

NHRC's Parallel Responses to the List of Issues with the Consideration of the CRPD Second Report

June, 2022

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?

NHRC's Parallel Response:

(1) The National Human Rights Commission (NHRC) wishes to reiterate that environmental factors are still not being considered when determining whether an individual is disabled and their degree of disability, and that the provision of subsidies and welfare services is based on degree of disability and disability assessment results rather than on actual needs. This does not conform to the social and human rights models. To address these problems, the Ministry of Health and Welfare (MOHW) performed an analysis of the database for the identification of physical and mental disabilities and adjusted the categories of disabilities whose “body functions and structures” (code bs) scores deviated considerably from the “activity participation and environmental factors” (code de) scores. The MOHW referenced the results to revise existing disability levels. Additionally, the MOHW collected opinions from experts, scholars, and stakeholder groups, and will initiate legal work accordingly. The NHRC will continue to monitor the results of the follow-up improvements. Regarding to concerns about subsidies (including living subsidies, insurance subsidies, and inheritance tax deductions for persons with disabilities) and welfare services offered to persons with disabilities failing to

match their actual needs, the MOHW responded that after considering the living expenses (including care costs) that persons with disabilities must pay for and the large number of persons with disabilities involved, the ministry is unable to make adjustments at the current stage. The NHRC maintains that subsidies and welfare services should be provided to persons with disabilities according to their needs, and that the MOHW should continue to establish cross-ministry mechanisms to allow for reviews and assessments, and to reach consensus among all sectors.

- (2) To date, the Taiwanese government has yet to enshrine the concept that the refusal to make reasonable accommodation constitutes discrimination into law. The NHRC argues that because the Convention on the Rights of Persons with Disabilities (CRPD) clearly states that countries have the obligation to make reasonable accommodation, the government should reference the practices adopted by advanced countries worldwide, collect relevant cases on the subject, define reasonable accommodation obligations and the consequences of violations, and establish norms and negotiating procedures prior to revising its laws and regulations. Additionally, the Taiwanese government should prepare guidebooks on the subject as well as supervision and assessment plans for the responsible agencies and the private sector to follow and use.
- (3) Taiwan has yet to develop mechanisms that promote the mainstreaming of accessibility to spur the Taiwanese government to incorporate the viewpoints of persons with disabilities into its laws, policies, and plans. The MOHW has merely stated that it will comply with the overall plan of the National Human Rights Action Plan when formulating bills and standard human rights impact assessment mechanisms for medium and long-term projects. Also, the Table Assessing the Effects of Policies and Bills on the Rights of Persons with Disabilities is still only a draft, and mechanisms that would supervise whether policies and bills conform to CRPD regulations are not in place. Thus, there are no mechanisms to ensure that agencies incorporate the perspective of equal rights for persons with disabilities when formulating, promoting, and implementing important plans, bills, and policies. Furthermore, in the National Human Rights Action Plan that released in May 2022, the human rights indicators for persons with disabilities only include: making reasonable accommodation laws; raising awareness of reasonable accommodation; reasonable accommodation; building an accessible environment; and increasing accessibility of information, etc. No proper programs ensure that the Taiwanese government will shoulder its CRPD obligations are found.

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.

NHRC's Parallel Response:

- (1) Taiwan's anti-discrimination regulations are scattered throughout its laws. The Taiwanese government should review whether the regulations are truly being enforced, and carefully assess whether the formulation of comprehensive anti-discrimination laws or equality laws is sufficient to ensure the complete elimination of multiple discrimination against persons with disabilities.
- (2) To date, the Taiwanese government has yet to enshrine the concept that the refusal to make reasonable accommodation constitutes discrimination into law. Although the government has added reasonable accommodation laws into the draft amendments to the People with Disabilities Rights Protection Act, and has added regulations governing reasonable accommodation obligations and stating that the refusal to make reasonable accommodation constitutes discrimination into the draft amendments to the Special Education Act, the amendments have yet to be sent to the Legislative Yuan for review. Thus, the scope of reasonable accommodation obligations is not clearly defined, and the punishment mechanisms and relief channels for when refusals to make reasonable accommodation occur are not in place.

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.

NHRC's Parallel Response:

- (1) The NHRC notes that the Gender Equality Policy Guidelines amended in 2021 still fail to (a) propose specific plans and strategies that comprehensively improve the disadvantages faced by women with disabilities; (b) introduce active measures that protect women with disabilities from multiple discrimination; and (c) ensure that women with disabilities are empowered, that their abilities are developed, and that their status improves. Thus, the amended guidelines do not conform to General Comment No. 3 on the CRPD.
- (2) The employment promotion measures put forth by the Ministry of Labor for years still lack specific measures that consider the special needs and multiple disadvantages faced by women with disabilities. Thus, the measures fail to resolve problems such as disabled women's low labor force participation rate, high unemployment rate, and low salaries. The NHRC once again urges the Taiwanese government to take affirmative action to facilitate education and training for to women with disabilities, stabilize their employment rate, and ensure that they are paid the same as women without disabilities.
- (3) Women and children with disabilities are at high-risk of being victims of domestic violence and sexual assault. However, their support services have failed to address their multiple disadvantages and special needs. The competent authority also has not actively explored the reasons why only a low percentage of women with disabilities placed in shelters apply for support services. Whether this is due to the shelter personnel's cognition of the relevant matters, the women's unwillingness to apply for such services, or the women having trouble expressing themselves, the NHRC reiterates that the Taiwanese government should fully investigate help channels as well as shelter placements and related support services/measures to ensure that they offer complete accessibility, satisfy the different needs of persons

with different disabilities, and strengthen service providers' sensitivity to gender and disabilities.

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.

NHRC's Parallel Response:

(1) The NHRC has discovered that in 2019, the MOHW and committees working to protect the rights of persons with disabilities throughout Taiwan's cities and counties had not included children with disabilities as representatives, revealing that Taiwan has failed to protect the right to expression of children with disabilities (see Article 59 of the NHRC's Independent Opinion on the CRPD Second Report). In 2020, Taiwan amended the Enforcement Rules of the Special Education Act to stipulate that the competent authorities include children when selecting Individualized Education Program participants. The competent authority should be informed about disabled students' current participation status, and should remind schools to offer support services and strategies when such students vote. Governments at all levels should refer to General Comment No. 7 on the CRPD as well as Article 12 and General Comment No. 9 on the Convention on the Rights of the Child regarding the use of proper teaching materials, teaching methods, and support services to develop disabled students' ability to express themselves so that they can have representatives who participate in the decision-making process as well as to ensure that their opinions are expressed and their rights are being protected.

(2) The Concluding Observations of the ROC's Initial CRPD Report stated that the relevant units should investigate and redress gender-based violence against children with disabilities at segregated special education schools; such cases have occurred periodically. The NHRC has inquired the Ministry of Education about details pertaining to the 15 similar gender equality cases that transpired between

2016 and 2018. The ministry responded by saying that the cases occurred in dormitories and were triggered by impulse and curiosity among adolescent, same-sex students. The NHRC wishes to reiterate that the ministry failed to perform statistical analysis to collect detailed information on the actual gender-based violence imposed on children with disabilities at special education schools. Additionally, the ministry should learn more about whether schools provide adaptive teaching for hearing impaired students, visually impaired students, and students with mental disabilities, and whether school staff possess sufficient professional knowledge and adaptability to help students with disabilities who are subjected to gender-based violence.

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.

NHRC's Parallel Response:

(1) Taiwan relies heavily on radio and television operators and the public to monitor news and television programs produced by said operators. However, the negative stereotypes and discriminatory language used against persons with disabilities in the mass media continue to exist. The Taiwanese government has yet to establish specific guidelines governing media releases of news reports and televised content related to persons with disabilities. The NHRC recommends that the central competent authority establish guidelines governing news reporting and television programs (including the news, entertainment, dramas, and variety shows)

produced by radio and television operators so that the operators do not release discriminatory or biased content, and so that they can implement internal controls and self-regulatory mechanisms.

- (2) Currently, the Taiwanese government has yet to establish laws, regulations, and penalties governing discriminatory reporting released by emerging media (e.g., online media and social media) against persons with disabilities. Content released in online and social media lies in a legal gray area. In the draft Digital Intermediary Service Act that is still under discussion, National Communications Commission introduced regulatory measures governing online and social platform operators. Seminars and public hearings will be held later for public associations and the industry so that they can voice their opinions. The NHRC will continue to monitor subsequent laws established by the competent authority.
- (3) Although government agencies provide annual CRPD education and training for judicial personnel and police officers and grant subsidies to local governments and private organizations each year to cohost events that increase disability awareness, the effectiveness of such events on increasing disability awareness and knowledge appears to be limited. For example, the services and facilities used during police interrogations and court/prosecutorial proceedings often fail to account for the needs and rights of persons with disabilities.

