

2022 Parallel Responses of Taiwan NGOs to CRPD LOIs

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2022 List of Issues Parallel Reply to Procedural Questions

Response of Covenants Watch:

1. In the planning of the response procedure for the LOI, there are instances where the State failed to consider the significance of parallel responses and the unsatisfactory planning of the timeframe. Details are as followed:
 - (1) The National Report for this review was completed in December 2020, and the period for the collection of civil society parallel reports was extended to May 2021 due to the pandemic. The list of issues, originally planned to be announced in November 2021, was finally published in March 2022 in English, and on April 21 in Mandarin. The scheduled deadline for civil society organizations (CSOs) to submit their parallel responses was before the deadline for government responses. It was only after several complaints from the CSOs that the MoHW agreed to extend the deadline for the parallel responses to the end of June, just two weeks after the government responses were released on June 15th.
 - (2) The list of issues (LOIs) is also only available in English for the first two months; that is, CSOs were expected to interpret the LOIs on its own, draft parallel responses referencing government responses, and then complete the translation within 4 months. This timeframe does not properly take into account the barrier to information caused by languages, and there were no accommodations for persons with disabilities and their groups. This adversely impacted CSO participation, and contravened the intent of local participation in the Taiwan model of review.

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

1. Please provide the Committee on information on the following.
 - (a) When will the State be prepared to move beyond a medical definition (ICF) of disability to accommodate social and human rights models of disability?
 - (b) What statutory guidelines are in place to implement, and enforce the principle of universal design in places of employment, education, health, and transportation, including adoption of measures to ensure reasonable accommodation?
 - (c) What measures are in place to ensure mainstreaming of disability across relevant institutions and in particular, across different ministries?
 - (d) How will the State prepare a National Action Plan to implement the Convention, and how will the State implement the various reforms the Convention requires, such as eliminating discrimination, promoting research, use of ITC technologies, and training of professionals?

Response of Independent Living Taiwan:

2. The *disability certification system* remained the singular ground for the government to recognize the identity of a person with disability, which is also the criteria for accessing particular services and resources. The State shall establish a standard more in line with the human rights model.
3. The ICF evaluation mechanism remained its focus on the medical and rehabilitation model, and has yet to be based on individual needs.
4. The evaluation mechanism for assistive device subsidies remained overly medical-oriented, omitting the needs arising from the multiple identities with intersectionalities, therefore indirectly depriving persons with disabilities of the right to freedom of movement and freely access communications.

Response of Judicial Reform Foundation:

5. Regarding the certification and classification system mentioned in (a), the government relies mostly on the BS code which emphasizes physical functions and structures remained the primary standard, without properly considering the DE code which centered around participation and the environment. This practice is not in line with the social and human rights model of disabilities.
6. In particular, the current certification mechanism is unable to accommodate the needs of persons with cerebral visual impairments. Cerebral visual impairments were caused by damages to neural pathways or cerebral cortex, of which diagnosis and evaluation requires multiple sections. The current “b210 visual functions” method, however, only involves ophthalmologists, while neurologists, rehabilitation physicians are deemed as unqualified. On the other hand, the identification instruments did not include brain imaging or functional tests, rendering it difficult for people with cerebral visual impairment to obtain a disability certificate, which is required for accessing resources such as assistive devices and orienteering training. This hinders persons with cerebral visual impairment from obtaining resources.

Response of Taiwan Spiritual Suffering People’s Association:

7. Under the 38-year martial law from 1949 to 1987, Taiwan missed the burgeoning wave of de-institutionalization and the c/s/x movement around it. While sparks of dissenting opinions were made here and there, mental patients in Taiwan did not form a movement. Policies and resources lean toward biomedical psychiatry, with no regard for the experience of the users. Taiwan Spiritual Suffering People’s Association aims to gather the afflicted and their experiences, so that their rights and interests can be restored, and they will no longer be alone in the face of social malice.

8. Regarding (a), persons with psychosocial disabilities would be eligible for ICF certification and accessing relevant resources only when they were able to stably visit the same medical institution for more than six months, and meet the criteria for schizophrenic disorders or bipolar affective disorders in the category of severe mental illness. The current certification system does not consider the difficulties in continuing treatment for persons with psychosocial disabilities or the unwillingness to engage with medical institutions, rendering persons with psychosocial disabilities unable to be certified or granted access to relevant services.

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

2. Please provide information on plans, through creation or amendments of regulations, procedures, and legislation, including the Constitution:
- (a) To add explicit provisions to prohibit discrimination and obligate the State to enact positive measures for the promotion of equality across the State;
 - (b) To obligate the Executive Yuan to develop comprehensive legislation to protect against discrimination, unjust or prejudicial treatment on the grounds of age, disability, race, religion, sex, sexual status or orientation, pregnancy, marital, relationship or parental status;
 - (c) To ensure that the denial of reasonable accommodation is recognised as discrimination and is incorporated into relevant laws and regulations and that these obligations and remedies are defined and stipulated in those laws and remedies, including the People with Disabilities Rights Protection Act, Employment Service Act, and Special Education Act.

Response of Covenants Watch:

9. There has been little progress on the anti-discrimination law after the review of the initial state report on CRPD in 2017. The highly anticipated comprehensive anti-discrimination law has not been drafted, and there has not been revisions on *People with Disabilities Rights Protection Act*, *Employment Service Act*, or *Special Education Act* which would align the definition of discrimination in domestic laws with the CRPD. Therefore, “denial of reasonable accommodation” has not been recognized as a form of discrimination in domestic laws, except in the newly revised *Prison Act*.

Response of Taiwan Education Association:

10. At present, Taiwan lacks explicit constitutional commandments regarding the protection of the rights of persons with disabilities. With the principles of the Convention regarded as the basis of the realization of the rights, the principles of the Convention shall be incorporated into the Constitution. Comprehensive and specific legislation shall be accompanied as well, to ensure the principles are more than mere proclamations.

Response of New Vitality Independent Living Association, Taipei:

11. The State lacks sufficient research and individualized models of assistance in its engagements with persons with disabilities with multiple vulnerabilities, rendering their predicaments handled by fragmented and poorly coordinated services, and being subjected to discriminations. To ensure the protection of rights of persons with intersecting identities, it is recommended for the State to consider accessibility, language use, transportation, cultural backgrounds, and living conditions in the drafting of regulations, policies, and the implementation of reasonable accommodations.

Response of Coalition for Mental Health Reform:

12. The Coalition for Mental Health Reform is composed of Covenants Watch, Taiwan Association for Human Rights, Judicial Reform Foundation, Concentric Circles Community Recovery and Wellness Center, Community-based Mental Health Worker Professional Advocacy Alliance, New Taipei City Association of Mental Illness (NTC-AMI), Chiayi City Mental Health and Recovery Association, Taiwan Alliance for Community Mental Health Action (TACMHA), Taipei Mental Rehabilitation Association, Taiwan Mad Alliance, Taiwan Familylink Mental Health Education Association, Taiwan Mental Health Recovery Alliance (TMHRA), and The Alliance for the Mentally ill of R.O.C., Taiwan; with the aim to conduct reviews on laws and regulations, research and policy advocacy regarding the *Mental Health Act*.

13. Regarding (b), in the draft revision of the *Mental Health Act* submitted by the Executive Yuan to the Legislative Yuan for deliberation in March 2022, Article 28(1) stipulates the prohibition against ill treatment to mental patients, such as neglect, abuse of patients, or leave in an environment of incapacity for living, etc., and offenders would be penalized in accordance with Article 81 with name publicizing and a fine between 60,000 and 300,000. Article 28, Paragraph 1, Subparagraph 2, however, inappropriately included "A person with a care obligation failing to fulfill the care obligation without any reason after being notified", making the person with care obligation a potential offender when he/she failed. Considering the scanty resources and support provided by the

state for caregivers, treating them as potential offenders liable to punishment is inappropriate. Article 1114 of the *Civil Code* had already established the general obligation of care, so there is no need to emphasize the role of family caregivers, in fact, this provision is not seen in regulations regarding other forms of disabilities. The content of the draft is a discriminatory clause targeting the supporters of persons with psychosocial disabilities.

14. Cases in Taiwan continue to show that while “custodial protection” for criminal offenders with mental illness would be developed towards “multiple modes of treatment” in the future,¹ its enforcement remained laden with severe problems. In one case, a person with a history of mental illness and with a history of attempted homicide,² was made to rent a place away from his family due to his long-term violent behavior. He was sentenced to several years for attacking his roommate related to delusions. When he was released the mandatory “custodial treatment” for him was “home custody”, forcing the family again to be obligated to provide care. This case reflects the reason for the repeated occurrence of social elegies (where violent conflicts occurred between the caregiver and person with disabilities): the society overly expects the family to bear the responsibility of providing care, and neglects whether the family has sufficient capacity and support to shoulder the responsibility of caring. The State also failed to draft and provide sufficient resources to persons with psychosocial disabilities and their caregivers. Instead, the government punitively revised the law against the supporters.

Women with disabilities (art. 6)

3. Please inform the Committee about:

- (a) Plans to amend the *Gender Policy Guidelines* to include comprehensive and concrete measures and action plans to address the disadvantages faced by women with disabilities in their private and public lives including improved accessibility in hospitals for women with disabilities including during pregnancy and delivery;
- (b) Plans to provide support to women with disabilities with their household and parental responsibilities and in their workplaces;
- (c) Plans to improve support to women with disabilities who are victims of violence, especially through improved accessibility of hotlines, shelters and resettlement measures.

¹ The Ministry of Justice and the Executive Yuan passed a draft amendment to the Criminal Code and Security Sanctions Enforcement Law on the guardianship punishment system on March 4, to ensure social safety, take into account human rights protection, and build a more complete social safety net! March 5, 2021: <https://reurl.cc/WrQWmO>

² Criminal Judgment of Taiwan High Court No. 77 of 2017 Appeals: <https://reurl.cc/1ZAzNX>

Response of Taiwan Spiritual Suffering People's Association:

15. Regarding (b), the *Regulations Governing the Expenses Reduction, Exemption or Subsidy of Genetic Health Measures* includes provisions for persons with psychosocial disabilities and intellectual disabilities to access sterilization, and children of parents with disabilities under the age of 16 were classified as "high-risk" and governed accordingly. Such provisions and policies signify the unwillingness for the State to retain the right to procreate for persons with disabilities.

Joint response of Independent Living Taiwan and New Vitality Independent Living Association, Taipei:

16. The lack of accessible environment and equipment had rendered women with disabilities unable to effectively access regular medical services.

17. The lack of gender consciousness in personal assistance services had rendered the service unable to correspond to the social roles and needs of women and enable them to live with full accessibility.

18. For women with disabilities who were subjected to violence, the State lacks provisions and services to address emergency resettlement measures and corresponding needs (e.g. assistive devices, living, mental health, etc.).

19. In addition to reproductive and child-rearing assistance and support, the State should provide relevant services (e.g., assistive devices, living, mental health, guidance) to women with disabilities who are rearing children with disabilities.

20. On account of their dual identities, women with disabilities are prone to be economically vulnerable, and should be provided with employment support or economic security programmes to be assisted to arise from vulnerable or violent situations.

Children with disabilities (art. 7)

4. Please inform the Committee:

- (a) About what measures are being taken to ensure that children's rights to express their opinions are protected;
- (b) About measures being taken to raise the awareness of parents and children regarding LGBTI issues;
- (c) About what measures are being taken to evaluate the prevalence of sexual abuse of children with disabilities in segregated schools and what plans are being developed to prevent such abuse.

