsy employed, yet there are more than 40,000 people with epilepsy in Taiwan. We request the Government to explain and reduce the high unemployment rate of people with epilepsy.

Women with disabilities (art. 6)

9. Please provide information on programmes, including affirmative action measures, to promote the rights of women and girls with disabilities, especially intersecting forms of identity status.

Replied by Covenants Watch

17. Regarding the response from the Council of Indigenous Peoples (3): The Council should provide specific statistics or data explaining the impact of the program “of human resource development for indigenous people,” run every two year. (By the way, the name of the program in the Chinese version of the Government response, is better translated as the “Program for the development of indigenous women leaders.” This fact that the program is targeting indigenous women leaders was not translated at all into the English version.) The Council should provide detail as to the number of programs that have taken place, the participants, especially indigenous women with disabilities, how the program propose to increase the rights of indigenous women with disabilities or what types of discriminative environments it seeks to improve.

Children with disabilities (art. 7)

12. Please explain what steps are being taken to allow children with disabilities to speak for themselves and to recognize the evolving capacity of children with disabilities.

Replied by Taiwan Access for All Association

18. Please refer to our response to Issue No. 3. The Government should invite students with disabilities to participate in the planning of IEP.

13. Please explain what steps are being taken to ensure coordination of services for children with disabilities from diagnosis to early intervention to other supports, services, and education.

Replied by Taiwan Access for All Association

19. Specific education issues facing students with disabilities:

(1)The laws require all specialists involved in special education should work collaboratively and jointly in the education of students with disabilities (including special education teachers, normal teachers, special education related professionals and the school’s administrative staff). However the reality is that special education related professionals (Physiotherapists, Occupational Therapists, Speech Therapists) will only visit each school once or twice a month, or in some instances, once or twice a semester. While they are working in the school,

they tend to work in isolation with the students and not collaboratively with them. Sometimes a special education teacher will be present during the interaction between students and the professionals, but rarely will the normal education teachers and school administrative staff be present.

(2) The Government should follow the recommendation in paragraph 71 of CRPD General Comment No 4 to provide appropriate training for all teaching staffs, allowing them to have the core competency and values to reflect and improve the disconnect between the law and the reality of providing special education to students with specific needs.

Accessibility (art. 9)

19. Please describe the government's plan for barrier-free public buildings, housing, public spaces, public transportation, and street environments, throughout the country.

Replied by Taiwan Access for All Association

20. With regards to barrier-free public transportation, please refer to paragraphs 79-84 of the Parallel Report; with regards to barrier-free street environment, please refer to paragraph 61 of the Parallel Report; with regards to barrier-free housings, please refer to paragraph 70 of the Parallel Report; with regards to barrier-free public spaces, please refer to paragraph 85-90 of the Parallel Report.

20. Please provide information on how accessibility standards, monitoring systems and sanctions for noncompliance are planned to be improved.

Replied by Taiwan Access for All Association

21. Taking the example of barrier-free building access to hotels, the implementation of the "Operational Procedures and the Identification Directions" were subjected to strong lobby by the Hotel Associations and had its applicability significantly reduced. After the relevant accessible and barrier-free facilities were assessed to have met the standard, hotels often abandon those facilities or convert them into storage facilities or even staff accommodation. This means that persons with disabilities are not able to access these facilities that have been inspected by the Planning Agency. After complaints were made to the Division of Welfare Services in the Taipei City Department of Social Welfare, none of the relevant government agencies are responsible for building planning as well as the Tourism Bureau, responsible for the regulation of hotels in Taiwan were able to provide penalties for the offending hotels. This ridiculous situation has also happened in gas stations where it is required by law for them to provide barrier-free toilets. Many gas station operators install mobile toilet facility on

the day of inspection to avoid breaking the Building Code, or otherwise keep the toilets out of bound by locking or hanging up “maintenance” sign on the door to prevent people from using the toilets. The relevant planning authorities are not able to take actions against these operators.

21. Please explain the regulatory system requiring accessibility in all community facilities and services including healthcare and education.