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).

NHRC's Parallel Response:

- (1) Currently, different accessibility statutes and administrative measures are enforced by different competent authorities; and no comprehensive plans with specific goals and schedules are in place, resulting in central government agencies and local governments achieving inconsistent results when promoting accessible facilities

and services. The NHRC believes that such discrepancies violate General Comment No. 2 on the CRPD.

- (2) Although Taiwan's Copyright Act complies with the Marrakesh Treaty in supporting the dissemination, reproduction, and provision of published works in formats that can be read by persons with visual impairment; and the Library Act contains laws governing the collection and reproduction of special book editions, digital publications that can be accessed by persons with visual impairment remain limited. Because the Marrakesh Treaty primarily encourages the building of platforms, cooperation, and division of labor, sharing of resources, and engagement in cross-border exchange to enable persons with visual impairment to access information, the NHRC recommends that the relevant agencies assess and incorporate private resources, establish cooperation platforms, and actively promote the collection and reproduction of digital books for persons with visual impairment so that they can enjoy equal reading rights and opportunities to receive information.
- (3) In February 2022, the MOHW published a Taiwan Easy Reading Reference Guide. The NHRC recommends that the ministry develop promotional plans with specific operational methods and schedules to assist government agencies in creating easy-to-read formats for publications and webpages.

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.

NHRC's Parallel Response:

- (1) The NHRC notes that it is uncertain whether the physical and mental status of prisoners resulting from the current process of executing death sentences is clearly understood, as stipulated in Point 49 of General Comment No. 36 on the International Covenant on Civil and Political Rights (ICCPR).
- (2) Article 12 of the CRPD and General Comment No. 1 on the CRPD prohibit anyone from denying mentally disabled persons' legal capacity due to their disabilities. The goal is to prevent their right to liberty, privacy rights, rights of health care, and other basic human rights from being violated. Thus, there shall exist no

discriminatory treatments in any forms for persons with disabilities in terms of rights to autonomy in life and in end-of-life care. Nevertheless, Article 8 of the Patient Right to Autonomy Act states that persons with full disposing capacity may make advance medical decisions; such a right is not granted to those placed under custodianship, highlighting the unnecessary and unreasonable differential treatment between the two groups and violating the nature of the CRPD in ensuring the right to equality. Additionally, Article 22 of the CRPD stipulates that the privacy of persons with disabilities' personal, health, and rehabilitation information should be protected in a manner identical to that of persons without disabilities. Thus, regarding the medical information of individuals subject to an order of commencement of assistantship, the assistants should only have the right to know information that will enable them to fulfill their legal obligations. Currently, Article 5, Paragraph 2 of the Patient Right to Autonomy Act mandates that the medical information of individuals subject to an order of commencement of assistantship be disclosed to the relevant individuals. This law conflicts with the commencement of assistantship system stipulated in the Civic Code, infringes on the right to autonomy, and violates personal privacy.

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.

NHRC's Parallel Response:

- (1) According to Taiwan's Basic Disaster Prevention and Response Plan, the competent authorities at the central and local government levels involved in disaster prevention and response should formulate measures to reduce the losses sustained by disadvantaged and low-income groups due to disasters, and review these measures and incorporate them into plans for disaster prevention and response operations as well as local disaster prevention and response plans. After an investigation conducted by the Control Yuan, starting in 2020, governments at all levels had invited persons with disabilities and their representative groups to participate in revising disaster prevention and response plans. The NHRC recommends that the Executive Yuan should strengthen its supervision and inspection of the implementation of these plans. The NHRC will continue to monitor the results of the follow-up improvements.
- (2) The NHRC urges that measures implemented at all levels of government during the COVID-19 pandemic should account for persons with disabilities to ensure that they receive equal assistance and protection, and that they are not ignored, neglected, or even isolated. All levels of government should have contingency plans in place for statutory support services that are interrupted due to pandemic prevention, should provide the necessary manpower assistance (either itself or in conjunction with the private sector), and offer sufficient pandemic prevention materials and protective equipment. The government should not let individual families bear the entire care burden. When planning relief measures, the government should also consider the income status of persons with disabilities and those with unique jobs.
- (3) Currently, when promoting and planning disaster prevention and response and disseminating disaster information, Taiwan has not planned separate content to meet the needs of persons with disabilities. The NHRC reiterates that information should be provided in formats that can be accessed by persons with different disabilities, that readability and accessibility should be enhanced, and that the government should formulate separate, detailed disaster prevention and response drill guides for persons with different disabilities and invite all persons with disabilities to participate in these drills.

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.

NHRC’s Parallel Response:

(1) Article 12 of the CRPD and General Comment No.1 stipulates that countries must provide both formal and informal support for persons with disabilities, communicate and provide information to persons with disabilities in a manner that can be understood by them, ensure that patients have the right to informed consent in regard to their illnesses and treatment methods, and respect patients’ wishes and choices as they make their own decisions. On January 13, 2022, the MOHW announced the relevant draft amendments. For Article 45, the MOHW added the phrases “information should be provided in a manner that can be understood” and “consent should be obtained from their guardian or assistant” to the sentence “individuals to receive commencement of guardianship or assistantship.” Additionally, the MOHW revised Article 58 (now Article 46) of the draft amendments and deleted the regulation stating that compulsory community treatment may be provided “to severely ill patients without informing them.” The amendments are currently under review by the Legislative Yuan, and NHRC will continue to monitor the changes made to the draft amendments.

(2) Although the report indicated that the Judges Academy (of the Judicial Yuan) organizes annual training in disabled persons’ rights protection for judicial personnel, judicial verdicts are reached based on the principle of “best interest” rather than disabled persons’ wishes and preferences. The NHRC recommends that judicial units study how other countries enforce the CRPD, improve their domestic systems, and amend relevant laws to ensure that persons with disabilities have access to the legal policies, practices, and cases of the judiciary. Judicial units should carefully plan appropriate, practical education and training to raise judges’ awareness and understanding of human rights.

- (3) Per a Control Yuan investigative report, the Taiwanese government has yet to formulate policies to build the “supported decision-making” system preached by the CRPD. The competent authorities have yet to fully understand the fundamental differences between supported decision-making and substituted decision-making as written in the CRPD. The NHRC maintains that the competent authorities should reference the practices adopted by advanced countries, make gradual improvements, and systematically build a supported decision-making system to enable them to comply with the requirements of the CRPD.
- (4) Per a Control Yuan investigative report, persons with disabilities often encounter difficulties when seeking financial services such as opening bank accounts at financial institutions. For example, persons with visual impairment or certain physical disabilities are unable to sign their names; persons with cerebral palsy, who have difficulty expressing themselves, must rely on computer technology and equipment for financial institution staff to understand what they are trying to convey; and persons with mental disabilities, who may have difficulty expressing themselves, require financial institution staff to repeatedly verify what they have said. However, instead of providing sufficient and necessary assistance, there have been instances of financial institutions assuming that a person with disabilities was incompetent and suggesting that they apply for commencement of guardianship or assistantship, in violation of Article 12 of the CRPD. The NHRC asserts that the competent authorities should formulate policies and establish supported decision-making systems to help persons with physical disabilities receive financial services. Additionally, the competent authorities should draft reasonable accommodation reference guidelines to meet the needs of persons with different disabilities for financial institutions to follow, to show respect for the autonomy and decision-making abilities of persons with disabilities.
- (5) On January 27, 2022, the Legislative Yuan passed the third reading of draft amendments to Article 87 of the Criminal Code, adding regulations for extending the existing guardianship period of five years. The new regulations stipulate that the first guardianship period shall be three years or less, and that subsequent guardianship extensions shall be one year or less. There are no limits to the number of subsequent guardianship extensions granted. During guardianship extensions, an annual assessment will be made to determine whether it is necessary to continue the guardianship. The NHRC contends that the unlimited number and duration of guardianship extensions deviates from the ideal of integrated care, does not ensure that the medical rights of sanctioned persons are protected, and can cause the mental health of sanctioned persons to deteriorate due to long-term

institutionalization. The government should devise plans and support mechanisms to facilitate the cessation of treatment, recovery of freedom, and reintegration into society for sanctioned persons whose risk of recidivism is not significantly lowered due to long-term guardianship.