Response of Taiwan Education Association:

21. Despite that the right of expression of children had been improved, the level of assurance experienced by children with disabilities remains curtailed in contrast with children without disabilities. For instance, with parents or guardians being presumed to be the arbiter, children with disabilities remained barred from making decisions regarding their own health, medicine, education, or other aspects of life. In addition to matters related to the children's own disabilities, no institutional and substantive guarantees were established for children with disabilities. In other words, children with disabilities face intersecting vulnerabilities, of which the State shall adopt specific institutional measures to integrate the representation of children with disabilities into decision-making on disability-related matters and other general public policies, and ensure that the representation of children with disabilities are authentic, without undue influence from their guardians, parents or caregivers.
22. As mentioned above, while children and persons with disabilities are both vulnerable groups, children with disabilities, who carry both identities, further experience severe difficulties. For those who carry more than three identities (including but not limited to: women, indigenous peoples, sexual/gender minorities, families with special circumstances, resettlement institutions and juvenile corrections schools, etc.) the plight they face could be aggravated. The fragmented nature of governmental functions have yet to be addressed and coordinated, rendering children with disabilities unable to develop comprehensive plans for their own development, and hindering the effectiveness of governmental assistance.

Response of Independent Living Taiwan:

23. The opinions of children are not guaranteed in communities and educational services, and parents, teachers, and professionals are often presumed as arbiters. Proactive assistive services shall be provided, to enable children with disabilities to express opinions and make decisions.
24. The institutions for assistive device subsidies were not adapted to the growth and changing needs of children.

Response of New Vitality Independent Living Association, Taipei:

25. It is recommended for the State to charge schools with establishing anonymous hotlines or spaces, to enable LGBTI+ children with disabilities to access consultation and anti-bullying reliefs.

Response of Covenants Watch

26. For the treatment of children with disabilities in juvenile correctional facilities, see paras. 71-75 of this Reply.

Awareness-raising (art. 8)

5. Please provide information to the Committee on the measures taken:

- (a) To renew and reform processes against discriminatory and restrictive actions and limited portrayal of persons with disabilities in mainstream media;
- (b) To encourage the National Communications Commission to extend its responsibilities to deal with emerging social media and online platforms in order to protect citizens with disabilities by initiating actions and implementing sanctions against offensive and ignorant discriminatory commentary and publicize these actions;
- (c) To promote awareness among the media on the general philosophy and principles of the Convention, such as issues of non-discrimination, inclusive schools and workplaces or independent living of persons with disabilities in the community;
- (d) To provide the legal profession, including judges, police, and correctional officers and the teachers with the regular training of disability awareness workshops and disability equality trainings, in which persons with disabilities are involved in the design of the curriculum, and delivery.

Response of Taiwan Spiritual Suffering People's Association:

27. Regarding (a), despite the *Mental Health Act* containing penal provisions against media which produces erroneous reports regarding persons with psychosocial disabilities, it was never enforced. Furthermore, politicians often incite the masses through discriminatory or false statements regarding persons with disabilities, with no existing provisions to counter.

28. Regarding (d), no person with psychosocial disabilities were included as lecturers in the existing curriculum, indicating the imbalance of consciousness raising efforts across different disabilities.

Joint response of Independent Living Taiwan and New Vitality Independent Living Association, Taipei:

29. It is recommended for the National Communications Commission to submit guidelines addressing the remarks made on social media platforms and by internet celebrities, to avoid the reinforcement of stereotypes by discriminatory or biased comments.

30. The KPIs for awareness raising trainings for first responders (e.g., social workers) shall include dimensions of human rights indicators and social support.
31. Regarding (d), despite “disability awareness raising” programmes being provided to relevant workers, only a few of them featured lecturers with disabilities.
32. Regardless of the trainings of legal professionals, including judges, police, correctional officers and teachers, generally lack awareness of disabilities. It is common for the trainings to become mere formalities, and unable to bring on substantive benefits and impacts.
33. The media persisted in its practice of labeling persons with disabilities with disabilities stereotypes, public figures can also inflict secondary harm against persons with disabilities with insensitive remarks.

Accessibility (art. 9)

6. Please inform the Committee:

- (a) On how the State has taken into consideration the General Comment No. 2 on Accessibility by the Committee on the Rights of Persons with Disabilities in order to establish comprehensive accessibility legislation covering built environments, public transportation, and communication including television, Wi-Fi and smartphones in both urban and rural areas, with an action plan with timetable;
- (b) The consideration the State has given to adopting measures that would require official publications and information in all accessible communication formats (print, visual, oral or electronic) .

Response of New Vitality Independent Living Association, Taipei:

34. Regarding (b), it is an elementary requirement for official publications to be provided in accessible formats. Persons with visual disabilities were deprived of their right to accessing information as the State only provides hard copies or PDF files in public hearings or governmental meetings. The insufficient personnel and services in accessibility also exacerbated the right to equal participation of persons with disabilities.

Response of Independent Living Taiwan:

35. There is great disparity in the provision of accessible transportation across municipalities, and the progression has been slow. Public buses, commercial buses, and cruises are laden with barriers. Evacuation and connection plans for emergencies also lack schemes for accessibility.

- (1) Taking the Taiwan High Speed Rail for instance, as there are around 400,000 persons with limited motor abilities in Taiwan (excluding persons with rare diseases, persons with multiple disabilities, elders and persons with temporary injuries) accounting for 1.7% of the total population; Among the 977 seats in their trains, the HSR, however, only provided 2 electric wheelchair and 2 wheelchair seats, accounting for about 0.2% of the total seats. In addition, the seats were frequently occupied, rendering wheelchair users unable to obtain seats and forced to change rides and be separated from their partners and relatives, which is not only extremely inconvenient, but also costs more time. As a means of public transportation, the lack of accessibility/barrier-free planning of High Speed Rail hinders the basic freedom of movement of persons with disabilities.
36. The physical environment is full of barriers, legal provisions for buildings were not strictly followed, and there is only a weak scheme for regular follow-up.
37. The insufficiencies in accessibility in public communications had widened the gap between the general public and persons with disabilities on transmission and reception of information.
38. The QR-Code registration, pandemic information websites, and apps for pandemic response measures did not properly consider accessibility requirements, nor consulted with persons with disabilities or reached for trials with persons with disabilities. The right and opportunity to access information was not protected for persons who do not have smart devices, computers, and Wi-Fi access.

Right to life (art. 10)

7. Please update the Committee:

- (a) About steps to abolish the death penalty and measures to ensure that no persons with intellectual or psychosocial disabilities is sentenced to death or executed;
- (b) About measures to ensure that the patient self-determination act, enacted in 2016 and effective from 2019, is in compliance with the Convention.

Regarding to point 7 (a), response of Taiwan Alliance to End the Death Penalty:

39. Since the second international review of state reports on ICCPR and ICESCR in 2017, the State has ignored the Concluding Observations and Recommendations submitted by the International Review Committee, and executed death row prisoners Li Hongji and Weng Renxian in 2018 and 2020, respectively. More absurdly, the two death row inmates who were executed were diagnosed to be

persons with psychosocial disabilities by forensic reports during their respective trial proceedings. In recent years, the State has not only taken no positive measures to abolish the death penalty or to enact a moratorium, it had actively carried out executions. Furthermore, from 2019 to 2020, up to 4 death row inmates had died in prison due to illness or suicide.

40. Since 2000, Taiwan has had a policy of gradual abolishment of the death penalty for more than 20 years. It is the State that ignores the shifting temporal and spatial environment and societal values, civil society has remained positive, while the State adopted a negative attitude and is unwilling to take action and communicate with the people, hence the slow progress.
41. In 2016, the Supreme Prosecutors Office formulated the *Key Points for the Review of Controversial Death Penalty Cases Handled by the Supreme Prosecutors Office*. The Taiwan Alliance to End the Death Penalty, Judicial Reform Foundation, and the Taiwan Criminal Defense Attorney Association had submitted a case review for the wrongfully convicted Wang Hsinfu on the Points to the Supreme Prosecutors Office in May 2021, with the Office refused directly without convening Review Meeting, proving that the claimed prudence towards death penalty is false.
42. The ambiguous will to abolishment: On December 23, 2020, the Ministry of Justice uploaded a series of past research survey reports and articles regarding the "Death Penalty Policy" on its website, including the "Study on abolition of the death penalty and alternatives" commissioned to Academia Sinica scholars in 2007, the "2012 Opinion Survey Report on Death Penalty Issues" commissioned to a polling firm in 2012, and the "Preliminary Investigation of the Intention and Influencing Factors of the People in Greater Taipei Area on Retention and Execution" commissioned to scholars of Department of Crime Prevention and Corrections, Central Police University in 2013, master thesis "The Article 6 and 7 of ICCPR Concerning Right to Life Implement in the Criminal Justice Practice" by Lin Tzuwei, "Disputes over whether to abolish the death penalty from the perspective of human rights: Controversy on whether to abolish the death penalty from the perspective of human rights" by professor Wu Chihkuang; the conclusion "if there are supporting measures or alternatives, support for abolition of the death penalty will increase significantly", and "increase of information on the judiciary, prison administration, etc., correlates to the decrease of the proportion of people who firmly support the death penalty" can be found across researches commissioned by the Ministry of Justice, research surveys conducted by civil society organizations such as the Taiwan Alliance to End the Death Penalty, scholars, or concluded from civil deliberations. While these documents and researches are empirical grounds for the State's eventual abolition, the State conversely maintained its shifting attitude whenever asked about the official position on abolishment, such as holding that "there is no consensus on public

opinion, there is no alternative, so it is impossible to abolish the death penalty", "the State will adopt a prudent attitude in the enforcement of the death penalty", and "the State will exhaust all means of appeal before the death penalty is carried out". Such statements are not intended to progressively abolish the death penalty, but rather to continue to carry out the death penalty. Additionally, while the State repeatedly instrumentalized notions of public opinion and social consensus, the statement where "(the Ministry of Justice) will continue to communicate with individuals or groups at home and abroad that advocate the abolition or cessation of the execution of the death penalty" signified the absurdity where the Ministry deemed the abolitionism groups as the ones needed to be convinced, not the public.

43. On 15 July 2020, the Ministry of Justice amended the *Regulations for Executing the Death Penalty*, while it amended provisions allowing death row inmates to arrange religious ceremonies at execution, this amendment did not include requirement of properly inform relatives before the execution, nor does it stipulate that the death penalty should not be carried out for persons with intellectual or psychosocial disabilities.

Situations of risk and humanitarian emergencies (art.11)

8. Please update the Committee about:

- (a) How the safety of persons with disabilities is ensured in practice within the disaster prevention and protection (DPP) plans, based on the *Disaster Prevention and Protection Act*, with the participation of persons with disabilities and their representative organizations;
- (b) Measures to establish a targeted humanitarian emergency framework to ensure the protection of the rights of persons with disabilities and specifically in the context of the public health emergency resulting from COVID-19 pandemic, including measures to ensure continuous access to support and mainstream community services, including in-home care and personal assistance; to provide equal access to health care, including life-saving measures; and to ensure that disability pensions and social benefits are guaranteed at all times, particularly under the new *Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens*;
- (c) Measures taken to provide accessible warning systems and provide official information about emergency measures, including typhoons, earthquakes and Wan An air defense drill, in all formats.

Response of Taiwan Access for All Association:

44. Regarding (a), the exercise we were recently invited to, was the first where representatives of persons with disabilities had participated in fire drills, the content of the drill, however, only contained “leaving the reserved seats and get out of the door”, instead of providing a complete fire drill from the evacuation to completion. Persons with disabilities are used as embellishments in the exercises, rather than substantially involved in the drill.

Response of Taiwan Spiritual Suffering People’s Association:

45. Overpopulated residential medical institutions, coupled with the limited access to information and restricted movement it allows, rendered its compliance with fire protocols void, as people with psychosocial disabilities who are held in solitary confinement or tied to beds were not considered in the emergency evacuation procedures.

