

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

**2017**

**The League for Persons with Disabilities, R.O.C**



## INTRODUCTION

The League for Persons with Disabilities, R.O.C supersedes the League of Welfare Organizations for the Disabled, ROC. The latter, founded in 1990, was the first advocacy alliance established in Taiwan for the rights of persons with disabilities. As of the end of February 2017, the League for Persons with Disabilities includes 127 member groups, ranging from groups for persons with disabilities, associations for parents of persons with disabilities, and various foundations, institutions and societies that provide disability-related services. Advocacy or services provided by our member groups can be classified under eight major functions and 16 disability categories.

Our advocacy work includes penning a white paper on disability policies. We also organize, as part of our social education program, training workshops and camps for disability rights and the Convention on the Rights of Persons with Disabilities (CRPD). Prior to the 2017 international review on the CRPD, review mechanisms for human rights country reports already in place in Taiwan comprised those for the following documents: 1. International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR); 2. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The League presented parallel reports for all of the above from the perspective of persons with disabilities.

In September 2015, our board passed a plan to draft a CRPD parallel report. A working group was formed comprising six organizations including our secretariat, the Parent's Association for Persons with Intellectual Disability, Taiwan, the Deaf and Hard of Hearing Welfare Promotion Association ROC, Spinal Cord Injury Foundation, Eden Social Welfare Foundation, Sunshine Social Welfare Foundation. The first draft of the CRPD parallel report was the product of consensus forged from seven discussion sessions involving all member groups of the League. After the first draft was finished, another four nation-wide, webcasted touring seminars were held in 2016 to collect input for a broader base of disability groups and individuals with a view to fine-tune the report.

The League for Persons with Disabilities, R.O.C

Email:[league@enable.org.tw](mailto:league@enable.org.tw) Website: <http://enable.org.tw>

Tel: +886-2-25110836 Fax: +886-2-25110837

Address: 6F, 9, Nanjing West Rd., Zhongshan District, Taipei City, Taiwan 10444

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## **Article 5. Equality and Non-discrimination**

1. Although there are provisions and penalties against discrimination in the People with Disabilities Rights Protection Act, they fail to prevent various types of discrimination and unjust treatment against persons with disabilities. For example, persons holding concession admission tickets are barred from using certain facilities or services; SeaWorld refuses to entertain students with disabilities; persons with disabilities are required to be accompanied when they enter a sports facility; patients with epilepsy or mental illnesses are denied entry into swimming pools; "Beware of mentally ill killers" posts on community bulletins, etc. Furthermore, politicians and social websites make jokes or metaphors alluding to disability characteristics and violate the dignity of persons with disabilities.
2. Channels of grievance against discrimination are scattered under various competent authorities. With the exception of employment discrimination, which has awareness promotion and precedents for penalties, other competent authorities do not actively promote public awareness about the elimination of prejudice and discriminatory behavior, attitude and speech.
3. Recommendation: All competent authorities should actively promote grievance channels and procedures against discrimination, proactively exhort against and penalize any discriminatory behaviors, promote public awareness and eliminate harmful discriminatory actions. In the meantime, the government should also instruct its agencies to compile statistics on disability discrimination cases in the following fields: education, judicial, employment, health, social participation, etc. Agencies should present specific status of their exhortation, penalty and improvement and plan effective promotional policies and measures.

## **Article 9. Accessibility**

4. In addressing Paragraphs 49 and 62 of the country report, the Standards for Medical Institutions, and provisions under the Building Technical Regulations about building design and construction, other than at the rehabilitation department there is no requirement for accessible facilities in primary clinics, which account for over 70% of Taiwan's healthcare system (approximately 20,345 clinics). For persons with disabilities, over 90% of which dwell in communities, accessibility to primary clinics is dismal. During a Dec. 8, 2016 meeting of the MOHW Disability Rights Task Group, the competent authority on this issue, the MOHW Department of Medical Affairs actually replied it is difficult for clinics to achieve accessible space, that certain clinics only serve specific health groups, and that persons with disabilities only frequent the rehabilitation department (approximately 537 units). This position shows blatant misunderstanding about persons with disabilities.