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.

NHRC's Parallel Response:

(1) Although the government has formulated procedural adjustment norms in the Rules of the Constitution Court, Matters of Attention When Handling Civil Litigation, and Matters of Attention When Handling Administrative Litigation, the laws on remote interrogation, document transmission, adjustments to trial response preparation times, and interpretation and technical equipment assistance still fail to completely comply with the procedural adaptation and age-appropriate measures stipulated in Article 13 of the CRPD. The NHRC recommends that the Judicial Yuan refer to the rules found in the United Nation's International Principles and Guidelines on Access to Justice for Persons with Disabilities to ensure that persons with disabilities are provided with personalized, gender- and age-appropriate procedural adjustments, that the specific needs of persons with different disabilities are considered (e.g., independent middlemen or assistantship systems are established), that hearing procedures are adjusted to ensure that

persons with disabilities are treated fairly and that they enjoy full participation, and that persons with disabilities are provided with a proper environment and communication assistance.

- (2) The NHRC recommends that the Judicial Yuan follow the United Nations' International Principles and Guidelines on Access to Justice for Persons with Disabilities to comprehensively review the accessibility of the relevant facilities and services and ensure that persons with disabilities are able to participate in judicial procedures and assume various roles (including judge, lawyer, juror, witness, and citizen judge) in the same manner as persons without disabilities. The Judicial Yuan should set specific goals and schedules for its improvement plans, and follow the aforementioned principles and guidelines by providing judges and other personnel in the judicial system with training on the rights of persons with disabilities, reasonable accommodation, and procedural adjustments. The Judicial Yuan should ask for the opinions of persons with disabilities and their representative organizations in regard to the planning of teaching materials for use in such training endeavors. Furthermore, the Judicial Yuan should establish assessment mechanisms to evaluate the actual effects of the training programs as opposed to merely counting the number of training sessions held and the number of training session participants.
- (3) Pursuant to Taiwan's Guidelines for the Appointment of Special Interpreters for the Court, judicial sign language interpreters should possess sign language interpretation verification certificates issued by government agencies. Nonetheless, they do not have to have Class B skills certification. The NHRC suggests that the government set certification criteria to elevate said interpreters' professionalism and ensure disabled persons' access to justice.

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.

NHRC's Parallel Response:

- (1) Draft amendments to the Mental Health Act changed the review of forced hospitalizations and personal liberty restrictions described in Articles 41 and 42 of the act (Articles 60 and 61 in the draft amendments) by a committee to the “principle of retention for judges’ decision” and reasons for “stopping emergency placement” and “revoking forced hospitalization applications.” Nevertheless, concerning forced community treatment listed in Article 55 of the draft amendments, said treatment can still be implemented once a physician makes a formal diagnosis and an application is submitted to and approved by a review committee. It is to NHRC’s belief that it shall apply the statutory reservation as well.
- (2) Articles 3 and 23 of the latest draft amendments defined the building of community support systems. However, the draft amendments did not clearly state hospital discharge preparation transition mechanisms, whether community mental health centers are responsible for resource integration, and the responsibilities of local governments.

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;

(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.

NHRC's Parallel Response:

- (1) In its Independent Opinion on the CRPD Second Report, the NHRC noted that despite the MOHW indicating that it performs surprise inspections at care institutions for persons with disabilities, residential care institutions for the elderly, and nursing homes to determine whether the institutions exercise inappropriate restrictions or physical restraints on the residents, the inspections have failed to stop violent abuse from occurring in these institutions and correctional institutions. For example, in 2021, a student with autism was beaten to death at the Defang Education and Nursing Institute, a private institute in Miaoli County; a service intern taped the mouth of an elderly person at Kaohsiung Municipal Min-Sheng Hospital's long-term care facility; and a teacher at a special education school in Yilan routinely left a student with cerebral palsy alone in the speech therapy room during lunch break, resulting in the student dying from epilepsy. Also, correctional institutions have insufficient knowledge of mental disorders, resulting in a prison custodian mistakenly assuming an inmate with a mental disorder was deliberately violating the rules. The custodian then placed the inmate in solitary confinement, causing the inmate's physical and mental condition to deteriorate and leading to their death. These incidents all involved the terms of the CRPD, ICCPR, and United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- (2) The NHRC strongly stresses that the current regular assessments and surprise inspections have not been effective in curbing violent abuse in institutions. Abuse and inhumane treatment of persons with disabilities are still observed in care institutions for persons with disabilities, residential long-term care institutions, prisons, and segregated special education schools. Because some of the victims have difficulty expressing themselves, tragedies often occur. The competent authorities should formulate measures to improve the internal management procedures, reporting mechanisms, and the professional knowledge of staff in institutions, and should establish guidelines for shutting down institutions with poor evaluation results to protect the rights of persons with disabilities.

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.

NHRC’s Parallel Response:

- (1) The government has not actively developed protection, assistance, and service measures for persons with disabilities who are victims of violence. Additionally, it has not proposed specific strategies for protecting persons with disabilities from violence and for satisfying the differing special needs of persons with different disabilities.
- (2) The MOHW performs surprise inspections once to twice a year at general nursing homes, residential care institutions for the elderly, and care institutions for persons with disabilities. However, due to limited manpower, inspections cannot be performed across Taiwan. Only some selected cities, counties, and registered institutions are inspected. Thus, the ministry is unable to ensure that no institutions exercise physical restraint on their residents or otherwise treat them inappropriately.
- (3) Article 5 of the draft Enforcement Laws of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol mandates that the NHRC establish a dedicated torture prevention mechanism. However, the draft has not yet passed. To identify human rights violations, the NHRC established a torture prevention and enforcement task force and completed the 2021 National Torture Prevention Mechanism Pilot

Inspection Plan to visit correctional schools, juvenile detention centers, and children's shelters with particular attention to the circumstances of persons with disabilities. Moreover, the NHRC has resolved to initiate systematic research into sexual assault at children's shelters and school campuses by inviting those who were victims of sexual assault at institutions or schools when they were children and adolescents to participate in interviews with the goal of resolving structural issues (i.e., social, cultural, and systemic problems) and making recommendations for improvements in order to prevent exploitation, violence, and abuse from occurring and to protect human rights.

Personal Integrity (art. 17)

14. Please provide the Committee:

(a) With an update about the amendments to the *Genetic Health Act (Eugenic Health Act)* and *Mental Health Act* regarding coerced medical procedures, including sterilizations and abortions (see, para. 49 of the initial Concluding Observations from 2017);

(b) With information on the safeguards available to ensure that persons with disabilities, particularly those with intellectual and/or psychosocial disabilities, are not subjected to forced involuntary medical treatment, including forced sterilizations, on the basis of their impairment and upon the advice or the request of third parties, including their guardians and medical professionals.

NHRC's Parallel Response:

On January 14, 2022, the MOHW announced the draft Genetic Health Act and is now soliciting opinions from all domains. The draft will rename the aforementioned act as the Reproductive Healthcare Act, deleting mental illness as a pre-pregnancy checkup item (among others) to conform to the spirit of CRPD. However, Article 8 of the draft amendments (concerning abortions) states that "...persons who are under the commencement of guardianship or assistantship and who wish to have an abortion shall obtain the consent of their guardian or assistant... If the guardian or assistant does not agree to the abortion, the person under commencement of guardianship or assistantship may appeal to the court for an expedited decision on waiving the guardian or assistant's decision;" and Article 9 of the draft amendments (concerning vasectomies) states that "persons under the commencement of guardianship or assistantship shall obtain their guardian or assistant's consent to undergo a vasectomy." Both of these acts fail to comply with

General Comment No. 1 on the CRPD, which indicates that disabilities cannot be used to deny disabled persons' legal capacity right or any other rights described in Article 12. Taiwan should respect the personal decisions of persons with disabilities. The NHRC reiterates that Taiwan should pay attention to the plight of persons with disabilities undergoing involuntary abortions or vasectomies, and propose effective adaptive strategies.

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.