Joint response of Independent Living Taiwan and New Vitality Independent Living Association, Taipei:

46. Appropriate emergency treatment shall be provided in response to natural disasters and epidemics. The State shall ensure community services, personal assistant services, counseling, and health care services remain uninterrupted. Regarding public transport, accessible alternatives shall be provided in cases of suspension of service.

(1) In March and April of this year (2020), both the TRA and the HSR experienced power supply abnormalities, which caused trains to be temporarily suspended and passengers to be evacuated. In the process of evacuating passengers and assisting transfers, there is no accessibility guidance provided by the staff, and there is also a lack of accessible vehicles for the assistance for persons with disabilities, rendering them having to scramble, contact, and find means of transportation on their own, amidst the chaos. This indicates that the State does not consider the needs of persons with disabilities, and failed to provide corresponding support in its standard operating procedures for various emergencies.

47. Access to communication and information was not ensured during the pandemic. Relevant policies and measures also lacked consideration regarding the accessibility of software and hardware.

48. Continuing from above, personal assistants bear elevated risk because of close contacts with persons they cared for, but they were only provided with face masks and alcohol solutions and simple hazard prevention equipment, the service halted completely in some cases. It is recommended for the State to provide better pandemic prevention equipment, ensure personal assistant

services would not be hindered by emergencies, so that persons with disabilities can also maintain their living standards in the pandemic.

49. Typhoons, earthquakes, power outages, Wan An exercises, and other disasters, air defense exercises lack corresponding assistance measures, courses, drills, accessible information, aids and power maintenance for persons with disabilities. Thus persons with disabilities may find themselves with greater precarity.
50. It should be clearly stipulated in the *Disaster Prevention and Protection Act* that in the event of natural disasters or precarious situations such as typhoons and earthquakes, sufficient necessary basic materials should be provided to the persons with disabilities to benefit them and guarantee their lives in cases of emergency. Necessary basic materials include masks, disinfection supplies, quick screening reagents, or food, drinking water, medicines, electricity, etc.

Equal recognition before the law (art.12)

9. Please explain to the Committee:

- (a) How the draft amendments to the *Mental Health Act* reported on in the media in January 2022 will enhance respect for the will and choices of persons with disabilities as protected in Article 12 of the CRPD and General Comment No.1;
- (b) What steps are being taken to educate judges on the need to replace the concept of “best interests” with “best interpretation of will and preferences”;
- (c) What steps are being taken to promote supported decision making in place of substitute decision making;
- (d) Steps being taken to ensure that financial and other institutions do not deny the right of persons with disabilities to act on their own behalf without a support person or guardian;
- (e) The recent amendment of article 87 of the *Penal Code* regarding the extension of the period of guardianship.

Joint response of Independent Living Taiwan and New Vitality Independent Living Association, Taipei:

51. There is a lack of community support, peer support and other services for people with psychosocial disabilities. The State resources are mostly spent on the healthcare system, and there is no specific planning for the development of community support services.
52. The status of the financial institution is as follows:
 - (1) At present, most insurance companies and government agencies tend to implement micro-insurance to respond to the need of insurance for persons with disabilities, and it is still impossible to substantively address the unequal treatment experienced by persons with disabilities.

- (2) Persons with disabilities who are unable to sign with their hands, such as persons with visual impairments, persons with limited hand dexterity, might find it difficult to engage in financial affairs, are frequently rejected, or were even implored to bring their own escorts and witnesses. So far, there are no accessibility policies and norms for financial services.
- (3) At present, the disability awareness among the front-line staff of financial institutions is still generally insufficient. Education and training of financial institutions should be strengthened to enhance their disability awareness and thus enable the implementation of the right to equal access to persons with disabilities.
- (4) The State shall ensure that financiers provide accessible equipment, services and assistive devices so that access to financial services by persons with disabilities is not hindered, and that the right of persons with disabilities to equal access is guaranteed.

Joint response of Judicial Reform Foundation, Covenants Watch, and Taiwan Alliance to End the Death Penalty:

53. According to article 19 of the *Criminal Code*, the punishment can be reduced for an offense committed when a person who has mental disorder or defect and, as a result, has a significant reduction in his ability to judge the illegality of the act or to act according to his judgment; in the severe case, he may be completely exempted from criminal responsibility. However, according to article 87 of the *Criminal Code*, a person with such mitigation or exemption in sentence, may be committed to a suitable establishment for custodial protection (CP hereafter) provided that he is believed to be at risk of repeating the offense or endangering public safety. The maximum period of custodial protection used to be 5 years before law revision in 2022. (After revision, the period can be extended for 3 years upon evaluation, followed by one-year extension afterwards when evaluated to be required, without upper limit.) According to the investigation report published by the Control Yuan on December 16, 2021, about 200 people are ruled to CP by the court every year, of which about 30% are involved in theft, followed by homicide, physical injury, public danger, and other crimes. Half of the CP are one year, with 1/3 of the CP being executed before serving the sentence and 2/3 after the sentence. About 90% of the CP are carried out in mental hospitals, and those subject to CP are restricted in their movements, cannot go out or stay out overnight, the treatment mode is mainly based on medication with limited diversity, and there is also a lack of a interim mechanism for community rehabilitation, which violates Article 19 of the CRPD.
54. Article 87 of the *Criminal Code* does not require a formal evaluation of the seriousness, dangerousness, and anticipation of the perpetrator's future conduct

before CP is imposed, which may violate the Constitution of the Republic of China (see No. 471 of Grand Justice Interpretation). In this regard, the Taiwan government failed to amend shortcomings of article 87 of the *Criminal Code*, on the contrary, it passed a revision on February 18, 2022, deleted the upper limit of the period of CP, allow the period to be extended with review, resulting in lengthy or possible indefinite detention of persons with disabilities in the name of treatment. In addition, the Government intends to invest heavily in the establishment of judicial psychiatric hospitals, rather than investing more resources in improving mental health resources in prisons or developing community support services that are more conducive to reintegration. The government deprived the liberty of persons with disabilities without devising treatments appropriate for social rehabilitation, this is in violation with Article 14 of CRPD and Article 10(3) of the ICCPR.

55. In addition to the above revision to CP after the judgment is determined, the Taiwan government also introduced an amendment to the *Criminal Procedure Act*, adding an emergency custodial system for those offenders before the judgment is delivered, so that persons with disabilities may be ordered to be admitted to a institution for treatment before the court makes the final judgment. The design of this mechanism remains controversial; for instance, the emergency custodial system can be ruled by a single judge based on simplified appraisal or medical record report, and the “temporary placement” can be carried out for up to 5 years and may only be implemented in a judicial psychiatric hospital or ward. For attorneys, resorting to insanity defense based on Article 19 of the *Criminal Code* may result in the ruling of emergency custody, and risk an indefinite period of custody protection after the trial, creating the situation of dilemma in defense. What is even more worrying is that the period of temporary placement cannot be counted into the fixed-term imprisonment after the judgment is rendered, nor can the *Criminal Compensation Act* be applied. Restricting personal liberty pending a judgement may violate Article 9(1) of the ICCPR; non-applicability of provisions of the *Criminal Compensation Act* may violate Article 9(5) of the ICCPR, and the resultant delay in trial may violate Article 14(3) of ICCPR; special institutional design of custody for persons with disabilities may violate Article 5, 12, 13, and 14 of CRPD.

56. CSOs called on the International Review Committee to pay attention to this revision which seriously violates the ICCPR and the CRPD. We also urge the State to amend article 87 of the *Criminal Code* to limit the scope of custodial protection to felonies, and set an upper limit to the period of custodial protection. The temporary placement in the *Criminal Procedure Act* shall be given an explicit legal ground and be accompanied with the alternatives of community treatments (apart from detention and medical treatment in forensic psychiatric hospitals).

The legal requirement of custody shall be explicitly listed, length of custody shall be decreased, and the *Criminal Compensation Act* shall be applicable to such custody.

Comprehensive supplement to the revision of the *Mental Health Act*

Response of Covenants Watch:

57. Since the *Mental Health Act* was indicated as violating the CRPD in the review of the initial state report in 2017, the government has been working to revise the law, but the revision was not complying with the CRPD.

- (1) There has been no formal process of consulting persons and groups of psychosocial disability during the process of law revision, violating the principle of full participation.
- (2) The government is preoccupied with the medical model in the revised draft, and ignored the provision of support and services in the community.
- (3) The government has limited understanding of “crisis” experienced by many persons during distress, and mandates forced hospitalization and medication as the response, with little interest in developing alternative de-escalation mechanisms.
- (4) In psychiatric wards, the patients are routinely restricted in the right to communicate with the outside (such as meeting visitors, using phone calls) and the opportunity of obtaining support from those who are most important to them.
- (5) During the enforced hospitalization, the person is often subject to enforced medical treatment, restraint, and confinement against his/her will.
- (6) The government erroneously believes that changing the power to order involuntary commitment from a committee to the court would make the process compliant with the CRPD.

58. The draft amendment to the *Mental Health Act* was proposed by the Executive Yuan to the Legislative Yuan in January 2022, a public hearing was held at the end of March, and the second reading commenced at the end of April. This is the most profound revision in 15 years and the first revision since the passing of the *Act to Implement the Convention on the Rights of Persons with Disabilities* (2014). The draft amendment, however, not only fails to “respect human rights” as mentioned in the amendment explanation, also violated the intentions of CRPD and CRC. The amendment process, including the public hearing, also fails to ensure the participation of stakeholders; the draft revision only includes words of benevolence, while its content is vague and lofty with no substantive progress. The revision may not be able to respond to the plight of the affected parties, caregivers and the general public.

59. In response to this revision, Covenants Watch and the Coalition for Mental Health Reform propose nine demands:

- (1) A comprehensive community support system shall be established, to promote the independent living and community integration of persons with psychosocial disabilities, so that persons with disabilities can enjoy a life of dignity and then contribute to the society;
- (2) A community crisis management mechanism shall be established to supplement community resources and to avoid excessive burden or waste of medical care. The community crisis management mechanism shall be open to people with psychosocial disabilities and their caregivers. It shall provide professional services through a 24-hour crisis handling hotline by being equipped with a crisis respite center to provide people with disabilities an extra breathing space before compulsory treatment. In the crisis management mechanism, community support resources shall also be integrated for the person with disabilities and their families or caregivers.
- (3) Referencing the rigorousness of Article 8 of the *Domestic Violence Prevention Act*, establish *mental health centers* in communities, and establish a single window as a place for the populace to access mental health resources. Community mental health centers should integrate resources to respond to people's needs and difficulties, in order to become the center of the community support network;
- (4) Formulate and implement service transition plans to ensure uninterrupted service, and to establish a comprehensive plan suitable for persons with disabilities and their caregivers; case management systems shall be implemented to coordinate services of different systems in accordance with the needs. The introduction and handling mechanism shall also include cross-ministry and cross-departments integration of resources and communication.
- (5) The change from compulsory hospitalization to the discretion of the judge was advertised as an improvement of rights, but in order to allow the court to have enough time for review, the emergency resettlement was extended from 5 days (with which period the hospital must complete psychiatric assessment and complete the review process to decide whether involuntary hospitalization is required) to 14 days, which severely violated the right of personal freedom. In the CSO-submitted draft, the emergency resettlement was set as seven days, which speeds up the time needed to obtain treatment and reduces the violation of personal freedom caused by the long process court hearings;
- (6) Service users shall be included in the decision making process; regardless of the degree or stability of the condition, the right to personality and the

legitimate rights of all shall not be infringed upon, without discrimination or unfair treatment; at the same time, decisions and meetings involving the rights of persons with disabilities and their caregivers should be included in the decision-making mechanism;

- (7) Competent authorities shall clarify its obligations and improve the division of labor. All ministries and committees of the Executive Yuan should perform their functions to handle matters related to the persons with psychosocial disabilities, and coordinate the division of labor between health administration, social administration, labor administration and other related organs of the various ministries and committees, and jointly undertake the community support services in accordance with the CRPD;
- (8) The government needs to understand the diverse situations of individuals, in addition to providing support services for persons with disabilities, support services for caregivers shall also be included; remove inappropriate penalties for family members, and strengthen government accountability. The Stats shall also handle - or assist the civil society to handle - community support services for persons with psychosocial disabilities, so as to eliminate the obstacles of NIMBY effects in the community;
- (9) With equality and dignity as the core of the revision, treat persons with psychosocial disabilities equally, and ensure their rights. The amendment shall provide comprehensive protection; including informed consent for treatment, requirements for the media to avoid stigma and inappropriate reporting through, and not to disclose personal privacy and other substance in media reports.