Replied by Taiwan Access for All Association

22. Relating to the issue of barrier-free access to community facilities and services, please refer to paragraph 72 of the Parallel Report; relating to the issue of barrier-free access to education, please refer to paragraph 62-64 of the Parallel Report and our response on Issues 3 and 4; relating to the issue of barrier-free access to healthcare services, please refer to paragraph 190-196 of the Parallel Report.

Right to life (art. 10)

23. Please provide information on how the Ministry of Justice determines if an inmate has psychosocial or intellectual disabilities as they relate to the administration of the death penalty and indicate the number of inmates who have been found to have psychosocial or intellectual disabilities and who were therefore exempted from the administration of the death penalty since 2015.

Replied by Judicial Reform Foundation

23. Currently, there is no requirement to screen prisoners entering death row for their mental and intellectual capacity. There is also no requirement for prisons to screen death row inmates periodically for their mental health condition. Given the lack of regulatory requirement to screen, unless death row inmates voluntarily provide disability card (government issued) or a request is made for medical attention, it is very difficult for the correctional facilities to assess and confirm the mental and intellectual capacity of death row inmates. From the perspective of the correctional facilities, its duty only extends to providing appropriate medical care to the inmates, and does not extend to assessing and screening whether an inmate on death row has any mental or intellectual disabilities that would exempt the inmate from the death penalty before the execution is carried out. It is vital the Ministry of Justice should establish and implement a clear process to screen and determine the mental and intellectual capacity of any death row inmates, and refrain from carrying out any execution until such determinations are made to conform with Article 10 of the CRPD.

24. In its response to the list of issues, the Ministry of Justice stated that since 2015, there are no death row prisoners that fit in the Article 465 exception of the Code of Criminal Procedure. In order to better understand the relevant authorities' determination of the statistics, we recommend that the Office of Prosecutor and the relevant correctional facilities provide specific data and information to explain how the death row inmates were determined to be excluded under Article 465.

Replied by Taiwan Alliance to End the Death Penalty

25. Ministry of Justice carried out six executions in 2015. According to official report, Wang Chun-Chin, one of the prisoners executed only had an IQ of 66 on intelligent testing, yet he was still executed as a person with intellectual disabilities. In 2016, the Government took only 18 days between the final sentencing of Cheng Chieh by the Supreme Court and his execution. During his trial, Cheng was diagnosed by Psychiatrists at the National Taiwan University Hospital with "hyperthyroidism and hypoparathyroidism...his symptoms is similar to a diagnosis of Graves disease." Death sentence was nevertheless imposed by the Supreme Court. It is unclear whether any of these prisoners who were executed in 2015 and 2016 were given additional mental health assessment to determine their intellectual and mental health abilities, and whether they possess the fitness to be executed.

26. The Criminal Code provides for adjustments in sentencing and mode of punishment for convicted persons with mental health or intellectual disabilities. These include pardon and commutation of the sentence. During the trial process, the trial should be stopped if the accused is found to have "unsound mind." Similar provisions are also found in the Code of Criminal Procedure. However, in reality, the bar set by the judiciary is very high and inconsistent. For example, recent high-profile cases such as the case of Kung Chung-an (2016) and Wang Ching-yu (2017) were both diagnosed by medical professionals to suffer from schizophrenia and psychosis with positive symptoms. However, due to the overly high standard of the criminal court, and the lack of procedure in determining the criminal responsibility and the competence to stand trial for accused who are suffering from these conditions, the trial process was not halted and the criminal responsibility held for the accused was not lessened.

27. Although Taiwan has implemented the ICCPR, ICESCR, and CRPD through legislating for the relevant Implementation Acts, the judicial trial process of the different levels of courts in Taiwan have not been able to put in practice the provisions protecting the right to life of persons with mental disabilities. There are still significant uncertainties around the operation of these provisions. When the courts consider the application of the above conventions in criminal cases, they often continue to persist with the use of death penalty, or apply overly strict criteria in assessing the mental and intellectual capacity of the accused contrary to

medical evidence. These should be considered as examples of the judiciary deliberately avoiding applying the above conventions.