NHRC's Parallel Response:

(1) Article 16 of the People with Disabilities Rights Protection Act stipulates that the personality rights of persons with disabilities should be respected and protected, and that their right to residence and migration may not be discriminated against. In Point 82 of the Independent Opinion on the CRPD Second Report, the NHRC remarked that Article 18 of Taiwan's Immigration Act prohibits foreigners with mental or other illnesses from entering Taiwan. The NHRC contends that this violates Article 18 of the CRPD and that the criteria for defining such foreigners are not specific. Furthermore, Article 38-1 of the Immigration Act stipulates that institutions may reject foreigners with mental disorders or illnesses if they believe sheltering such foreigners will compromise their treatment plans or put their lives in danger, or if the foreigners are unable to take care of themselves because of their disability. This regulation violates Article 18 of the CRPD and meets the description of discrimination against disabled persons' residence and migration rights in Article 16 of the People with Disabilities Rights Protection Act. Nevertheless, these violations were not included in the CRPD law and administrative measures checklist. Although Point 136 of the CRPD Second Report states that "...the government has removed terms including mental disease in the draft amendment to the Immigration Act, which was approved after a review by the Executive Yuan in March 2019; upon enactment, the government will enforce the amendment ...," the amendments to the Immigration Act released on

December 21, 2021 only included amendments to Articles 18 and 38-1, which were made only to match the renaming of the National Immigration Agency, Ministry of the Interior in 2015. No amendments were made to the articles that violated the CRPD.

- (2) Point 134 of the CRPD Second Report states that according to the Nationality Act, *jus sanguinis* and *jus soli* are the primary and secondary criteria for determining whether ROC nationality will be granted, and people of all genders, religions, races, social classes, political parties, places of birth, and disabilities can obtain ROC nationality. However, Article 3 of the Nationality Act stipulates that for foreigners or those without a nationality who currently reside within Taiwan and who wish to apply for naturalization, they must “possess enough property or professional skills to support themselves and lead a stable life.” In Point 83 of the Independent Opinion on the CRPD Second Report, the NHRC questioned whether the aforementioned criterion prevents disabled foreigners or persons without nationality from applying for naturalization in Taiwan.

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

16. Please provide the Committee with:

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

(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.

NHRC's Parallel Response:

- (1) In the Independent Opinion on the CRPD Second Report, the NHRC commented that personal assistant services provided to persons with disabilities are determined by the social affairs, labor affairs, and education departments. These departments have varying subsidy standards, causing the services provided to persons with disabilities to be fragmentary and inconsistent. The MOHW, the central social welfare competent authority, explained by saying that because the support system for persons with disabilities involves several ministries, with each having its own jurisdiction over the planning of its services, this problem is not easy to resolve. The NHRC is concerned that the absence of full coordination and cooperation mechanisms will result in persons with disabilities not being dealt with in a holistic manner. Additionally, hours of operation for case evaluations vary between the city/county governments, and no disability groups are present during such cases, indicating a lack of transparency in procedures and complaint channels.
- (2) Currently, the welfare service needs of persons with disabilities are determined by the services they select in their applications. This results in applications primarily being made for financial subsidies, popular assistive devices, and paratransit services; support services for community development and independent living are rarely chosen. The reasons for the discrepancy between the popular and less popular services include underestimation of the need for these services, persons with disabilities being required to pay for services after needs assessments have been completed, complicated application procedures, and insufficient service capacity, resulting in the persons with disabilities being unable to use the services. When providing personal care for persons with disabilities, care professionals generally judge for themselves which services that persons with disabilities need, sometimes ignoring the wishes of said persons and failing to respect their right to choose.
- (3) The NHRC finds that Taiwan's financial resources for supporting persons with disability's independent living services are uncertain and mainly consist of the Public Welfare Lottery feedback fund. The feedback fund is not an official allocation of budget, and therefore the services are vulnerable to financial difficulties, being crowded out by other projects, or being interrupted or reduced due to varying annual usage plans. A stable source of funding and support services to enable disabled persons to live independently thus cannot be guaranteed.

- (4) The Taiwanese government introduced the Long-Term Care Development Fund to subsidize institutions providing residential services, and the MOHW approved the establishment of 16 long-term residential care institutions by the end of 2020. Regarding the current residential institutions, the MOHW believes that it should focus on transforming service methods, increasing residents' opportunity for autonomy, enabling residents to decide on support services for themselves, adjusting institutional service models, and creating mechanisms for persons with disabilities to move from receiving institutional services to receiving community-based services. Accordingly, in 2020, the ministry formulated the Project to Accommodate Disabled Welfare Institutions for Community Integration. Nevertheless, over the course of two years, only four local governments applied to implement the project. Thus, the NHRC recommends that the government establish medium- to long-term plans to ensure that persons with disabilities can choose where to live, how to live, and who to live with; to promote independent living; to increase funding for community-based services; and to plan schedules for appropriate support provided to persons with disabilities, so that they can live in and become actively involved in their communities.
- (5) In the Independent Opinion on the CRPD Second Report, the NHRC mentioned that subsidies for the procurement of personal mobility aids under the Subsidization Standards for Assistive Devices Required by People with Disabilities are based on an outdated disability categorization system along with disability evaluations made through medical appraisals. For example, only persons with a severe physical disability or multiple disabilities are eligible for electric wheelchair subsidies. However, units granting assistive device subsidies should take into account applicants' individual needs, their need to participate in activities, and their need to overcome barriers.
- (6) On November 22, 2021, the MOHW announced the Subsidization Standards for Assistive Devices Required by People with Disabilities and draft amendments to the Regulations on Subsidization for Medical Treatment Appliances for the Disabled, which canceled certain assistive device types, reduced the amount of the subsidies granted, and extended the service lives of assistive devices. Such amendments failed to account for inflation and disabled persons' actual assistive device usage. For example, the draft amendments increased the service lives of electric wheelchairs, an important means of transport for persons with disabilities, to eight years. Given that persons with disabilities must frequently use their electric wheelchairs, extending their service lives to eight years may be dangerous because of the wear and tear on the electric chairs or on their built-in batteries.

Additionally, the draft amendments failed to consider children with disabilities, who need to change their assistive devices to match their bodies as they grow.

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.

NHRC's Parallel Response:

- (1) Currently, the Regulations on Subsidization for Medical Treatment and Auxiliary Appliances for the Disabled subsidizes the procurement of assistive devices but not the repair of such devices. Investigations have shown that only one special municipality subsidizes assistive device repairs to enhance their functionality and extend their service lives. Regarding the current assistive device subsidy situation, the MOHW indicated that persons with disabilities are able to bear the maintenance and adjustment fees within the minimum subsidization duration and warranty period. A written inquiry was sent to the ministry asking it to explain how the financial capacity of persons with disabilities was assessed, to which the ministry replied by saying that it prioritized resource utilization over the actual needs of persons with disabilities. Thus, no active countermeasures are in place for assistive device repairs and maintenance.
- (2) The Regulations on Subsidization for Medical Treatment and Auxiliary Appliances for the Disabled state that every person with a disability may apply for up to four assistive device subsidies every two years, and that special applications

may be submitted if such subsidies are unable to meet the applicant's needs. However, the NHRC has discovered that the special applications were concentrated across only a few cities/counties, and that most cities/counties had processed few to no special applications. This revealed that Taiwan imposes limitations on the number of assistive devices that persons with disabilities can acquire and has certain restrictions on the granting of subsidies that prevent many persons with disabilities from receiving such subsidies. Additionally, limiting the number of assistive device subsidies to four in two years limits the number of times that children with disabilities can change their assistive devices, resulting in them settling for unsuitable assistive devices or paying extra to have them changed, the latter choice of which increases the financial burden on their families. The NHRC would like to note that both the CRPD and General Comment No. 5 emphasize that persons with disabilities must possess affordable, high-quality assistive devices, supplies, and assistive technology to achieve independent living. Thus, when planning assistive device subsidies, the MOHW should focus on the needs of persons with disabilities. The ministry should also amend the relevant regulations to ensure that they keep up with the times.

- (3) In 2019, Taiwan amended Guidelines for Processing Disabled Persons' Applications for Car and Scooter Drivers' Licenses to allow some persons with physical disabilities to apply for large heavy motorcycle licenses. In 2020, Taiwan amended the Road and Traffic Safety Rules to allow people with controlled epilepsy to apply for drivers' licenses. Nonetheless, Article 52-2 of the Road and Traffic Safety Rules states that "Driver's licenses for people aged 75 or above will be renewed only if the applicant passes the cognitive function test or attaches documents proving that they do not suffer from moderate (or more severe) dementia." Because people with dementia lack the ability to self-monitor rather than cognitive impairment, this regulation fails to eliminate possible traffic accidents caused by people with dementia. The NHRC is glad to see Taiwan removing the limitations on persons with disabilities applying for drivers' licenses. Nevertheless, the CRPD emphasizes that persons with disabilities should enjoy the same rights as those without disabilities, and that whether drivers' licenses are granted should be based on whether the driver is capable of driving rather than on whether they are disabled.