Access to Justice (art. 13)

10. Please provide the Committee:

- (a) With the procedures (for example *Rules of Court*) governing the provision of procedural accommodations in the criminal and civil justice proceedings;
- (b) Information on whether the State has carried out an audit of disability accessibility of all courtrooms in the State, from the perspective of staff (including judges), parties, witnesses and observers;
- (c) Information on how many qualified sign language interpreters, including those with Class B license, are available;
- (d) An explanation of how criminal and civil judges have been trained in the provision of procedural accommodations to persons with disabilities who are parties or witnesses in criminal and civil proceedings and advise of the curriculum of such training; which persons with disabilities and organizations of persons with disabilities are involved in developing the curriculum and

delivering the training; by when all judges will have completed such training; and how disability accessibility is included in the induction training for new judges.

Joint response of Taiwan Spiritual Suffering People’s Association and Taipei Bar Association:

60. Medical or related institutions have strict regulations on visitors, and the pandemic has become a common reason to bar visitors from meeting the inpatient. Further, cases were found where attorneys were barred from meeting, calling, mailing, or contacting the inpatient who was in a judicial process or was in need of legal counsel. In addition, the discharge of voluntary hospitalized patients requires the signature of a blood relative, and if they want to leave the hospital in advance, or wish to file habeas corpus in the emergency settlement, they are often ignored by medical personnel with no corresponding procedural protection.

Response of Independent Living Taiwan:

61. The insufficient awareness of accessibility and persons with disabilities of the judicial system had rendered the training mere formalities with no contribution to actual implementation. The relevant competent authorities also failed to conduct counseling or provisional guides.

62. Obstacles remain in even the newly built courthouses, with no accessible seats, equipment, facilities, and services; let alone measures of reasonable accommodation.

Response of New Vitality Independent Living Association, Taipei:

63. For transportation, for persons with disabilities in remote areas, suburbs, and those who cannot travel on their own, necessary assistance such as dedicated personnel and means of transportation were needed to enable persons with disabilities to autonomously choose how they would appear in court; rather than being limited by the lack of accessible facilities and services, and being stipulated that only remote or video appearances are allowed.

Response of Covenants Watch:

64. The Covenants Watch translated the *International Principles and Guidelines on Access to Justice for Persons with Disabilities* shortly after release into Chinese and provided them to the Judicial Yuan. It was expected that the Judicial Yuan would produce a local norm taking into account Taiwan’s particular judicial system. However, the Judicial Yuan has yet to release a guideline for courts with regard

to the provision of reasonable accommodations and procedural accommodations in court proceedings.

65. The revision of the *Code of Criminal Procedure* in 2020 required that interpretation services be provided to those with hearing or speech impairments, but there has been no progress with regard to understanding and resolving the potential disadvantages faced by persons with intellectual, learning, and psychosocial disabilities.

Liberty and security of the person (art. 14)

11. Please inform the Committee:

- (a) Of any commitment by the State to the “least restrictive environment” modality of care and support and whether implementation plans have begun, to ensure that persons with disabilities are supported to live in a community of their choice in the least restrictive environment;
- (b) Of the rationale for the amendment [27 January 2022] to the *Mental Health Act’s* provision for a national “mental health care command center” and explain its functions and how it could restrain or protect and advance the rights of persons with disabilities;
- (c) How:
 - i) The State intends for a judicial court to review the lawfulness of detention for persons with mental health issues (a medical, not judicial matter).
 - ii) Each person subject to unlawful restriction on their communication with the outside world and / or deprived of their liberty in a mental facility can access an independent informed specialized legal representative free of charge, to challenge the lawfulness of their detention, and the conditions of their detention.

Response of Coalition for Mental Health Reform:

66. Regarding (a),

- (1) In the State Response, the Ministry of Health and Welfare mentioned the protection of persons with disabilities in the terms of *People with Disabilities Rights Protection Act* and disabilities institutions, without mentioning the various restrictions on persons with psychosocial disabilities in chronic/acute hospitalization and day wards in medical institutions. For instance, it is difficult for patients in chronic nursing homes to decide whether to go out or to make various life decisions; the planning and measures of visits, medical decision-making, and privacy in each medical hospital are also based on the convenience of hospital management, without

considering how to minimize restrictions and how to construct environment that supports people with psychosocial disabilities to live in the community. The response of the Ministry of Health and Welfare shows that it has not considered the principle of comprehensive inspection when using services and resources belonging to different competent authorities, rather than responding to the implementation status of a small group of people from a single special unit.

- (2) Furthermore, in the draft revision of the *Mental Health Act* of the Executive Yuan, in the face of a crisis in the community for people with psychosocial disabilities, no matter whether they sought medical treatment, the degree of disability or the state of severe mental crisis, the State will only consider whether they meet the requirements of compulsory medical treatment. The State has not properly considered the experience of other countries which had drafted plans in the least restrictive mean and with crisis respite center in the community, and take the initiative to enter non-compulsory medical treatment and hospitalization methods, so as to provide various options for people with psychosocial disabilities and their families.

67. Regarding (b), according to the 2022 press release of the Executive Yuan, the “National Mental Care Command Center” was established by the central government, with a newly established cross-system risk early warning platform, and connected with the 24-hour emergency response mechanism at the local level.³ However, the 24-hour emergency response mechanism, either the current measures nor the draft amendments, has failed to advance the rights of persons with psychosocial disabilities. described as follows:

- (1) The current 24-hour emergency response mechanism is constructed upon a nationwide dedicated telephone line, with psychiatric professionals providing real-time voice consultation services for police, fire department, ambulances, security personnel, social workers, public health and medical personnel to assist in the handling of occurring or suspected community mental illness cases. The emergency response mechanism of the current policy, however, is limited to dictate medical treatment and hospitalization. As a result, the special line can only provide judgment and consultation on whether to send a doctor, but fails to integrate community resources to provide support other than medical treatment when a crisis occurs in the community. In actuality, the hotline is a consultation hotline for compulsory medical treatment, not a hotline for resource integration.

³ Executive Yuan, Executive Yuan approves draft amendment to "Mental Health Act", central and local cooperation to strengthen social safety net, January 13, 2022: <https://reurl.cc/55Wa0q>

- (2) On the other hand, the service targeted by this dedicated line are police officers, social workers and medical professionals, not the persons with disabilities themselves, service users and their caregivers. From May to June of this year (2022), a case arose where one is facing a crisis situation, and the family members call the special line for assistance, but the special line personnel can only provide the judgment principle of whether to send a doctor, but cannot respond to the family's unwillingness to force the person with disability to be sent to the doctor, which leads to the breakdown of trust.
- (3) To sum up the above two points, it is obvious that the 24-hour emergency response mechanism fails to truly promote the rights of people with psychosocial disabilities, so that when a crisis occurs, they can provide counseling on the choice of multiple support services for people with disabilities, their families and professionals. The situation has not been improved by the draft amendment.
- (4) The National Mental Care Command Center proposed by the Executive Yuan has no written content on its duties, the 24-hour emergency response mechanism connected by it also may also be suspected of violating the Convention in essence. Whether this command center promotes the rights of people with psychosocial disabilities is currently unknown.

68. Regarding (c) i), it is recommended to include diverse treatment facilities inside and outside the institution, and include the opinions of persons with psychosocial disabilities themselves, family members, and case management workers. Article 87 of the current *Criminal Code* which stipulates that "ordering to enter an appropriate place" is not sufficient. It should enrich its substantive connotation and adopt a multi-discipline mechanism, which is in line with the intent of Article 46(1) of the *Security Sanctions Enforcement Act*, to include hospitals and psychiatric medical institutions for treatment; admission to mental rehabilitation institutions and mental care institutions for mental care or rehabilitation; admission to disability welfare institutions or other appropriate institutions for care or counseling; to legal representatives, spouses, and relatives for medical appointment of a proxy; receiving specific outpatient treatment; or other appropriate treatment measures; so that individualized treatment can be equipped with a basis for implementation, which is also consistent with the principle of least restriction.

Response of Taiwan Spiritual Suffering People's Association

69. Regarding (a), the rules governing the meeting of inpatient visitors were as determined by individual ward administrators, and are mostly limited to relatives by blood, with no formal legal oversight and limited space and time

frame. In particular, the pandemic has led to prohibitions regarding visits, rendering patients unable to go out or meet with their families for more than a year.

70. At present, mobile phones were prohibited in all psychiatric wards, which violated the freedom of communication provision of the *Mental Health Act*, and restrictions on channels of information (meeting visitors, making phone calls, access internet, personal televisions) lead to deprivation of information and difficulties in returning to community life.

Supplementary topics not mentioned in the list of topics

Response of Covenants Watch:

71. The State has not released statistics on inmates with disabilities in juvenile correctional schools and juvenile detention houses: Although the State provided statistics on persons under the age of 18 in correctional institutions from 2018 to the end of July 2021 in its response to the List of Issues of International Review Committee on 2021 ICCPR and ICESCR State Report, statistics on persons with disabilities in individual institutions are yet to be released. According to the Treatment Plan for Inmates with Disabilities in Correctional Institutions promulgated by Agency of Corrections in April 2021, Ministry of Justice, the status of disability or suspected disability will be checked at the physical evaluation for new inmates. In addition, the Control Yuan investigative report number 0031 in 2021 had also contained “numbers of students with disabilities in juvenile reformatory schools until 2020”,⁴ with data provided by the Agency of Corrections, this indicates that the State is not updating released data despite its capability of conducting such surveys.

72. The juvenile justice system lacks a practical approach of conducting assessment for children. Because the lack of training for juvenile investigation and juvenile probation officers in identifying disabilities, when faced with children suspected of presenting symptoms of attention deficit hyperactivity disorder (ADHD), these officers often recommend the parents to seek medical attention on ADHD, rather than recommending judges to grant assessments through the formal mechanism, affecting the right of children with disabilities to be treated appropriately.

73. Inability of providing appropriate educational support to juvenile inmates with disabilities: According to the *Special Education Act* and its relevant sub-provisions,⁵ individual educational plans shall be drafted for students with

⁴ According to the Control Yuan investigative report number 0031 in 2021, percentage of students with disabilities in reformatory schools are as follows: Ming Yang High School 7.96%, Chengheng High School 10.21%, Dun Pin High School 8%, Li Zhi High School 10%: <https://reurl.cc/EZ3xD1>

⁵ Article 28 of the Special Education Act: <https://reurl.cc/O07Ney> ; Article 9 of the

disabilities; juvenile correctional facilities, however, lack relevant resources for special education and counseling. Should juvenile inmates with disabilities suffer from emotional adversities or show signs of committing self-harm or suicide, solitary confinement or restraints is often used instead of counselling. The Agency of Corrections does not usually request professional opinions and resources from the Ministry of Health and Welfare and Ministry of Education.