Situations of risk and humanitarian emergencies (art. 11)

24. Please provide information on how organizations of persons with disabilities have been involved in the design, implementation and evaluation of different measures ensuring the protection and safety of persons with disabilities during natural disasters.

Replied by Taiwan Access for All Association

28. The Disaster Prevention and Protection Act should be improved to protect disabled people who rely on electric equipments, and a standardized disaster reporting and handling mechanism between central and local governments should be properly implemented. Also, we request the Government to include the “Emergency Electrical Supply System for Life Support Equipment” in central and local disaster rescue and relief plans, and practice rescue exercises with it. For more information, please refer to paragraph 95-98 of the Parallel Report.

Access to justice (art.13)

29. In doing so, provide concrete information regarding what facilitation is provided to individuals with intellectual or psychosocial disabilities at every stage in criminal and civil proceedings.

Replied by Judicial Reform Foundation

29. There is currently not sufficient budget allocated for the assessment of the mental condition of the suspect or accused person facing criminal proceedings. This is likely to impact on the quality of the assessment.

30. The Ministry of Justice and the Judicial Yuan are currently required to provide persons with intellectual or mental disabilities “with concrete legal information,” well as appointing a competent defence lawyer through legal aid institution, and legal guardian where one is required. However, articles 13(1) and 13(2) of CRPD go much further in stipulating the Government’s duty to “ensure effective access to justice for persons with disabilities,” including the promotion of appropriate training for those working in the field of administration of justice (including police and prison staff) to increase their understanding and sensitivities towards vulnerable defendants and suspects. The relevant responding government agencies have not provided the Review Committee with statistics and explanation relating to the issue of relevant appropriate training of judicial and law enforcement officials, whether suspects with mental and intellectual disabilities are provided

with the full protection of the judicial system; whether the investigative and judicial proceedings take into account the suspects disabilities, including whether the appropriate intellectual and mental disability assessments are carried out; finally, are the defendants' disabilities taken into account and appropriate assistance provided during the sentencing and imprisonment stages according to Article 57 of the Criminal Code.

31. Further, Under Article 31 of the Code of Criminal Procedure, where the “accused is unable to make a complete statement due to unsound mind,” a public defender or lawyer shall be appointed to defend the accused during the investigative and trial process. However, the reality is that accused persons with mental and intellectual disabilities are not the only one requiring additional assistance. Other specific assistances are required for persons with hearing impairment who have difficulties understanding the questions and context while they are being questioned. Persons with sight impairment cannot confirm their statement by themselves which brings to question their ability to sign and confirm their own statements. We recommend that the Government should conduct a comprehensive review to identify and rectify any deficiencies in the current criminal procedure affecting persons with physical and mental disabilities to conform with paragraph 35 of the OHCHR’s report on equality and non-discrimination under article 5 of the CRPD (A/HRC/34/26).

32. Although Article 31 of the Code of Criminal Procedure also mandate where an accused person with physical or mental disabilities has not appointed a defence lawyer, the prosecutor should inform legal aid institution to ensure a public defender is present during questioning. However, the courts may not exclude in evidence statements made by accused persons with disabilities without a legal representative present. There is therefore no incentive for the prosecuting authority to do the right thing and follow the law.

33. The Government response was limited to the judicial and investigative authorities. There were no responses from the National Police Agency in the Ministry of Interior or the Investigation Bureau in the Ministry of Justice. The Government did not provide any information of the legitimacy of the criminal investigation and questioning of any persons with physical or mental disabilities by these two agencies. The Expert Committee should request further explanation from these two agencies as to their process and accommodation while investigating suspects with disabilities.

34. According to statistics from Legal Aid Foundation, there are around 100 cases around the country involving accused with mental or intellectual disabilities and therefore unable to make their own statements. Are there discrepancy between the reported number and actual number of accused with disabilities? The Review Committee should request specific statistics from the relevant authorities.