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.

NHRC's Parallel Response:

- (1) In its Independent Opinion on the CRPD Second Report, the NHRC directed its attention to state-funded telephone hotlines for persons with disabilities and discovered that a video remote sign language interpreting service, which would allow for accessible communication for deaf or hard of hearing people, is yet to be established. Countries around the world have offered such services for years, enabling the hearing impaired to communicate with sign language interpreters through video calls. Such services are currently provided in the private sector in Taiwan. The public sector, on the other hand, provides only telephone hotlines (e.g. the free maternity helpline, national family education hotline, and suicide prevention hotline). A video call platform with sign language interpreting services needs to be established for the hearing impaired to provide them with real-time, equal access to advisory services.
- (2) From the Control Yuan's report, the NHRC has concluded that uniform guidelines of accessibility for financial institutions have yet to be established, leaving persons with disabilities at a loss. The Financial Supervisory Commission should therefore initiate conversations with the MOHW and organizations representing the disabled to draft appropriate guidelines for reasonable accommodation to assist disabled people at financial institutions. Such institutions should install technical equipment or assistive devices such as audio and video recording devices, braille

slates, and tablet computers to help those who are physically challenged to communicate, and, in doing so, meet the standards set by the CRPD for necessary and appropriate modifications and adjustments. It was also discovered that disabled people have a far lower rate of insurance coverage in comparison to the general public. It is the government's duty to investigate the underlying causes of this gap in the insured rate.

- (3) In its Independent Opinion, the NHRC pointed out that as of yet, fewer than 70% of fourth-level agencies have obtained accessibility certification. Further investigation has shown that the Regulations for Issuing Web Accessibility Accreditation Badges for Websites of Governmental Agencies and Schools state that all levels of government and their affiliated agencies and schools shall verify the accessibility of their information services websites and report the results to the National Communications Commission (NCC), and that NCC audits should be conducted with the participation of persons with disabilities. However, no auditing data can be found on the NCC's website. It is the NHRC's opinion that administrative agencies should not only make such data public, but also actively assist agencies in obtaining accessibility certification, and in doing so, allow persons with disabilities to effectively access public information.
- (4) The People with Disabilities Rights Protection Act stipulates that the websites of all levels of government agencies and schools should have first priority for accessibility assessment and certification. However, these regulations do not apply to the private sector. The NHRC noted in its Independent Opinion that upon examining the data from 2016 to 2019, it was discovered that in terms of accessibility certification, the private sector is behind its public counterpart. This holds true for the number of applications, the rate of applications, the inspection rate, and the receipt of certification. It falls on the NCC, then, to encourage industries in the private sector to build accessible websites and work with the competent authority to promote such services, especially public service providers such as the finance, medical, transportation, culture, education, commercial, and entertainment industries. These industries should prioritize accessibility testing and certification.
- (5) At the inception of the Covid-19 pandemic, the government failed to consider the multiple disadvantages and special needs of persons with disabilities when formulating pandemic prevention regulations. This is because the government lacks an assessment mechanism and did not include persons with disabilities during the formulation of the pandemic restrictions. Additionally, no supporting measures or guidance was provided for disabled people or their caregivers who

were confirmed to be infected or placed in quarantine. While sign language interpreters are deployed at the pandemic press conferences of the Central Epidemic Command Center, reading the pandemic control instruction cards and images remains a problem for visually impaired or intellectually challenged people. Additionally, the National Health Insurance Action Express | Health Passbook that is required for vaccination booking and the Taiwan bus app for the central and southern regions of the island have not yet received accessibility certification (as of May 31, 2022).

Respect for privacy (art. 22)

19. Please explain to the Committee:

- (a) The legal basis for restrictions on the use of smartphones and other means of communicating with the outside world, by patients in mental health hospitals/wards;
- (b) Whether the State considers that there are circumstances in which the media should be restricted from commenting on a person's disability or mental health status without that person's consent, based on the Mental Health Act.

NHRC's Parallel Response:

- (1) Article 25, Paragraph 1 of the Mental Health Act states that "hospitalized patients shall enjoy the rights of personal privacy, communication freedom, and receiving visitors; no restriction thereof may be implemented unless for the patient's disease condition or medical care needs." This blatantly violates article 22 of the CPRD which states that "no person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence or other types of communication...Signatory parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others." It is the NHRC's opinion that the MOHW should thereby initiate supervision over medical institutions that are in violation of the Mental Health Act. The MOHW must make recommendations for improvements to such institutions. Notably, forbidding the carrying and use of mobile phones is in violation of the CPRD, unless the hospital can prove that doing so will affect the patient's disease condition.
- (2) In Point 100 of its Independent Opinion on the CRPD Second Report, the NHRC stated that it is concerned that when the media reports on persons who have or are suspected of having mental disorders, they expose personal and family information

as well as the medical and medication status of the individual, which is a severe violation of personal privacy rights. The NHRC examined the draft amendment of the Mental Health Act published by the MOHW on January 13, 2022, resulting in the addition of amendments (draft amendment Articles 37 and 79) stating that prior to adjudication in a court of law, no communication media of any sort may allege that a party committed an unlawful act due to their mental illness. This will help to decrease stigmatization of and discrimination against persons with mental illnesses. However, the Mental Health Act has yet to regulate the media, health professionals, police officers, or firefighters with regard to the referencing and reporting of information that infringes on the personal privacy of the involved party; e.g., family information, medications, or medical records.

Respect for home and the family (art.23)

20. Please provide information to the Committee:

(a) On steps being taken to gather data on reproductive health services and education of persons with disabilities and plans to address any discrimination;

(b) Why a disproportionate number of children with disabilities are placed outside the home or adopted and plans to increase supports to families.

NHRC's Parallel Response:

- (1) The NHRC's Independent Opinion on the CRPD Second Report concluded from the Control Yuan's investigation that administrative agencies only provide extremely limited services and educational information related to the marriage and reproductive needs of persons with disabilities; nor are sufficient educational support and counselling services available for parenting, pre-nuptial, and post-nuptial issues. Individual differences and special requirements of persons with disabilities are largely neglected, and the community lacks support measures. In terms of reproductive health assistance for persons with disabilities, there is a focus on contraceptive measures for mentally and intellectually challenged people, which constitutes discrimination against persons with disabilities. The government also lacks comprehensive statistical data on birth control measures for persons with disabilities. There is no data the deprivation of reproductive rights of persons with disabilities who have been subjected to involuntary sterilization. The competent authority for this matter, the MOHW, has yet to propose effective measures to resolve this issue.
- (2) In the Concluding Observations of Taiwan's Initial CRPD Report, it was stated

that the State should provide appropriate support for parents and adoptive/foster parents with disabilities and educate social service professionals on the rights and capabilities of parents and adoptive/foster parents with disabilities, so as to ensure their parental rights and needs are met. In its Independent Opinion, the NHRC examined the rate of out-of-home placement of children with disabilities as well as the rate of their parents' relinquishment of care from 2016 to 2019. It was discovered that both rates were higher than that of children without disabilities. Children with developmental delays, diseases and conditions, and disabilities are also more likely to be relinquished for adoption abroad. This shows that the state has not yet developed a comprehensive system to assure the right of such children to family life, nor has it provided sufficient resources, assistance and support to ensure that children with disabilities may grow and develop with their birth family and not be separated from their parents.

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.

NHRC's Parallel Response:

(1) It was mentioned in the NHRC's Independent Opinion on the CRPD Second Report that Taiwan lacks comprehensive medium and long term programs for inclusive education. In practice, the concept of inclusion is commonly confused with integration, and mistakes the placing of persons with disabilities in mainstream education as inclusion. Taiwan lags behind in terms of promoting

inclusive education in the contexts of early school education and lifelong learning. Most students with disabilities are excluded and rejected by other parents in the early school years. For lifelong learning, the NHRC recommends that the Ministry of Education encourage community colleges to accept students with disabilities and provide them with reasonable accommodations according to their disability. The Independent Opinion also observes that students with disabilities have a significantly higher high school dropout rate than non-disabled students. The NHRC finds it concerning that most inclusive education is still limited to only inclusion in classroom spaces. As a result, many students with disabilities remain deprived of their right to education.