74. Recommendations:

- (1) The State should provide data disaggregated by gender and types of disability among juvenile detainees with disabilities in custody of juvenile correction schools and juvenile detention houses.
- (2) The State shall allocate budgets for assessment of disabilities in juvenile judicial processes, and provide disability awareness training for juvenile judicial personnel to raise their ability to identify disabilities, and to expeditiously administer treatment and support where appropriate.
- (3) Juvenile correctional institutions shall uniformly conduct health inspections and inquire needs of special education, and further examine whether particular needs of studying (for instance, IEPs) were required. The will and autonomy of students with disabilities shall be respected in the inspection process, with their right to participate in the decision making process ensured.
- (4) The Agency of Corrections shall cooperate with the Ministry of Health and Welfare and the Ministry of Education, to provide appropriate treatment and assistance for children with disabilities in juvenile correctional institutions.

75. As paras. 80-84 of the 2022 CRC Parallel Report coordinated by Covenants Watch,⁶ juvenile correctional institutions generally have problems such as bullying, fighting, sexual assault, sexual harassment, and inadequate equipment. The State shall especially notice the treatment and protection for detainees with disabilities in juvenile correctional institutions.

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

12. Please inform the Committee on:

- (a) Data available to monitor the use of, and reduction of practices involving seclusion and restraint;

Enforcement Rules of the Special Education Act: <https://reurl.cc/2DqE9X>

⁶ 2022 CRC Parallel Report, Coordinated by Covenants Watch, March, 2022: <https://reurl.cc/WrmApL>

- (b) How the State is preventing the use of degrading and inhuman practices, such as seclusion and restraint (both physical and pharmaceutical) and instead ensuring that staff utilise less restrictive options (i.e. behavioural management techniques) for individuals with disabilities in particular living arrangements and/or with acute mental health issues;
- (c) Any plans by the Ministry of Health and Welfare and other Ministries and human services agencies to introduce policies that monitor, promote best practice and prevent, reduce and where safe and possible, eliminate the use of seclusion and restraint in all settings.

Response of Independent Living Taiwan:

76. With insufficient staff and the prioritization of managerial ease, institutions often implement management by incarceration against its residents, restricting the use of electric wheelchairs, and even restricting persons with disabilities to their bed or wheelchairs. This limits the freedom of movement for persons with disabilities, and worsened the isolation of persons with disabilities from the outside world.
77. Many institutions were closed, barred the residents from going out, and prohibited visits from relatives and friends during the pandemic, without providing other measures of reasonable accommodation.

Response of Taipei Bar Association:

78. Para. 78 of the Independent Evaluation Opinion of the Third National Report of the National Human Rights Commission mentioned that the inmates of correctional institutions and the community members enjoy differential medical treatments; Point 95 and Paras. 112-114 of the Third State Report on ICCPR also admitted that overcharges and severe shortages of staff have resulted in poor health and hygiene standards in correctional facilities, and the inability of administrators to guide and treat inmates properly. This had caused inmates with disabilities to face inhuman or degrading treatments, and were neglected on the basis of the need and vulnerability which arose from their disabilities.

Response of Covenants Watch:

79. As described in our parallel report, in the initial stages of hospitalization, persons with psychosocial disabilities are often injected with neuroleptics, or subjected to restraint. The psychiatric wards did not adopt a systemic approach to apply behavior management techniques. During involuntary commitment, a patient's personal liberty can be restricted for many reasons. For harmless behaviors that are deemed by the nurses to constitute "disturbing the ward", patients can be confined. If the patients are agitated, then restraint can be applied

for hours. As far as CSOs can tell, medical institutions enjoy a very high level of self-regulation, and there is no systemic monitoring mechanism by the MoHW or other government agencies.

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

13. Please provide the Committee with:

- (a) The current statistics of reported abuse, neglect, sexual assault, gender-based violence and domestic violence of victims who are persons with disabilities, the timing and range of follow up actions, including punishment for the perpetrator, duly compensating the victims, and measures to protect their human rights by providing, for example, shelters;
- (b) Data relating to how often local authorities conduct unannounced inspections of residential institutions and whether they are able to ensure relevant regulations / standards are followed;
- (c) Information on whether the State has ever undertaken a systematic review of the extent to which persons with disabilities are subject to physical, emotional, financial or gender abuses, violence, bullying and discrimination or exploitations in workplaces, institutions or special schools;
- (d) Specific measures in place to enhance the human dignity of persons with disabilities, such as the extent to which the State administers “voluntary”, as opposed to “involuntary” admission procedures for persons with psychosocial disabilities.

Response of Taiwan Spiritual Suffering People’s Association:

80. Regarding (a), the regulations in Taiwan deem families as the basic unit of obligatory care, authorized punitive measures against caregivers, while providing no relevant support and care. This had caused incidents of violence between caregivers and the cared subject. People with psychosocial disabilities are more likely to be forcibly sent to the police and compulsory hospitalization, coupled with the lack of social understanding of the characteristics of their disabilities, their expression is easy to be regarded as nonsense. All of the above contributed to the likelihood for their rights to be infringed.

81. Regarding (b), the formulation process of managerial rules of institutions and wards had failed to ensure grievance mechanisms and specific solutions for persons with disabilities. In practice, rights ensuring and grievance mechanisms for persons with disabilities lack supervision and management regulations and mechanisms, surprise inspections are only a formality and have no real effect.

Response of Taiwan Alliance of Mental Health and Psycho Therapy users:

82. Regarding (d), the current *Mental Health Act* stipulates that medical measures during hospitalization shall be notified to the patient or protector to obtain their consent; in the process of diagnosing and treating a patient, the condition and treatment methods shall be properly explained, and the patient's consent should be obtained in accordance with regulations. The aforementioned notification procedure, however, does not provide clear instructions for supporting decision-making, such as adjusting to the language expressions that can be understood by people with psychosocial disabilities when they are hospitalized.

Liberty of movement and nationality (art.18)

15. Please provide the Committee:

- (a) An update on plans to amend the *Immigration Act* to ensure the freedom of persons with disabilities to enter and leave the State;
- (b) Information on current considerations of changes to the *Nationality's Act* in order to eliminate discrimination against person with disabilities becoming citizens or receiving supports and services on an equal basis with others.

Response of Taiwan Spiritual Suffering People's Association:

83. Regarding (a), despite that it had developed remote medical treatment via remote conferencing technology, it was rarely used in psychiatry diagnoses. Even when a prescription was issued via remote treatment, it is nevertheless necessary for the patient to go to the original hospital to receive medications, which contradicts with the original intention of reducing the traffic distance. In addition, since persons with disabilities are not suitable for changing doctors freely, coupled with insufficient supporting facilities and corresponding mechanisms for remote video medical treatment and prescription obtaining, adversely impacts the willingness and choices of travel and migration for persons with psychosocial disabilities.

Response of New Vitality Independent Living Association, Taipei:

84. At present, the support resources for persons with disabilities are mostly bundled with household registration, affecting the right of persons with disabilities to freely choose the county or municipality where they would live. It is recommended to develop a policy framework to allocate support resources which decouples with household registration institution, so as to ensure that persons with disabilities can enjoy corresponding support services (such as:

personal assistant, subsistence allowance, voting, rehabilitation bus, etc.) when they freely enter and leave different counties and municipalities.

Living independently and being included in the community

(art. 19)

16. Please provide the Committee with:

- (a) Information on the measures which the State will take to ensure coordination of assistance to persons with disabilities for personal care, household management and employment, and in emergencies, and to provide direct payment to individuals with disabilities so that they can manage their own support;
- (b) Plans to review the current assessment tools used to determine eligibility for services and to streamline the process for accessing various services and supports;
- (c) Plans to ensure that social workers and other professionals receive training on how to support persons with psychosocial disabilities in ways that protect their rights and not based on a medical model;
- (d) Plans to ensure that budgets for supports in the community are not less than for hospital treatment and to ensure that funding for independent living is not dependent on Public Welfare Lottery Funds but rather become an official budget allocation;
- (e) The total number of persons with disabilities currently in various institutional care, including mental hospitals, and what efforts the State has made to reduce the number of people in care rather than establishing new long-term care residential institutions.
- (f) Information on the plans to revise the “Regulations on Subsidization for Medical Treatment and Auxiliary Appliances for the Disabled” regarding the assistive devices, such as hearing aids and wheelchairs, including those for children with disabilities, to move away from the medical model and be compliant with the CRPD.

Regarding to point 16 (f), response of Taiwan Access for All Association:

85. The current subsidy method for the cost of assistive devices is nevertheless based on the list of types of assistive devices and the degree/categories of disabilities. This approach creates the following problems:

- (1) Assistive devices that were not included in the table cannot be subsidized, coupled with the fact that the revision of the Act is more time consuming, it

is difficult for persons with disabilities to acquire newly developed assistive devices with the State subsidies.

- (2) Those who are not eligible while in need of assistive device subsidies can apply through the Assistive Devices Center Project, but municipalities except for New Taipei City are not equipped with similar projects and are unable to handle such applications.

86. The content of subsidy is based on the biomedical metric of disability, and had rendered the assistive devices mechanisms unable to meet the needs of persons with disabilities, not to mention the subsidy cost and the restriction of the annual use of the project, which transmigrated assistive devices into a heavy burden for the person with disabilities and their families who are economically disadvantaged.

Joint response of Independent Living Taiwan and New Vitality Independent Living Association, Taipei:

87. The budgets of all levels of the central government was not planned in accordance with the expanding needs of persons with disabilities on the local level, nor was it equipped with a specific action plan for transforming institutional services into community services.

88. The Association had received accounts where persons with disabilities were notified that their personal assistants were pulled out due to the lack of resources. The State shall investigate the actual needs of persons with different categories of disabilities and allocate resources and services to protect their rights, ensure equal participation. And enable them to live independently.

89. According to the statistics of the personal assistant service for independent living support services in various counties and municipalities surveyed by the Ministry of Health and Welfare, the service statistics in 2020 indicates that the average number of personal assistant service hours allocated to all person with disabilities is only 4.6 hours per week, or only 0.67 hours per day.

90. According to the Second State Report on the CRPD, there were only 372 personal assistants in Taiwan in 2019, and only 592 persons with disabilities applied for their services. As of March 9, 2022, among the 1.2 million persons with disabilities, more than 200,000 are persons with profound disabilities, and 140,000 are persons with severe disabilities, totaling 346,363 people. However, there are only 1 or 2 service units in each county and municipality, and the capacity is severely insufficient to respond to the service needs of persons with disabilities.

91. The overly high qualification threshold for the use of personal assistance services inhibits the willingness of persons with disabilities to apply, the statistics henceforth could not reflect the actual needs of persons with disabilities. On the

other hand, the restrictions on personal assistant services (some only provide out-of-home services, some became supplementary personnel to home services) had resulted in the inability of persons with disabilities to access personal assistant services independently, which affects the independent living of persons with disabilities.

92. Community based services (e.g., personal assistance services, residential care services, day care services) and institution-based services were not accommodated reasonably to the pandemic, with most of which halted their service directly. The care services for persons with disabilities who contracted Covid-19 was even more dispersed.
93. The mechanism of Personal Welfare Account shall be provided, to respond to personal needs in paying for rent, assistive devices, personnel support, transportation, and food and necessities. This would allow persons with disabilities to purchase products or services provided by the State or the private sector, and regain their inherent dignity.
94. Professionals nevertheless lack sufficient awareness and knowledge of the rights of persons with disabilities. Despite training sessions being held, relevant knowledge was not implemented in the practice, and was not properly regulated. In practice, various infringements were reported, and the State has yet to propose corresponding channels for relief.
95. The assistive device subsidy evaluation mechanism is overly medicalized, and the demands generated by the intersecting identities (such as gender, race, association, age, etc.) were not put into account, which indirectly deprives persons with disabilities of their right to free movement and communication without hindrance.
96. The models of subsidized assistive devices are strictly restricted by the State, and the subsidies are also too low, making it difficult for persons with disabilities to obtain them, which in turn inhibits the development of assistive device products in Taiwan, including the introduction, research, and development. The evaluation mechanism also failed to consider the cost for upkeep and maintenance, which hindered the integration into communities for some persons with disabilities.
97. Subsidies should be calculated on the basis of personal income and economic status, and should not be based on the *Social Assistance Act*.
98. The provision of relevant policies and services often oversaw the principle of substantial participation of persons with disabilities; persons with disabilities were often invited to “voice their concerns” and had the policy dictated unilaterally by the State, scholars, and the policy experts instead.
99. At present, Taiwan's DPOs cannot effectively obtain official support and thus their development is limited. The State shall provide substantive support for the

participation of organizations of persons with disabilities in policy formulation, service, and community connectivity.