35. The Legal Aid Act does not contain provisions that ensure the right of persons with physical and mental disabilities access to justice. This need to be reviewed and reformed.

36. Despite Article 8 of the CRPD Implementation Act requiring the Government (Ministry of Health and Welfare) to provide assistance to persons with disabilities asserting their rights through filing a petition or an appeal, the Ministry has not yet provided any specific plan to make such facilitation. We recommend the Ministry of Health and Welfare should follow the principles as set out in the CRPD, formulate and implement concrete assistance plan to facilitate persons with disabilities to assert their rights.

Liberty and security of the person (art. 14)

31. Please inform the Committee of what measures the State has taken to conform to Article 14 of the CRPD as it has been interpreted by the CRPD Committee in its issued guideline.

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

37. We request the Government to 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 mandatory hospitalization.

38. Additional remarks:

(1) Although the Government responded that, “Severe patients, such as the dissatisfaction with the administrative act, have to administrative appeals and administrative litigation proceedings, to lift the relief (Article 1 of the Administrative Appeal Act, Article 4 of the Administrative Litigation Act),” the regulations are actually not yet amended.

(2) A Mental Health Act Bill is drafting to include the behaviour of hurting oneself for mandatory hospitalization. We consider it violating the CRPD.

Replied by Taiwan Gender Queer Rights Advocacy Alliance

39. We request the Government to invest in various capacity buildings of the community, such as peer supporting network and groups.

32. Please also inform the Committee what measures have been put into place to ensure that persons with disabilities are able to give their free and informed consent regarding admission or detention in psychiatric facilities as permitted under the Mental Health Act.

Replied by Judicial Reform Foundation

40. Although the Habeas Corpus Act started in 2014, lawyers from the legal aid institution could only be appointed when the person receives a habeas corpus ticket. To date, there is only one case that got an appointed-lawyer. The ineffectiveness of the Act could have been due to:

(1) Without the aid of a lawyer, it is difficult to petition for a writ of habeas corpus.

(2) District Courts seldom inform the legal aid institution, and as a result, the institution could hardly involve and provide help on getting a habeas corpus ticket.

41. Hence, according to CRPD Article 14, we request the Habeas Corpus Act to be amended. We request that, following the Code of Criminal Procedure 31-1, whenever a person needs to petition for a writ of habeas corpus, there should be an appointed lawyer present for him or her.

Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)

34. Please inform the Committee of what measures the State has taken to ensure that persons with disabilities receive adequate support to make decisions with fully informed consent regarding medical procedures and treatments.

Replied by Taiwan Gender Queer Rights Advocacy Alliance

42. Psychiatric treatment nowadays tends to operate medical practices, which lack social support such as mental health support and peer support. As the only organization that is consisted only of patients, the Government has rejected us to provide more support. Moreover, in critical conditions, pressuring the patients into signing consent form to say that they are voluntarily admitted into the hospital may happen.

Freedom from exploitation, violence and abuse (art.16)

36. Please also inform the Committee about violence against women and children with disabilities, including indigenous women and children with disabilities, and what specific measures the State has put into place to prevent and eliminate all forms of violence across all aspects of society.

Replied by Covenants Watch

43. With regard to responses by the Council of Indigenous Peoples and the Ministry of Health and Welfare: The two agencies merely provided responses pertaining to common cases of family violence and sexual violence. This ignores the precarious positions of women and

children with disabilities (including those who identify as indigenous people). Please explain whether assessments and reviews at government-provided channels for assistance, emergency shelter, protective placement, physical and psychological counselling, legal assistance, and other related services consider the differentiated needs of persons with disabilities?

44. With regard to responses by the Ministry of Education: Are there statistical studies that explain the conditions and effects that follow from the practical application in schools of Ministry of Education-prepared teaching materials on physical and mental disabilities, gender equality, and sex education?

Protecting the integrity of the person (art.17)

38. Please also inform the Committee what measures the State intends to enact to amend the Mental Health Act so as to prevent violations of Article 17.