- (2) The current method adopted by the Ministry of Education to promote inclusive education is through the institutions that are in control of special education. Inclusive education is hence unilaterally initiated by special educational needs (SEN) teachers and students with disabilities, and they often meet with resistance from those who do not understand students with disabilities. For inclusive education to succeed, general teachers (class teachers and subject teachers), peers, and school administrators must play key roles in initiating it. The NHRC recommends that the government begin with teacher training. All teachers should be equipped with a fundamental understating of students with disabilities, response strategies and class management skills—regardless of whether the teacher is trained for special or general education. Additionally, reforms and supporting measures should be proposed for both administrative organizations and structural systems including school curricula, teaching methods, counselling strategies, professional support, and general accessibility. Only then will the state’s education system meet the tenor of the CRPD, which aims to safeguard the right to education for students with disabilities.
- (3) Inclusive education should be promoted alongside supporting measures. For instance, the state requires general class teachers to complete 3 hours of training in special education annually. In practice, however, this has limited effects in terms of enhancing teachers’ knowledge of special education. Most simply go through the motions; some even repeat the same training course every year. Also, general class teachers often confuse the concept of inclusive education. There have been cases in which general class teachers of students with emotional disturbances have come to the conclusion that, as soon as a student is identified as SEN, all matters concerning the student should be taken care of by an SEN teacher. They then failed to intervene when the student was considered a serious problem for the class, leading to protests from peers and parents and resulting mutual harm. For students

with emotional disturbances, Individualized Functional Behavior Plans are advisable, yet these are often neglected by those who rely solely upon referrals to SEN teachers. Poor collaboration between school administrative teams may even result in the students with emotional disturbances being compelled to transfer schools.

- (4) In the Guidelines to the National 12-Year Basic Education Curriculum, students with disabilities were categorized into those with mild or severe learning disabilities and courses are adjusted accordingly to accommodate their needs. However, general education teachers have been shown to be reluctant to apply for seed teacher training programs. As with the concepts of course accommodation and differentiated instruction, universal design for learning aims to employ inclusive teaching methods which allow every student to be engaged in learning. The central administrative agencies should thus investigate the reasons underlying the unsatisfactory promotion of accommodated courses. It would be advisable to initiate these programs from general education institutions and thereby realize equal education for all learners.
- (5) In educational practice, general class teachers and school administrative staff are often lacking in terms of their knowledge of reasonable accommodation. They assume that educational measures (e.g., management measures and grading systems) should be “impartial” and that this means that students with disabilities should conform to the same regulations as general students. This is what makes the implementation of reasonable accommodation difficult. It is the NHRC’s opinion that the central and local educational administrative agencies should ensure a correct understanding of reasonable accommodation for all levels of schools and educational staff. Reasonable accommodation should be implemented on the grounds of equity and should be based on the needs of students with disabilities. Agencies should also draft guidelines for reasonable accommodation supplemented with explanatory cases, so as to enhance front-line teachers and school staff’s knowledge of reasonable accommodation.
- (6) It was pointed out in the NHRC’s Independent Opinion on the CRPD Second Report that SEN teaching assistants often viewed as including both general teaching assistants and special education student assistants, who are rarely differentiated in practice. The NHRC also observed that approved service hours by local governments are largely insufficient due to considerations of resource distribution and funding. As a result, schools have been asking parents to accompany students in their studies or hire foreign carers to look after them. It is the NHRC’s opinion that the lack of service hours is not a matter that can be dealt

with through current measures, which involve the central administrative authority demanding that city governments hire assistants under the officially designated titles, and thereby assume the job done. Proactive measures should be proposed to tackle the problem of overall insufficient assistive manpower.

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.

NHRC's Parallel Response:

(1) The NHRC has observed that clinics, which are most relevant to the medical needs of persons with disabilities, have yet to comprehensively meet accessibility requirements. While the MOHW has stipulated reward standards with its Regulations for Retention Funds for Quality Assurance at Grassroots Level Western Medicine Clinics plan to encourage clinics to establish accessible medical environments, the results have been limited. The MOHW announced a draft amendment to the Establishment Standards for Medical Institutions on December 20, 2021, which, upon taking effect, will require all new medical institutions to conform to accessibility regulations. However, the effective date of the amendment was postponed due to protests from medical organizations. The NHRC

emphasizes that accessible medical environments are an obligation of all States Parties of the CRPD and not an optional act of kindness. Aside from accessibility of the physical infrastructure of medical institutions, medical examination and treatment equipment should also utilize universal design; medical information and software services such as websites should be of accessible design to ensure equal medical services for persons with disabilities. The NHRC approves of the draft amendment to the Establishment Standards for Medical Institutions and recommends that the MOHW introduce accessible hospital certifications, which would encourage medical institutions to establish accessible medical environments and services. Additionally, the training of medical personnel should include courses on the CRPD, with annual in-service CRPD training courses and accessible medical service required of medical personnel.

- (2) The government published its very first Health White Paper in 1993 and released another white paper titled Healthy People 2020 in May 2009, whose goals included prolonging the lives of citizens and promoting health equity. In January 2016, the authorities published the 2025 White Paper on Health and Welfare Policy, which details the health and welfare policies of the government until 2025 with a focus on the goal of “universal happiness, equity, peace of mind, and holistic health.” While health equity was emphasized in the white papers, the NHRC urges the government to include accessibility issues in its policies—which need to actually effect improvements in the health of persons with disabilities rather than being mere formalities.
- (3) From January to December 2020, the state admitted a total of 32,547 inmates to prison, 5,657 of whom were transferred to psychiatric evaluation clinics after being suspected of suffering from mental illness or confirmed to have disability certificates, for a transfer rate was 17.4%. The Guidelines for Reasonable Accommodation for Inmates with Disabilities at Corrective Agencies promulgated by the Ministry of Justice on April 19, 2021 were drafted to “improve the speediness of accommodation of inmates with disabilities who require extra resources in corrective agencies.” The guidelines provided specific recommendations for and examples of education, arrangements, incarceration, visits, communication, provisions, and medical care of inmates with disabilities. It has been over a year since the Guidelines for Reasonable Accommodation for Inmates with Disabilities at Corrective Agencies has taken effect, and it is the NHRC’s opinion that the Ministry of Justice must conduct investigations of the prisons, skills training institutes, juvenile reformatory schools, detention centres, juvenile detention houses, and drug abuse treatment centres under its jurisdiction,

so as to understand the effect of the guidelines and whether appropriate services are in fact being provided for inmates with disabilities.

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.

NHRC's Parallel Response:

- (1) Adaptive training and rehabilitation services are crucial foundations to support persons with disabilities to sustain independent living and integrate into the community. However, the Regulations on Subsidization for Medical Treatment and Auxiliary Appliances for the Disabled and the Regulations of the Rehabilitation Medical Service and Related Assistive Technology Subsidies for People with Disability both require subsidy recipients to be holders of disability identification cards. It appears the regulations fail to provide subsidies to the newly disabled who have been treated and discharged from medical institutes but have not yet been issued a disability card, which is not in compliance with the CRPD.
- (2) According to the 2016 Report of Disabled People's Living Condition and Demand Survey published by the MOHW, the rehabilitation services that persons with disabilities are most in need of are physiotherapy (80.75%), followed by occupational therapy (29.07%) and language therapy (12.82%). The NHRC would like to emphasize that adaptive training and rehabilitation services should be conducted not just from a medical perspective, but from a human rights perspective as well. The current policy, which lacks an overall goal and a sense of community, is not aimed to facilitate returning persons with disabilities to society, and regards adaptive training and rehabilitation services as part of care services. The NHRC recommends that the government consider a community-based rehabilitation approach that includes such elements as health, education, livelihood protections, social needs, and empowerment, and that the government provide an integrated adaptive training and rehabilitation service that encompasses everyday

life, occupational, and psychological rehabilitation as well as assistive services. The community-based approach attaches emphasis to the role of the community in providing adaptive training and rehabilitation services, thus increasing the accessibility of these services and providing the required knowledge and skills to sustain independent living for persons with disabilities.