Response of Coalition for Mental Health Reform:

100. Regarding (a), in Taiwan, people with psychosocial disabilities are divided into those with disability certificates and those without disability certificates by the *People with Disabilities Rights Protection Act* and the *Mental Health Act*. Resources were also allocated in accordance with the different regulations. The current *Mental Health Act* focuses on medical services with scarce emphasis on community resources and services, should people with psychosocial disabilities intend to use community resources, they can only use the disability certificate in accordance with the *People with Disabilities Rights Protection Act*. As a result, only those who hold a diagnosis of mental illness or a major injury and illness card without a disability certificate, cannot access community resources. On the other hand, Ministry of Health and Welfare, as the competent authority of the *People with Disabilities Rights Protection Act*, often considers it suitable for issues related to persons with psychosocial disabilities and persons with mental disorders to be dictated by “medical professionals”, and thus leans away from developing community services needed by persons with psychosocial disabilities, which further infringes upon the right of persons with psychosocial disabilities to access community resources.

101. As of the end of September 2019, there were about 200,000 people in Taiwan who hold major injury and illness cards due to their mental illnesses.⁷ Given that they do not hold a disability certificate, they often resolve to access mental rehabilitation day-care and residential type institutions. The aforementioned institutions, however, have a capacity of less than 10,000 people, accounting for about 5% of the major injury and illness card holders. This indicates that the lacking infrastructure of community integration had divided service users into card holders and certificate holders.

102. Taking the statistics of the number of persons with disabilities, there are 129,885 persons with chronic mental illness as of 2019. According to the statistics of the Social Welfare and Family Administration of the Ministry of Health and Welfare, in 2019, in accordance with Article 50 of the *People with Disabilities Rights Protection Act*, personal support and care services were provided, which included life reconstruction, community living, community-style day care, community day work facilities, family care, and support for independent living, etc. The aforementioned service had served 539 people in total, accounting for a mere 0.4% of the population with mental disabilities in Taiwan.

⁷ The Central Health Insurance Administration, Ministry of Health and Welfare, National Health Insurance Major Injury and Illness Validity Statistical Table: <https://reurl.cc/d2k8dy>

103. Persons with psychosocial disabilities can only obtain scarce community resources in the Division of Mental Health, and the Social Welfare and Family Administration also lacks the willingness to provide services for persons with psychosocial disabilities; the existing services had failed to consider the differences between categories of disabilities, resulting in the low utilization rate for persons with psychosocial disabilities. The existence of difference which arose from resource status also occurs in the occupational rehabilitation service provided by the Ministry of Labor for persons with disabilities, which exclusively provides the service to persons with disability certificates and once again excluded those who only have a major injury or illness card. The State had failed to clarify relevant service data, ratios and other information in the State Report and National Replies.
104. Regarding (b), the National Reply mentioned the Scale of Long-Term Care Needs (CMS) assessment. However, the assessment tool is biased towards physiological assessments, which makes it difficult for people with psychosocial disabilities to be assessed in this mechanism even if they have long-term care needs. On the other hand, long-term care resources lack psychosocial services and tend to emphasize physiological care, with elderly services as the bulk; even for people with psychosocial disabilities over the age of 65, the current long-term care services nevertheless neglects dimensions besides physiological care, and are mostly institution-based rather than community-based. Institutional services have created another layer of problems where persons with psychosocial disabilities might be transferred to physiological institutions for physical care, while the institution might refuse to provide service based on the reason that “persons with psychosocial disabilities are beyond their professional capabilities.”
105. Regarding (d), the Ministry of Health and Welfare had mentioned in the State Reply that “the budget will exceed the budget for compulsory hospitalization in 2025” without mentioning whether the budget allocated towards community support was larger than the total medical insurance budget. It is recommended for the International Review Committee to implore the Ministry to provide specific figures, such as what is the proportion of community rehabilitation insurance to the entirety of mental illness treatments? In 2001, community rehabilitation accounts for about 1%, which was allocated to community support under National Health Insurance; the community support budget, however, shall not be limited at health and medical budgeting, as social policy, labor policy and health policy shall all contribute to the comprehensive planning of community support and institutional treatment.
106. The World Health Organization (WHO) 2017 Mental Health Atlas 2017 states that the median per capita mental health budget expenditure of member states is US\$2.5 per year; however, Taiwan's per capita mental health budget expenditure

in 2020 is only US\$0.75 , less than one-third of the WHO median. Inspecting the overall budget of the Ministry of Health and Welfare, the mental health promotion expenses from 2018 to 2020 only account for 0.3% of the total budget, examine the “funds for the prevention and treatment of mental illness” the it would be apparent that it only accounted for 0.1% of the total budget of the Ministry of Health and Welfare. Meanwhile, based on the existing budget planning of the Department of Mental and Oral Health, most of the funds are invested in the mental “medical” part. In practice, there are about 139,000 patients reported in the mental care system. After deducting the number of patients admitted to acute and chronic beds and mental care homes, there are still 113,000 patients living in the community. The demand for community services is about 5 times that of the medical services, and the total investment is only 1/10; the budget of community mental rehabilitation institutions is only 1/100 of that of psychiatric medical institutions, and the ratio of health insurance funds is only 1/10.

107. By examining the budget allocation of social safety net programs arising from major social events, it can be seen that budget planning is still based on a medical mentality.⁸ For instance, the expenditure on medical case management services is 8.5 billion, while the community and life support services are only 900 million, accounting for only 11% of the total budget. Case management is “a planning process of understanding problems and needs, and then providing resource integration services”, with no resources in the community for planning and deployment, no abundance of manpower and professionalism can be utilized.

108. Regarding (e), with data provide by the 2020 Statistical Annual Report on the Service Volume of Medical Institutions by the Statistics Department of the Ministry of Health and Welfare, ⁹ it can be deducted:

(1) Table 10, Average hospital days in hospitals over the years: By categories of beds, the hospital days in general mental and chronic wards increased from 156.24 days in 2001 to 283.9 days in 2011, a rapid increase of 127 days of hospitalization in ten years, equivalent to over four months. In addition, the average hospitalization interval in general beds for chronic diseases remained high at 282.81 days in 2020.

(2) Table 17, The number of nursing institutions and mental rehabilitation institutions in the past years: Also segregated by ten years, the number of mental rehabilitation residential institutions has increased from 39 in 2002 to 117 in 2012, and has increased to 159 in 2020. Although the service capacity

⁸ Ministry of Health and Welfare, Strengthening the Social Safety Net Phase II Program (110-114), 29 July 2021: <https://reurl.cc/41e8kD>

⁹ Statistics Department, the Ministry of Health and Welfare, 2020 Statistical Annual Report on the Service Volume of Medical Institutions, July 20, 2021: <https://reurl.cc/9GNydd>

of non-residential long-term care institutions has been increased, mental rehabilitation institutions were nevertheless shrouded in institutional complications, such as demanding collective management, entry and exit registration, access control time, lack of personal space, etc. The goal of independent living in the community cannot be achieved through the aforementioned institutions.

Personal Mobility (art. 20)

17. Please explain to the Committee:

- (a) How a person with a mobility disability can be ensured of free or affordable regular servicing/ maintenance of their assistive devices;
- (b) How providers of goods and services (e.g. shops, cafes, restaurants, libraries, and healthcare providers) are compelled in law to allow a guide dog to accompany a person with disabilities on their premises;
- (c) How many of the funded assistive technology projects, are run by persons with disabilities and employ persons with disabilities;
- (d) Why an individual person with disabilities must choose a device on a State approved list, rather than choosing assistive devices that meet his/her needs, as well as why the State limits the number of assistive devices to four per person, when a person may need five or more devices to live independently and be included in the community on an equal basis with others;
- (e) Measures taken to review restrictions on driving licenses for persons with disabilities, other than those with epilepsy.

Response of Taiwan Access for All Association:

109. Refer to paras. 85-86 of this response.

Response of Taiwan Spiritual Suffering People's Association:

110. Regarding (a), humans are the "assistive devices" needed by persons with psychosocial disabilities. For those whose functions are degraded due to psychosocial disorders, the State currently provides special traffic practice and mobility assistance programs.

Response of New Vitality Independent Living Association, Taipei:

111. Regarding (a), at present, the disparate maintenance that can be afforded by county and municipal governments was inconsistent. A unified norm shall be established to enable persons with disabilities to afford the costs of maintenance after purchasing assistive devices.

112. Furthermore, regarding the subsidy for the cost of assistive devices, the State responded that the social subsidy is “100% of the maximum subsidy amount for low-income households, 75% of the maximum subsidy amount for low-middle-income households, and 50% of the maximum subsidy amount for ordinary households”, indicating that the State holds that such a subsidy method has reached the standard of “obtaining free or affordable regular [aids] service/maintenance” when asked by the review committee. By the experiences of persons with disabilities, strict standards for reviewing low- and low-middle-income households, or the draft amendments to the “Measures for the Subsidy of Assistive Devices for Persons with Disabilities” held by the Ministry of Health and Welfare, it is evident that the aforementioned subsidies unable to alleviate the heavy burden of purchasing and maintaining assistive devices for persons with disabilities.

113. Regarding (d), the Ministry of Health and Welfare had mentioned in the National Response that it had intended to shorten the review time for the “Measures for the Subsidy of Assistive Devices for Persons with Disabilities”, and proposed that individual needs of persons with disabilities to be included in the evaluation standards, without being pinned by the specifications of the table.

Freedom of expression and opinion, and access to information

(art. 21)

18. Please explain to the Committee:

- (a) The provision of visual aids and sign language interpretation for public hotlines (such as the Pregnant Women's Support Hotline, National Family and Education Hotline, and Suicide Prevention Hotline) and in the financial services sector to enable persons with disabilities to, for example, apply for a mortgage or buy insurance;
- (b) the system whereby the State audits (or 'spot checks') public websites (including 'fourth level agencies such as high schools and district health centres) for accessibility and tests apps on users with disabilities before launching the apps to the public;
- (c) how the State engages with the private sector to encourage and require them to ensure their websites meet accessibility standards as provided for in Article 4(1)(e) of the CRPD;
- (d) How the State has communicated public health guidance and measures to persons with disabilities, including those who live in congregate care settings in relation to the Covid-19 pandemic, and how pandemic-related apps meet accessibility standards, including the National Health Insurance app, and

public transport apps.

Response of New Vitality Independent Living Association, Taipei:

114. Regarding (d), two years had passed since the pandemic broke out; the information accessibility of Taiwan, however, remains insufficient, especially on the dimension of mobile apps. Taking the real-name system for quick screening implemented in May 2022 as an example, users with visual disabilities had experienced the exact same issues in using the app or understanding the presentation of information, as the real-name system for masks which was released two years ago. The State continues to implement real-name systems in the provision of public goods, without conducting accessibility improvements with their two-year experience, rendering persons with disabilities having to wait for a period of time to have the measures gradually adjusted to fit their use scenario.