Replied by Taiwan Association for Human Rights

45. (Simultaneously replying to Issue 31, 32, and 38.) The Government repeated their response to Issue 31 on Article 14 of the CRPD, although the Ministry of Health and Welfare has adopted “double protection” of severe mental health patients through administrative and judicial appeals, as well as the current reform to the Mental Health Act through the use of “Richtervorbehalt” under Article 8 of the Constitution (Reserve power to the judge, meaning that only the court can order mandatory hospitalization and mandatory community treatment). The Government failed to address what steps it has taken to bring the Mental Health Act in line with the Guidelines on Article 14 of the CRPD adopted by the Committee on the Rights of Persons with Disabilities in September 2015.

46. Article 41 of the Mental Health Act gives the power to the authority to enforce “mandatory hospitalization” or “mandatory community treatment” to severe mental health patients who are diagnosed as being at risk or in “danger of harming others.” The Ministry of Health and Welfare did not address how article 41 conforms to CRPD given paragraph 7 of the Guidelines clearly states that Article 14(1)(b) of CRPD “prohibits the deprivation of liberty on the basis of actual or perceived impairment even if additional factors or criteria are also used to justify the deprivation of liberty.”

47. Similarly, despite some explanation from the Ministry of Health and Welfare to Issue 32, the Ministry failed to positively respond to the fact that Article 41 of the Mental Health Act, which also gives power to the authority to enforce mandatory hospitalization and treatment on the basis that the “severe mental health patient refused treatment or is unable to express their decisions [wishes]” is in direct contravention of paragraphs 8 and 10 of the Guideline that “State parties should refrain from the practice of denying legal capacity of persons with

disabilities and detaining them in institutions against their will, either without the free and informed consent of the persons concerned or with the consent of a substitute decision-maker... State parties should repeal provisions which allow for involuntary commitment of persons with disabilities in mental health institutions based on actual or perceived impairments.”

48. The Ministry of Health and Welfare also failed to address how the Government plan to adhere to paragraph 11 of the Guidelines that the relevant laws are amended to ensure “that the provision of health services, including mental health services are based on free and informed consent of the person concerned,” including the “obligation not to permit substitute decision-makers to provide consent on behalf of persons with disabilities. All health and medical personnel should ensure appropriate consultation that directly engages the person with disabilities. They should also ensure, to the best of their ability, that assistants or support persons do not substitute or have undue influence over the decisions of persons with disabilities.”

49. In practice, mental health institution often uses privacy and treatment concerns of the mental health patients as reasons to deny contacts between the patients in hospital and their families or “outside” people, including lawyer and NGO workers. Patients who wish to make contact are often given limited time and can only have one-way contact through the use of public phone to contact the outside world. Paragraph 19 of the Guidelines emphasised the importance of monitoring and review of institutions that have the ability to deprive of their liberty through forced institutionalization. State parties should “establish a national independent monitoring mechanism and ensure civil society participation in monitoring.”

50. Although the Mental Health Act mentions establishing and utilising support services in the community, The Ministry is silent on whether these support services have are working as they are designed to, whether these support services are providing sufficient support in time of crisis to persons with mental disabilities and their families, and whether these support services are providing sufficient support to allow persons with mental disabilities to live independently and avoid unnecessary institutionalization or mandatory hospitalisation as their only option. The Ministry of Health and Welfare should address how they are going to follow paragraph 9 of the Guidelines that States parties should implement “support services and effective deinstitutionalization strategies in consultation with organizations of persons with disabilities. In addition, [the Committee] has called for the allocation of more financial resources to ensure sufficient community-based services.”

51. The Ministry of Health and Welfare should respond and answer the above questions prior to the completion of the Mental Health Act reforms scheduled to be completed in 2018. Even with the reformed to the Act being based on the principle of “Richtervorbehalt” and vest final decision power at the judiciary, the Ministry should not devoid itself of the responsibility and

obligation to comply with Articles 14 and 17 of CRPD just because the power to mandatorily detain and hospitalize a mental health patient is now vested solely at the hands of the judiciary. The process of applying for such measures between the Ministry and the Courts, including filing, emergency placement, the assessment of two specialists, the relevant process and protection for the patient to seek relief, the informed and free consent of the patient, whether the patient was subjected to cruel and inhuman treatment, and the patient's barrier-free access to medical institutions, all should be scrutinized to ensure that the Ministry is fulfilling their responsibilities and obligations under the CRPD.