- (3) The 2016 report by the MOHW also pointed out that 36.58 % of persons with disabilities have not been able to receive the regular rehabilitation services they need. The NHRC is concerned by the fact that more than one-third of persons with disabilities are unable to receive the needed rehabilitation treatments regularly, jeopardizing efforts to promote independent living and community integration for persons with disabilities.

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.

NHRC's Parallel Response:

- (1) Ministry of Labor's 2019 Survey on Labor Situation of Physical and Mental Handicapped People indicated that 20.7% of persons with disabilities participated in the labor force in 2019 as opposed to 20.4% in 2016. According to the MOHW's 2016 Report of Disabled People's Living Condition and Demand Survey, government subsidies or allowances are the primary source of income for persons with disabilities (31.8%). The above data raises concerns, especially when compared to the average 57% labor participation rate nationwide. The low labor

participation rate and slow employment growth for persons with disabilities have lead them to depend on government subsidies or allowances as the primary source of income. The Ministry of Labor report also suggests that 87.2% of unemployed persons with disabilities have expressed an interest in gaining employment. The NHRC recommends that the government increase its efforts at job redesign for persons with disabilities, provide supportive employment schemes, and make reasonable adjustments to workplace so as to increase participation in the labor force participation by persons with disabilities.

- (2) The draft amendment to the People with Disabilities Rights Protection Act includes adequate adjustments, but the amendment has not been submitted to the Legislative Yuan for review. Therefore, denying adequate adjustments is not yet considered discrimination by law. Noting the accumulating number of cases involving adequate adjustments in the workplace for different types of disability, In Point 119 of the Independent Opinion on the CRPD Second Report, the NHRC pointed out that the Ministry of Labor should take action to minimize impacts on both employers and employees.
- (3) Articles 5 and 27 of the CPRD and Article 5 of the Employment Services Act prohibit discrimination based on disability. In Point 124 of the Independent Opinion on the CRPD Second Report, the NHRC quoted the Ministry of Labor's 2019 Survey on Labor Situation of Physical and Mental Handicapped People in stating that in the past two years, 9.0% of employees with disabilities believe they have been unfairly treated at the workplace because of their disability, whereas 39.3% of unemployed persons with disabilities have endured unfair treatment when looking for jobs or participating in job interviews. In 2019, however, only 28 complaints associated with discrimination against persons with disabilities have been filed with the local labor authorities, of which only two cases were formally established after evaluation, demonstrating the difficulty of proving employment discrimination. Far more complaints remain unfiled due to a lack of evidence. For example, employers often use excuses such as the position no longer being available or a lack of suitable job openings upon learning that an applicant has a disability. This situation highlights the fact that the government has not been able to establish a clear definition of discrimination against persons with disabilities. The NHRC believes there is a large discrepancy between the actual situation regarding complaints and discrimination cases and what has been reported in the survey on employment status. It is also recommended that the labor authority should further examine potential problems in the reporting process involving discrimination against persons with disabilities, as well as the difficulty involved

in proving employment discrimination against persons with disabilities.

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.

NHRC's Parallel Response:

- (1) The National Pension program provides two categories of pension payment schemes for persons with disabilities: Pension Payments for Persons with Disabilities and the Basic Guaranteed Pension Payment for Persons with Disabilities (the two schemes require different qualifications; those who qualify for both schemes can only apply for one). Although the base payment amount was slightly increased on January 1, 2020 from NT\$4,872 to NT\$5,065, it remains far lower than the average individual monthly expenses of persons with disabilities (NT\$15,330) and the regional living expense thresholds stipulated in the Public Assistance Act. Furthermore, persons with disabilities often have to leave the workplace due to injury or sickness and then must withdraw from Labor Insurance and subscribe to National Pension Insurance instead. As Point 70c of the Concluding Observations of the ROC's Initial CRPD Report pointed out, unemployed persons with disabilities can only file a claim for Pension Payments for Persons with Disabilities based on the National Pension program, which is inadequate to cover even basic expenses such as food. In addition, as persons with disabilities age, medical and nursing care expenses will increase as a result. The NHRC expresses its concerns that the amount of the payments received from the Pension Payments for Persons with Disabilities and the Basic Guaranteed Pension Payment for Persons with Disabilities under the National Pension Act is insufficient to secure an adequate living standard for persons with disabilities.
- (2) According to Ministry of Labor's 2019 Survey on Labor Situation of Physical and Mental Handicapped People, the average monthly regular earnings for persons with disabilities amounted to NT\$28,246, compared to the NT\$41,883 average monthly regular earnings across the entire nation calculated on an annual basis.

The monthly regular earnings for persons with disabilities are significantly lower than those of the average individual nationwide.

- (3) In 2019, the number of persons with disabilities was 1,186,740, about 5.03% of the total national population. However, the 2019 statistics released by the MOHW indicated that within the 638,707 low- and middle-income population category, 88,315, or 13.83%, were persons with disabilities, which was a much higher percentage than that of persons with disabilities in the national population. Compared to the rest of the population, persons with disabilities are more likely to fall into the financially disadvantaged category. Moreover, many persons with disabilities currently living below the poverty line are still not eligible to apply for aid and subsidies. This is because the Public Assistance Act defines eligibility for welfare assistance not by personal income and property of persons with disabilities, but by total income and property of the household. The NHRC believes that the aforementioned definition is not in keeping with the intent of the CRPD. The NHRC also recommends that the government should conduct comprehensive research on poverty issues related to persons with disabilities, including the interaction effects when multiple disadvantages such as aging, disability, and poverty are factored together. The goal is to understand the financially difficult situation faced by persons with disabilities, formulate practical aid measures that will meet the needs of the intended recipients, and allocate sufficient resources to ensure an adequate standard of living and promote social protection for persons with disabilities.

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.

NHRC's Parallel Response:

- (1) The NHRC reiterates that declarations of guardianship that deny legal capacity due to mental incapacity do not conform to Article 12 of the CRPD. The Executive Yuan is planning to remove regulations denying the voting rights of persons under declaration of guardianship from the Presidential and Vice Presidential Election and Recall Act and the Civil Servants Election and Recall Act, but the legislative process is not yet complete. The NHRC recommends that the Executive Yuan prioritize the adoption of the amendment and accelerate the legislative process to protect the political participation rights of persons who have been placed under declaration of guardianship.
- (2) The Central Election Commission published an easy-to-read version of the handbook on elections in 2018, and an easy-to-read handbook and reference chart for referendums in 2021. The NHRC recognizes the efforts but is concerned that the content of the 2021 referendums was not converted to an easy-to-read version. The NHRC believes that, in addition to assisting persons with disabilities to understand voting procedures, the content and substance of political and public undertakings should be provided equally and comprehensively for persons with disabilities. The NHRC recommends that the Central Election Commission convert the contents of referendums and election communiques describing the platforms and personal information of candidates into easy-to-read versions so that persons with disabilities can fully comprehend them. Moreover, a range of methods to support the decision-making process should be established to increase the political participation of persons with disabilities.
- (3) The Central Election Commission and 22 subordinate city and county election commissions should at a minimum provide reasonable accommodation of voting schedules and accessible facilities in venues where political activities are held for persons with disabilities. The Central Election Commission has issued guidance on selecting polling stations with accessible facilities as well as a checklist of accessible facilities at polling stations. The municipal/county/city election commissions are authorized to command and oversee township (town/city/district) authorities and inspect accessibility facilities at voting stations. Improvement measures should be taken or an alternate location is provided if the requirements on the checklist are not met. However, there is no compatible reward and penalty mechanism in place to facilitate enforcement efforts. Almost 8% of voting stations are still not equipped with accessible facilities, including ballot boxes placed in private establishments or temples with no accessible facilities, voting stations with stairs but no ramp access, crowded space in the ballot booth, and inappropriate

height of ballot placement for persons with disabilities.

- (4) On September 30, 2021, the Executive Yuan adopted a draft bill on absentee voting in national referendums proposed by the Central Election Commission. The draft bill, subject to legislative review, will allow absentee voting within the country if ballot applications are filed in advance. The NHRC expresses recognition of the drafted bill and recommends that the government study measures that will ensure full and equal participation in political activities for persons with disabilities.

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.