Education (art. 24)

21. Please provide information to the Committee:

- (a) On plans to eliminate special classes and schools in order to conform with the normative content of inclusive education as described in General Comment No.4 by the Committee on the Rights of Persons with Disabilities.
- (b) The causes of slow progress of inclusive education in terms of percentage of students with disabilities at the senior high school level or below attending regular school/regular class;
- (c) How the concept of Universal Design for Learning is being applied through the education system and not only for learners with disabilities;
- (d) How the concept of reasonable accommodation is being promoted throughout the school system in order to reduce the exclusion of learners with disabilities from regular schools at all levels.
- (e) What measures are being implemented to eliminate the need for families to pay for support services in order for their children to be allowed to attend school.

Response of Taiwan Education Association:

115. In Taiwan's education system, the recognition of students with disabilities, albeit being different from the qualification of persons with disabilities in the social welfare system, it nevertheless follows the biomedical model, focusing on the degree of injury of individuals, and does not implement the social and human rights model. For issues related to the definition of disability to the education system, see paras 259 to 262 of the Parallel Report coordinated by Covenants Watch.

116. The mainstreaming of disability was not implemented in education institutions of the State. Despite the government having declared that it wants to implement integrated education, the corresponding unit was not equipped with sufficient authority. The Department of Student Affairs and Special Education, the office which was responsible for the integrated education for students with disabilities, was shared with national defense education for all, gender equality education, campus safety and other businesses. This department in itself is unable to coordinate other offices to execute tasks relevant to integrated education, and other offices also failed to include persons with disabilities in their policy; similar situations often occur on campus. Overall, although the State claims that “integrated education” is the principle of the current special education promotion, in essence, whether in the government sector or the education scene, it is nevertheless easy to form a binary system of “with disabilities” and “without disabilities”, and the integration of system and consciousness needs to be improved.

117. Regarding the lack of awareness of disability and awareness raising: at the education site, teachers, administrators, peers and parents are included in the education scene, and possesses limited understanding of disability. Under the policy direction of promoting integrated education to return students with disabilities to ordinary classes, the lack of on-site awareness directly leads to the failure to practice integrated education; the specific situation includes teachers and administrative personnel who are not sufficiently equipped with disability awareness are unable to assist students with disability, or even cause discrimination from being unable to understand their expressions. Peers and the parents of peers also often resolve to isolation, bullying or conflicts due to the lack of understanding. All of the above had rendered students feel helpless or anxious upon integrating into general education institutions. (See para. 251 of the Parallel Report coordinated by Covenants Watch for details) To raise awareness on disability and persons with disabilities, we suggest:

- (1) Include disability issues into the 12-year *National Education Curriculum Outline* and the *Kindergarten Education and Nursing Activity Curriculum Outline*. Ensure that the issue of disability appears conspicuously in the various types of curriculum outlines, not only in the areas related to special education, but in the curriculum and teaching materials of all stages, academic systems, group subjects, fields and subjects of general education. This would allow teachers and students from special education and general education to be able to understand, appreciate and include disabilities.
- (2) It shall be ensured that all general education teachers, special education teachers or administrative staff are well trained with the knowledge and

ability to face students with different types of disabilities, and the awareness of disabilities shall be raised.

- (3) At the stage of higher education, norms and policies should be established to ensure the enrollment opportunities of students with different disabilities in various fields and departments, to ensure the inclusion of academic talents with disabilities. The increase in research related to disabilities in all academic fields shall also be encouraged, to ensure all levels and dimensions of issue can enjoy the participation and professional opinion of persons with disabilities.

118. We endorse the policy principle of Taiwan that has encouraged the integration into general education institutions. We emphasize, however, integrating students with disabilities into general education institutions shall be accompanied with comprehensive support to ensure students with disabilities fully access the resources and adjustment assistance they need. We reiterate that the current integrated education supporting measures are insufficient in terms of policies, manpower, resources, budget, and awareness. Students with disabilities and their parents often find it confusing and panicking for them to be integrated into the general education system. As mentioned in the previous paragraph, poor performance due to the difficulty of adapting to different teachers and conflicts arose from the failure for peers to be equipped with disability awareness are the main contributors to the reduction of willingness of students with disabilities and their parents to choose to be reintegrated into the general education system.

119. In particular, on the dilemma faced by children (including children with disabilities) in juvenile correctional schools and placement institutions:

- (1) Regarding the juvenile corrections schools, the Ministry of Justice recently announced the draft *Regulations on the Implementation of Juvenile Corrections School Treatment*,¹⁰ which is a special regulation for juvenile inmates. In terms of substantive content, the legal structure and content are similar to the provision of the *Prison Act* for ordinary prisoners. Although it is called correctional education, the connotation is nevertheless “criminal punishment” with its competent authority set to be the Ministry of Justice rather than the Ministry of education. There is a serious lack of the intent of the Convention and specific measures for special education in the draft. We suggest that the competent authorities should return to the Ministry of Education, the content of the regulation and the practical application shall also be redesigned around the notion of education with specific emphasis on students with disability and special education. The process shall also ensure

¹⁰ Pilot draft of Regulations on the Implementation of Juvenile Corrections School Treatment of Ministry of Justice: <https://reurl.cc/YvNlnl>

that the right to education, right to expression, and all the basic rights promulgated in international Conventions were ensured.

- (2) With regard to resettlement institutions, the overall planning is often dispersed among a plethora of competent authorities, resulting in difficulties in the handling of students (such as not being able to be in the same subject as they have previously studied), insufficient personnel and financial resources, inability to individualize the different needs of students, and the possibility of special treatment by schools after returning to the general education system, including refusal to enroll.

120. In particular, with regard to the problems in the draft amendment to the *Special Education Act* currently being drafted by the Ministry of Education, the Ministry of Education had held a public hearing on the draft amendment to the *Special Education Act* last year, while the revised version proposed by it claimed to want to "dilute the classification of disabilities" and "implement integrated education", it still essentially maintained the identification and classification benchmarks of the current medical views, and did not make specific supporting and instructions on the principles of integrated education, rational adjustment and universal design. In addition, the qualification of personal assistants and various reasonable adjustment measures also stays in the medical point of view.¹¹

Response of Taiwan Spiritual Suffering People's Association:

121. Regarding (d), students with psychosocial disabilities are often required to take leaves of absence or stay away from school by taking classes remotely due to the risk of suicide or for reasons of disturbing the class. The lack of reasonable accommodations also resulted in a high drop-out rate and a long study period. The State has yet to propose improvement solutions, nor has it been allocating sufficient manpower for the assistance.

Response of New Vitality Independent Living Association, Taipei:

122. Regarding (e), where the family of the person with disability is located in remote areas, resources related to mobility, such as but not limited to, transportation subsidies, should be provided to eliminate the gap in the right of the person with disability to access education.

Response of Independent Living Taiwan:

123. The school's responsibility for support shall not be borne by parents themselves, as many schools will require parents of students with disabilities to

¹¹ Draft amendments to the Special Education Act of the Ministry of Education (Public hearing version) : <https://reurl.cc/KbYv6g>

accompany them to the school or hire their own migrant workers for assistance. The competent authorities shall establish explicit provisions for the equitable allocation of resources and shall assume the responsibility of overseeing. Schools should not be allowed to affect the right to education for students with disabilities on the basis of the availability of their respective resources.

Health (art. 25)

22. Please inform the Committee:

- (a) Of the proportion of medical facilities in the State that have been audited for disability access and whether there is a process to obligate Ministry of Health and Welfare to prioritise the implementation of barrier-free medical environments with universally accessible medical services and equipment e.g. accessible bathrooms and beds, examination tables, birthing beds, transfer aids, X-ray and scanning equipment and weight measuring equipment, as well as ensuring reasonable accommodation to processes and procedures and whether the such data on these needs, and measures taken to address them, are published and made available to persons with disabilities;
- (b) To what extent the Health Promotion Administration of MOHW has developed an implementation report on the 33 health policy objectives for persons with disabilities in the State that are listed in their "2020 Citizen Health White Paper" and whether there is a strategy to adapt and develop a strategic plan and policies to promote the health and wellbeing of persons with disabilities over the next five and ten years;
- (c) If the State intends to survey the prison population to determine the proportion of persons with disabilities among inmates, so as to comprehend their educational, support, psychological, medical and other needs, and provide appropriate supports, interventions, medical and rehabilitation resources.

Joint response of Independent Living Taiwan and New Vitality Independent Living Association, Taipei:

124. Recently, the promotion of accessible clinics has been rebounded by the medical community, causing persons with disabilities and their groups to have to give in, and thus damaging their right to seek medical attention.

125. Major hospitals have yet to propose specific schedules and planning of improving accessibility; the progress is slow and incomplete.

126. Persons with severe or profound disabilities who contracted Covid-19 and are admitted to isolation wards were deprived of means of accessible communication and accessible bells, rendering them unable to convey their needs. There are also no professional caregivers in the wards to provide assistance in accordance with

different disabilities and needs, to provide basic living and body positioning assistance, raising severe threats to the right to health of the person with disabilities.

127. Services of assistance and support for people with disabilities after hospitalization has not been guaranteed by the State, and it has worsened during the pandemic. The cost of nursing care is 10,000 NTD per day. Those diagnosed with disabilities or their families may not be able to pay such a high cost. Furthermore, even if they can afford the care, they may not be able to successfully hire suitable candidates.
128. Regarding (c), relevant resources for accessibility in captivity remained as the least concerned issue in Taiwan, the environment shall be appropriately accommodated for inmates with disabilities.

Response of Taipei Bar Association:

129. Those with conditions where imprisonment would have caused considerable deterioration of their health, should be suspended from executions and receive treatment first. Although the current *Criminal Procedure Act* has provisions to halt the execution, it must reach the level of “loss of mind” or “currently suffering from illness, and the execution may not endanger their lives.” The 2020 Si Zheng Zi No. 8 Correction of the Control Yuan mentioned that there were once impediments to prisoners who suffered from shock septicemia and other symptoms repeatedly within 4 months of being incarcerated, and 7 emergency visits by foreign doctors and abnormal mental conditions. Even though Taipei Prison was aware that the outpatient clinic in the prison could no longer meet its medical needs, it did not apply for medical parole to the Agency for Corrections until the condition of the inmate deteriorated and the heart stopped. This damages the dignity of the inmates, and fails to provide appropriate medical attention.
130. There is a lack of a unified and coordinated mechanism between the prisons of the Agency of Corrections and the Pei De Hospital attached to the Taichung Prison. As a result, cases may arise where an outpatient physician in the prison determines that the inmate’s condition needed to be transferred to the hospital, while the Pei De Hospital did not. Inmates might be unable to receive appropriate treatment and their opportunity for accessing emergency medical treatment may be delayed.

Habilitation and rehabilitation (art. 26)

23. Please inform the Committee:

- (a) The extent to which habilitation and rehabilitation services are directed to

- equipping individuals with knowledge, skills and equipment needed for eventual independent living;
- (b) whether the services are predominantly medical and if not, what other services are available;
 - (c) to what extent services are promoting full inclusion and individual control of services.

Response of Taiwan Spiritual Suffering People's Association:

131. Regarding (a), rehabilitation institutions in Taiwan often retain residents for securing the source of cases, instants also exist where institutions haven't introduced other resources in 20 to 30 years, or failed to provide effective rehabilitations. Full-day mental rehabilitation institutions have also become resettlement institutions, and have not honored their original significance as the halfway homes for rehabilitation, but have become commercial actors who are robbing patients.

132. People with psychosocial disabilities are asked to do the same activities without personal adjustment. This situation is due to the fact that there are more health insurance points that can be applied for with group activities, which is disguised as service or adjustment to provide personalized activities.