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

40. Please provide information about the measures taken by the government to open society and to welcome persons with disabilities into the community in terms of making housing, transportation, public buildings, community facilities and services barrier-free and usable by all.

Replied by New Vitality Independent Living Association

52. The relating regulations are lack of implementation and monitoring mechanisms. The Government should come up with a more comprehensive scheme to help people with disabilities assimilate into communities.

Replied by Taiwan Epilepsy Care Alignment

53. Some children with epilepsy would be rejected from daytime community facilities. We request the Government to improve this situation.

41. Please describe the government's plan for progressively phasing out residential institutions, small and large, and, instead, phasing in community-based individualized support services, such as personal assistance, in combination with progressively increasing the barrier-free part of the country's housing stock.

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

54. The Government responded that, "As of the end of 2016, up to 84.24% of psychiatric rehabilitation institutions have adjusted their service scale to 50 beds or less successfully." We request the Government to provide statistics on the number of institutions with their service scale to more than 50 beds, people taking the services, and how much budget has the Government invested.

Replied by New Vitality Independent Living Association

55. In fact, the Government still tends to ask people with severe disabilities to find help in institutions. The provided personal assistant services fall short of the actual needs, while additional services are too expensive, it has caused incidents of caretakers murdering the patients. Furthermore, there are seldom barrier-free housings, and the rents are high. People with disabilities could hardly live independently in communities.

42. Please explain the government's system for periodic assessment of the disabled population's needs in the community, for planning measures for meeting these needs, and for evaluating the performance of such measures.

Replied by New Vitality Independent Living Association

56. The Government has put a lot of resources into doing assessments and researches, but the quantity and quality of disability services have not much improved. Moreover, the Government tends to reduce the needs of disabled people and shift the burden to the families, migrant caretakers, or institutions.

Personal mobility (art. 20)

43. Please provide information about the government's efforts to promote the use of assistive technology by persons with disabilities, in particular, by improving freedom of choice in selecting and adapting items to one's individual needs, and by widening the use of assistive technology among persons with disabilities regardless of geographic location, gender, age and household income.

Replied by New Vitality Independent Living Association

57. Assisting devices in Taiwan are often expensive with limited choices, and without adequate financial aid, they are hard to access for people with disabilities.

Respect for home and the family (art.23)

48. What kind of support measures does the government provide to the parents of children with disabilities so that children with disabilities can stay at home rather than at institutions?

Replied by Taiwan Epilepsy Care Alignment

58. From experiences of families with epilepsy children, services of temporary and short-term care, support to caretakers, and caring and visiting families are usually not fully carried out.

This could risk the immediate access to medical care for epilepsy children and further damage their brains, and also, the lack of support could lead to mental illness for caretakers.

Education (art. 24)

49. Please provide information on the number of students with disabilities, disaggregated by impairment type, who are educated in special schools and self-contained special education classrooms and how their inclusive education is being promoted.

Replied by Taiwan Access for All Association

59. The Government's response has mentioned the “special education implementation committee.” However, in most cases, the committee is mainly in charge of budget and enrolment issues, it does not take care of learning support services.

50. Please provide information on school completion rates of the various levels of education for persons with disabilities compared to the general (non-disabled) population.

Replied by Taiwan Access for All Association

60. According to the Government's response, the graduation rates for students with disabilities and ordinary students were 64% and 92% respectively in university/college level. As much as 36% of students with disabilities cannot graduate, so we request the Government to review the “admission examinations for enrolment of students with disabilities to tertiary institutions” and the inadequate supporting policies on campuses. In the short term, the Government should provide help for these students who are still struggling to graduate.

51. Please provide information on the impact of current pre- and in-service training of regular teachers to include students with disabilities and on how cooperation between special education and regular teachers is being fostered.