NHRC's Parallel Response:

(1) Although the Ministry of Culture has compiled a cultural/performance venue accessibility checklist, the responsibility of conducting inspections lies with the venue itself. Further verification is required to ensure full implementation of the checklist in all venues. The NHRC is also aware of the installation of hardware such as designated parking spaces for persons with disabilities, tactile paving, accessible ramps, accessible elevators, and accessible toilets in cultural and performance venues. However, there is still room for improvement in software facilities, such as venue design and most crucially, cultural and performance information services. For example, the heights of instruction boards and exhibition cases do not meet the needs of wheelchair users; sensor systems, sign language guide apps, and multimedia audio guides in sign language for the hearing impaired are only provided in some venues; simplified guides for the mentally disabled are found only in a few museums (the National Palace Museum); most venues fail to provide screen readers and narrated audio guides or assign dedicated personnel to provide narration services for the visually impaired.

(2) Point 266 of the CRPD Second Report points out that accessible facilities in movie

theaters should follow the Design Specifications for Accessible and Usable Buildings and Facilities, and that the local authorities are responsible for related inspections. The NHRC believes that, in addition to the above guidelines, the government should look into the location of designated seats for persons with disabilities to identify potential problems such as inconvenient location, obstructed views, and poor access to emergency routes.

- (3) According to the 2016 Report of Disabled People’s Living Condition and Demand Survey by the MOHW, the lack of accessible facilities (at 36.29%) is the most challenging problem faced by persons with disabilities in the pursuit of leisure activities. A survey on the safety management of children’s playgrounds at parks indicated that, of the 3,085 parks that meet the description set out in Point 2 of the Safety Management Regulations for Children’s Playgrounds, only 277 (less than 9%) provide accessible facilities such as nest swings for disabled children. The NHRC recommends that the government collect information on playground needs with input from persons with disabilities, particularly disabled children, and map out instructional and safety guidelines for inclusive playgrounds in order to build a secure and inclusive playground environment.
- (4) On December 28, 2021, the government amended Article 22 of the National Sports Act, lifting a stipulation in the Civil Servants Act that had restricted civil servant athletes from taking part in commercial endorsements. The NHRC is concerned about the failure of the current National Sports Act to protect the sports interests of persons with disabilities by imposing mandatory accessibility requirements in all public sports facilities and incorporating the needs of persons with disabilities into its policymaking. The NHRC recommends that the government amend Article 7 of the National Sports Act and invite persons with disabilities and representative organizations to participate in the legislative process, in order to accommodate the diverse needs of persons with disabilities. Article 44 of the National Sports Act should also be amended to require public sports facilities to provide accessible facilities, so as to secure equal rights for persons with disabilities to use sports facilities and participate in sports activities.

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

28. Please provide the Committee:

- (a) With additional information on the proposed “human rights indicator framework” (para. 275 of the Second Report), and in particular, how it relates to the

Human Rights Indicators and Human Rights Indicators on the CRPD, both developed by The Office of the United Nations High Commissioner for Human Rights (OHCHR);

(b) With the plans to collect more information on the implementation of the CRPD, including disaggregated data on sexual orientation and gender identity (SOGI), and immigration status.

NHRC's Parallel Response:

- (1) The NHRC will refer to the human rights indicators on the CRPD developed by the Office of the United Nations High Commissioner for Human Rights, and work jointly with the Executive Yuan to compile national human rights indicators for persons with disabilities, which will serve as the basis for routine information collection and analysis to produce monitoring reports on human rights indicators.
- (2) Currently, official statistics published by the government do not include multiple classifications for disabilities. The NHRC proposes the addition of indicators related to persons with disabilities to official statistics similar to those for gender classification and the application of a systematic methodology and human rights approach to the collection of information on issues affecting persons with disabilities (incl. sexual orientation, gender identity, and new immigrants), as well as regular monitoring of the implementation of the CRPD.

International cooperation (art. 32)

29. Please explain to the Committee:

(a) How the results of international meetings and publications, such as UNESCO's Global Education Monitoring Report and the Global Disability Summits are promulgated and analyzed;

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

(c) How the State's implementation of the Incheon Strategy to "Make the Right Real" for Persons with Disabilities in Asia and the Pacific may strengthen the strategy of disability inclusive development.

NHRC's Parallel Response:

- (1) In light of the benefits that international cooperation offers for the implementation of the principles and goals of the Convention, the NHRC believes that the government should not exclude itself from international organizations and their

established standards. The government shall comply with its Human Rights Action Plan and to come up with strategies to promote benefits and protections for persons with disabilities. In line with Article 33, Paragraph 3 of the CRPD and General Comment No. 7 on the CRPD, such strategies should be aimed at promoting and protecting human rights, ensuring the participation of persons with disabilities and their representative organizations, focusing attention on disability issues, and achieving the mainstreaming of disability to strengthen disability-inclusive development.

- (2) Regarding SDG 11.2 and 11.7: Currently the laws, regulations, orders, and executive measures on accessible facilities are scattered among different government authorities, and accessible transportation has not been completely realized. For example, the percentage of accessible buses in cities and counties remains significantly low and varies greatly by city and county, while the penetration of barrier-free pavements is equally low with a considerable disparity between cities and counties. The government should review these issues carefully and present improvement measures.

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.

NHRC's Parallel Response:

- (1) The NHRC was established on August 1, 2020. According to Article 2 of its organic act, the NHRC's legal duties include overseeing the effectiveness of the human rights work of various government agencies. To fulfill the mission of

implementing human rights in the nation, the NHRC adopted a motion in July 2021 to set up an independent monitoring mechanism as per Article 33, Paragraph 2 of the CRPD and listed it as a key program in the 2022 NHRC strategic plan. The NHRC's monitoring mechanism on CRPD implementation is responsible for monitoring the human rights indicators for persons with disabilities, processing complaints related to the rights of persons with disabilities, investigating cases involving persons with disabilities, and strengthening participation by persons with disabilities in oversight. Other than inviting persons with disabilities and their representative organizations to participate in its work, the NHRC also maintains close contact with the official CRPD coordinator, Promotion Team for the Rights and Interests of Persons with Disabilities of the Executive Yuan (PTRIPDEY) to develop human rights indicators on persons with disabilities, while collaborating with central and local government agencies at different levels. The NHRC interacts with foreign CRPD mechanisms and international organizations to promote, protect, and monitor the implementation of the CRPD. The NHRC conducts regular evaluations of the nationwide implementation of the CRPD to safeguard the rights of persons with disabilities and ensure that they enjoy equal opportunity in the nation's social, political, economic, and cultural life, in order to achieve self-reliance and success.

- (2) On September 15, 2021, the NHRC released its Independent Opinion on the Second National Report on the CRPD as a comprehensive response to the National Report. The Independent Opinion, based on the provisions of the CRPD and the Concluding Observations adopted in the initial CRPD report, are intended to monitor the implementation of the CRPD and present the NHRC's positions and recommendations. Additionally, in light of the COVID-19 pandemic, the NHRC released an announcement on May 31, 2021, calling for attention to the worsening, multiply disadvantageous situation faced by persons with disabilities during the pandemic and urged for more proactive measures to be adopted to protect basic human rights. With regard to the treatment of offenders with mental disorders, the NHRC proposed directions for legal and policy revisions on October 20, 2021 and January 11, 2022.
- (3) On June 27, 2022, the Department of Human Rights and Transitional Justice of the Executive Yuan has been established to coordinate inter-departmental human rights affairs and formulate human rights policy at the national level. The NHRC is concerned about possible changes to the PTRIPDEY's role as designated coordinating mechanism as per Article 33 of the CRPD. In addition, Point 3 of the executive order for the establishment of the above Committee requires at least half

of the Committee members to be selected from among expert scholars, persons with disabilities, and their representative organizations. The NHRC will continue to observe the Executive Yuan's efforts to ensure the full participation of persons with disabilities and representative organizations in its policy and legal deliberations, as per Article 33, Paragraph 3 of the CRPD.

- (4) According to Point 281 of the CRPD Second National Report, the PTRIPDEY established in compliance with the Act to Implement the Convention on the Rights of Persons with Disabilities, is the designated government coordinator. Points 119 and 134 of the Independent Opinion on the CRPD Second Report indicated that the concerned departments have not reached a consensus on the division of labor and, worse, frequently 'pass the buck' in an attempt to dodge responsibility. Furthermore, the central and local governments often disagree on the division of responsibilities and budget sharing. The NHRC recommends that as the designated CRPD coordinating mechanism, the PTRIPDEY should take steps to resolve these differences. The government should also introduce mechanisms and procedures for evaluating impacts on persons with disabilities to ensure the incorporation of equal opportunity for persons with disabilities to participate in the planning and execution of important projects and legal documents whenever government agencies engage in making and implementing new policies.