Response of Taiwan Alliance of Mental Health and Psycho Therapy users:

133. For persons with psychosocial disabilities, psychiatric community mental rehabilitation services, including mental rehabilitation homes, vocational training workshops, and a service base for persons with disabilities with a collaborative model that was launched in 2022, are mostly community services managed by civil society organizations. However, there are still service usage voids on the service user's side, which originated from the lack of a comprehensive discharge program and the lack of introduction services to resources of psychiatric institutions. This had rendered persons with psychosocial disabilities and their family members unable to successfully connect to community mental rehabilitation services. In addition, because most community mental rehabilitation services still require a disability certificate to access, users who have not obtained a disability certificate but have substantial service needs are excluded from rehabilitation services.

Work and employment (art. 27)

24. Please explain to the Committee:

- (a) The low growth rate of employment of persons with disabilities in 2019 compared with 2016 ;

- (b) Whether there is a legal provision stating that the failure to provide reasonable accommodation in the workplace (whether in public, private or voluntary sectors) constitutes unlawful disability-based discrimination;
- (c) Why people working in sheltered workshops do not receive the minimum wage and what would be the implications (on persons with disabilities, on society, on the economy) of mandating minimum wage in sheltered workshops;
- (d) Why a large number of persons with disabilities report being mistreated in the workplace due to their disabilities, but local labour administration authorities found only 2 cases under the Employment Service Act of discrimination violations and what explains the difference between what persons with disabilities reported, and what the local labour administration authorities determined.

Response of Taiwan Spiritual Suffering People’s Association:

134. Regarding (a), persons with psychosocial disabilities are rejected in the assessment of whether or not to open a case by the vocational counseling evaluator, on the basis of a mentality where “these people are not ready for employment, or are not employable.” In actuality, the reason was vocational counselors were pressured by the quota of successful introduction, thus unwilling to take the risk, which in turn caused persons with psychosocial disabilities experiencing difficulty in receiving assistance in rebuilding their careers. Furthermore, there is no career development and reward mechanism in workplaces for the employment of people with psychosocial disabilities. Persons with disabilities might be able to only acquire positions of janitor or manual labor, not in the field of profession.

Joint response of New Vitality Independent Living Association, Taipei and Covenants Watch:

135. Regarding (b), the requirement to provide reasonable accommodation has not been incorporated in Taiwan’s labor laws, and the denial of reasonable accommodation is not regarded as a form of discrimination. Governmental agencies, or the “Review Committee on Employment Discrimination” of local governments responsible for assessing the merit of possible discrimination cases, or even judges, cannot explain the association between reasonable accommodation and discrimination. In one judgment, the Judge wrote that reasonable accommodation belongs to the category of affirmative action, and is not a right that can be claimed by individual workers. The delay in the enactment of reasonable accommodation by the Ministry of Labor has violated the *Act to Implement the CRPD*.

136. The competent labor authorities currently provide services to assist persons with disabilities in integrating into the workplace by providing "job redesign" and "career reconstruction" for persons with disabilities. However, the problem is that these practices are not the obligation of the employers, and workplace still divides the work according to the work mode of persons without disabilities, which makes it difficult to make corresponding adjustments according to the individual conditions of the people with disabilities. As a result, even with the intervention of supportive resources, it is still difficult for people with disabilities to properly perform in workplaces.
137. Regarding (d), even though the *Employment Services Act* prohibits "physical or mental disability" as a "ground of discrimination" and there are also corresponding penalties, the employer does not necessarily need to directly use "physical or mental disability" as a reason for refusing employment. Under such ambiguity, it is difficult to determine that the employer has specific acts of discrimination, and it is often reduced to a problem of feelings that are difficult to prove.
138. The terms of "mistreatment" is similar to (b), the authorities do not have a full recognition of workplace discrimination, correspondingly, because of the lack of knowledge and experience, workplaces struggle to make appropriate and reasonable accommodations in accordance with the individual needs of people with different disabilities. For example, the working hours of persons with psychosocial disabilities might need to be adjusted, but the employer might consider it ought to be the same as that of other employees.

Response of Independent Living Taiwan:

139. Insufficient employment support resources and concepts had made it difficult for people with profound or severe disabilities to be employed. There are also no reasonable accommodation measures and regulations, resulting in barriers in entering the workplace.

Adequate standard of living and social protection. (art. 28)

25. Please inform the Committee:

- (a) Whether the State provides a disability pension and how the State guarantees a decent standard of living to persons with disabilities;
- (b) About average income of persons with disabilities as compared to average wage earners in the State;
- (c) Whether the State has ever undertaken a study of poverty rates of persons with disabilities compared to the general population.

Response of Taiwan Spiritual Suffering People's Association:

140. A very high proportion of female homeless people are women with disabilities, yet the State has done nothing to assist them in rebuilding their residency, economies and livelihoods.

Response of Independent Living Taiwan:

141. The *Public Assistance Act* remained as the sole basis for provisioning existing statutory services and subsidies, making it difficult for low-income households that do not meet the standards of the *Public Assistance Act* to obtain appropriate support. It is recommended to amend the *Public Assistance Act* to consider the peculiarities of disabilities and provide comprehensive economic support to persons with disabilities on said consideration.

142. Subsidies and support should not exclude those who have work income, otherwise the mentality "having work income but not being able to obtain subsidies" will affect the willingness for persons with disabilities to enter the workplace, even covertly punish those with disabilities who are willing to work.

143. At present, Taiwan's statutory low-income and low-middle-income households account for less than 3% of the total population, which is far lower than the proportion of population in poverty in developed countries. It is necessary for the State to propose a more accurate poverty rate survey. The proportion of low-income persons with disabilities should also be investigated in the relevant surveys.

Participation in political and public life (art. 29)

26. Please explain to the Committee:

- (a) The State's plans to ensure that persons under guardianship will be able to exercise their right to vote and stand for election;
- (b) How each of these new voters will be informed about political participation and the ways in which they can exercise their right to vote;
- (c) How the Central Election Commission is mandated to make reasonable accommodation for candidates with disabilities, including providing barrier-free stages or venues for political events and ensuring that all polling stations are accessible in the future;
- (d) Why there is no provision for a voter with disabilities to cast an absentee, postal or other alternative ballots.

Response of Taiwan Spiritual Suffering People's Association:

144. Persons with psychosocial disabilities in institutions might not be aware of voting information due to information isolation, nor can they know the political views and background of candidates. Institutions also wouldn't issue clearance for leaving for the rationale of voting, residents often need to be discharged directly or meet some conditions to take leave to vote. Persons with psychosocial disabilities are thus unable to exercise their basic rights and are ignored by the State for not having the proceeds of the vote.

Response of Independent Living Taiwan:

145. Some persons with physical and mental disabilities have residential addresses different from their household registration address. The State shall propose methods such as mail-in voting and electronic voting to ensure that the right to vote of persons with disabilities would not be hindered by difficulties in moving residential statuses.

146. The accessibility of polling stations varies, and many polling stations remain laden with barriers. The State had also yet to plan and provide accessible transportation to polling stations.

147. Candidates with disabilities cannot obtain effective services and accessibility assurances.

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

27. Please explain to the Committee:

- (a) How museums are accessible for hearing impaired persons and those with mobility difficulties;
- (b) Any regulation and monitoring of barrier-free seats in movie theatres;
- (c) The progress in developing guidelines for the design of inclusive playgrounds;
- (d) Whether the State intends to amend the National Sports Act to ensure that design of facilities, equipment and programmes take into account the diversity of persons with disabilities.

Response of Taiwan Access for All Association:

148. Not only are the wheelchair seats in cinema are often limited at the first row, most of the current art and cultural performance activities use online ticketing services, which are inconvenient for purchasing wheelchair seats and companion seats required by persons with disabilities:

- (1) The number and location of wheelchair seats and companion seats cannot be seen from the ticketing site.
- (2) With the requirement to fax disability certificates and cannot receive replies on the same day, it is impossible for persons with disabilities to access ticketing services on an equal basis. Generally, families in Taiwan also seldom possess a fax machine, popular events also require multiple faxes, affecting the rights of persons with disabilities. Some popular events even admit only one show per disability certificate.
- (3) The newly opened Taipei Music Center has set up all the wheelchair seats in the same row with an undesirable field of vision.

149. Although the Ministry of Culture has vigorously promoted cultural equality and has achieved many positive results; for persons with disabilities, participation in cultural activities were hindered by ticketing information, seat selection, and viewing.

Joint response of Independent Living Taiwan and New Vitality Independent Living Association, Taipei:

150. Newly built playgrounds should be designed universally. The wheelchair area of cinemas should adopt an inclusive design, rather than the design method of the existing cinemas where wheelchair seats were placed in the first row, the last row and other positions with poor viewing angles.

151. Additional supplementary information regarding (d) and persons with visual disabilities in movie theaters. Although this point only talks about the issue of seating arrangement, the main difficulty for the persons with visual disabilities was being unable to acquire oral descriptions/captions and unable to enjoy the same viewing experience as persons without disabilities. At present, most of the oral description/caption services are provided by the State itself, with interpretation of specific lists of movies. This had made persons with visual disabilities unable to arbitrarily choose the films according to their wishes. Similar to the issues of "Publication" and "Copyright" in the same article, most movies were hindered by the difficulties of acquiring copyrights, and thus caused excessive costs in reproduction time.

C. Specific obligations (arts. 31–33)

National implementation and monitoring (art. 33)

30. Please update the Committee:

- (a) About the role and functions of the newly established National Human Rights

- Commission (NHRC), independent monitoring mechanism, in the monitoring of the implementation of the CRPD;
- (b) The demarcation of responsibilities among different organs within the Executive Yuan, including the Promotion Team for the Rights and Interests of Persons with Disabilities of the Executive Yuan (PTRIPDEY), that has been designated as the coordinating mechanism, the Committee for the Promotion of the Rights of People with Disabilities (CPRPD), and the Ministry of Health and Welfare (MOHW) as well as the Human Rights Division of the Executive Yuan;
 - (c) How the State will ensure holistic implementation of the CRPD by ensuring not only the Ministry of Health and Welfare but all ministries and agencies include persons with disabilities in the policy decision-making in their jurisdiction.

Response of Taiwan Spiritual Suffering People's Association:

152. Although there are consultation meetings at the central and local level, persons with psychosocial disabilities and their delegations have very few opportunities to enter the conference for discussion, and even if they participate in the meeting, most of their proposals were not adopted either. In addition, the impact of these meetings on changing the content and direction of government decisions is very limited. More often than not, the laws that are closely related to persons with psychosocial disabilities are revised without consulting them, such as the *Mental Health Act*.

Response of Independent Living Taiwan:

153. Regarding rights of persons with disabilities commissions and accessibility commissions in central and local governments, the following conditions remains:
- (1) Commission members may lack awareness for disabilities, or lack understanding of the Convention on the Rights of Persons with Disabilities.
 - (2) In the composition of the commissions, the proportion of persons with disabilities or groups of persons with disabilities is overly small.
 - (3) Most commissions hold meetings once a quarter or half a year, which cannot deal with problems in a timely and effective manner.
154. For disability-related policy conferences or policy research projects, persons with disabilities were often invited as a formality where they can only express their opinions which would not be substantial in the decision making process. The State shall provide mechanisms for the substantial participation for persons with disabilities to ensure the right to participate, rather than mere instruments for rubber-stamping the experiences and thoughts of persons with disabilities.

Response of Covenants Watch:

155. The NHRC did initiate several investigations on individual disability-related cases, but the NHRC has not announced whether it is the Independent Monitoring Mechanism according to article 33 of the CRPD, how the mechanism is to be constituted, or how the mechanism is going to operate. Apart from this ambiguity, the NHRC has not explained how it is to systematically monitor the status of rights enjoyed by persons with disabilities in Taiwan. The CSOs have not learned how the NHRC is trying to provide recommendations on the revision of laws or policies relating to CRPD.

156. A “Department of Human Rights and Transitional Justice” was established at the Executive Yuan in June 2022. The department has not announced whether its jurisdiction would cover the rights of persons with disabilities.