Replied by Taiwan Access for All Association

61. The key concept of inclusive education is that students with disabilities should study with other students in the same environment, which requires cooperation between general/subject teachers and special education teachers. In regard to the Government's current short-term training, both CRPD General Comment No. 4 and paragraph 69 of the Parallel Report have emphasized that increased resources need to be devoted to the long-term training for teachers.

62. The Government's response did not mention that, actually, the course development committees and in subject teaching research/focus areas conferences are the truly decisive platforms. Paragraph 179 of the Parallel Report has criticized that these platforms often lack participation by special education teachers and representatives among parents of special education students. Further, on the issue of special education student assistant, please refer to paragraph 181 of the Parallel Report.

Health (art. 25)

54. Please provide a timetable to eradicate discrimination by insurance companies denying persons with disabilities, particularly those with intellectual and psychosocial disabilities under guardianship, health insurance.

Replied by Taiwan Access for All Association

63. The Ministry of Education is in charge of national students insurance, but it have set a new regulation that excludes infants with severe illness. This new regulation has generated discrimination, and the Government has obviously violated the CRPD.

Work and employment (art. 27)

58. Please explain the government's measures to improve access to public and private mainstream labour markets for persons with disabilities, and to decrease the current prevalence of segregated employment.

Replied by Taiwan Epilepsy Care Alignment

64. Most employment service centers reply patients with epilepsy that, "employers would rather recruit disabled people than patients with epilepsy," showing that the implementation of People with Disabilities Rights Protection Act should be improved. In addition, we had once made a phone call on job application to a shelter workshop, but it replied that there are no vacancies. Shelter workshops are in short supply, so we request the Government to provide a solution.

Participation in political and public life (art.29)

61. Please provide the Committee with data on how many persons with disabilities were prevented from voting and on what grounds.

Replied by Covenants Watch, Taiwan Gender Queer Rights Advocacy Alliance, and Taiwan International Medical Alliance

65. According to the public officials election and recall regulations, a person who is under guardianship will lose his or her voting rights.

66. The district courts are in charge of the current system of guardianship. However, the Judicial Yuan only provides statistics on the total number of both people under guardianship and assistance status. As a result, although statistics have shown that there were 5,438, 5,710, 6,054 of people under guardianship and assistance status in 2014, 2015, and 2016, we cannot get the precise number of people under guardianship.

67. The current guardianship system in Taiwan is more of parentalistic decision-making, which is absolutely violating the General Comment No 4 and Article 12 of CRPD. The Government should amend relating regulations and request the Judicial Yuan to provide statistics on people under guardianship and assistance status respectively, in order to monitor indicators dashboard.

Participation in cultural life, recreation, leisure and sport (art. 30)

64. Please provide information on the steps taken to eradicate discriminatory regulations and practices by parks, amusement centers and sports centers rejecting persons with disabilities, including those with psychosocial disabilities.

Replied by Taiwan Access for All Association

68. The “friendly toilet” is mentioned in the Chinese version of the Government response, however, the English version just translated it as “accessible toilet.” We request the Government to clarify the difference between a friendly toilet and an accessible toilet.

Participation in cultural life, recreation, leisure and sport (art. 30)

65. Please provide information on the provision of teaching of sign languages.

Replied by Taiwan Access for All Association

69. We request the Government to provide national statistics on teachers qualified for teaching visually impaired students and hearing impaired students, assistants for students with disabilities, and sign language assistants. We also request the Government to provide statistics on sign language interpreters and hearing impairment oriented typists in universities.

Replied by Taiwan International Medical Alliance

70. We urge the Review Committee to demand the government to:

(1) Provide appropriate indicators of human rights with regard to sign language teaching.

These include developing outcome indicators based on the proportion of students and adults with hearing disabilities who can communicate in sign language, and establishing benchmarks to set targets for improvement over the next four years.

(2) Provide the proportion of students with hearing disabilities who receive sign language education at the primary, secondary, and tertiary levels, respectively.