5. In addressing Paragraphs 52, 56 and 148 of the country report, online banking and mobile-pay applications offered by Taiwan's financial institutions are practically inaccessible to persons with visual impairment. Only 33% (9232/27411) of ATM's across Taiwan are accessible to wheelchair users, and the rate of replacement is very slow; only 1% (417/27411) are accessible to persons with visual impairment. Also, neither sign language interpretation nor transcription service is provided to persons with hearing impairment on financial services and product offerings including those offered by state-owned banks.
6. In addressing Para 58 of the country report, there is still a severe shortage in accessible public transportation and a rural-urban divide.
  - (1) There is a total 298 buses equipped with a lowered deck and accessible lift and serving 208 routes, which only accounts for 26.03% of all bus routes.
  - (2) Accessible buses is an important transportation option for persons with disabilities, but the Ministry of Transportation and Communications (MOTC) refuses to act as the competent authority for these vehicles. At the end of the third quarter of 2016, the number of persons with disabilities heavily dependent on accessible buses totals 607,432, but there are only 1840 accessible buses across Taiwan, plus there are 6 municipalities with fewer than 20. Meanwhile, there are only 17 large-sized accessible buses across Taiwan with most of them concentrating in 6 municipalities. Of these, only those in Taipei City and Taichung City can serve several disabled persons at the same time, making it practically impossible for them to take a group trip.
  - (3) According to a media report in December 2016, there are fewer than 600 accessible taxis across Taiwan. Yet, just the densely populated municipalities of Taipei City and New Taipei City alone require an estimate of 800-1000 accessible taxis, not to mention many taxi drivers levy illegal extra charges, further limiting affordable mobility options for persons with disabilities.
7. Most accident and disaster notices issued by public transportation centers are only available in audio format. Any operational anomaly in Taiwan Railway's trains is issued only by audio broadcasting but not immediately indicated on the in-car displays; as a result, persons with hearing impairment do not have access to real-time accident, disaster and evacuation information.
8. Recommendation:
  - (1) The Standards for Medical Institutions and provisions under the Building Technical Regulations about building design and construction should be amended by June 2018 to require clinics to comply with accessibility codes. The accessibility status of all clinics should be published and advisory and improvement plans drafted.

- (2) The MOTC should take on the planning and management of accessible buses, and the ratio of accessible public transit vehicles across Taiwan should reach 80% within 3 years.
- (3) A disaster and evacuation information system for persons with hearing impairment should be built into the transportation system by the end of June 2018.
- (4) The replacement ratio for accessible ATM's across Taiwan should reach 100% within 4 years, with one third of them equipped with an audio system. Public banks should provide sign language interpretation or transcription service to persons with hearing impairment by the end of June 2018.

## **Article 12. Equal Recognition before the Law**

Order of commencement of guardianship: Addressing Para 75 of the country report

- 9. Under the Civil Code of Taiwan, the "order of commencement of guardianship" is currently divided into comprehensive guardianship and assistance. However, there is no standard legal tool for the order of commencement of guardianship and no provision for participation by persons other than psychiatrists. There is a severe lack in procedures, assessment tools and protection in the legal proceeding for such orders. For example, if a person with severe mental disabilities were to put forth an order of commencement of guardianship, the order may not be passed if the results of assessment differ from the level of disability logged in his or her disability record.
- 10. Although a person who has become subject to the order of commencement of guardianship may apply to change the order in accordance with Article 15-1 of the Civil Code, there is no readily available assistance provided to persons with extreme relative vulnerability with regards to the expression of intent to modify or repeal an order of commencement of assistance. On the other hand, there are no clear assistive measures, either, for a person who has become subject to the order of commencement of assistance who wishes to file for the elimination of a cause for assistance and repeal the order.
- 11. The Civil Code prescribes that some actions of subjects of order of commencement of assistance require prior consent by their assistants; some examples of such actions are the handling of real estate, consumer trust, serving as a sole investor/joint investor/responsible party of juridical person, litigation, etc. However, there are no institutions, groups or legally appointed assistive measures to help them make decisions related to such matters. There are also no channels of consultation or assistance whatsoever regarding whether the assistants' decisions match the interest of the subjects, even when a discrepancy between the opinions of the subjects and their assistants legally warrants filing of a request for a court ruling.

12. Recommendation: The government should publish the causes and number of orders of commencement of guardianship and commencement of assistance since the relevant amendment of the Civil Code in order to monitor if there is an unjustified excess of orders of commencement of assistance. The government should also, within one year, establish the legal assessment procedures and tools and qualified teams while establishing and providing channels of professional consultation and fair agencies for subjects of order of commencement of guardianship and commencement of assistance when they have to make important decisions or wish to apply to change the orders.

## **Article 13. Access to Justice**

13. In addressing Paragraphs 81, 83, 84 and 88 of the country report: According to Article 27 Paragraph 3, Article 31 Paragraph 5 and Article 35 Paragraph 3 of the Code of Criminal Procedure, as well as Article 84 of the People with Disabilities Rights Protection Act, when persons with disabilities are involved in litigation or must testify and they show inability to provide complete statements owing to intellectual, psychiatric or other mental disabilities, the prosecution and law enforcement agencies and the court shall notify their family or file a request for the court to appoint a social worker as an assistant. However, in legal practice there are actually no objective standards persons for determining "inability to provide complete statements". Some persons with mental disabilities, despite not understanding neither they are in the midst of litigation nor the consequences, they can make relatively fluid verbal statements or have decent oral skills. As a result, the prosecution and law enforcement agencies do not notify their family and request an assistant because the agencies are unable to determine if they have mental disabilities, or the agencies decide they do not require any assistance. Evidently, the provision to initiate judicial assistance relying solely on "inability to provide complete statements" is clearly insufficient for ensuring persons with disabilities are protected under due process of law.
14. In addressing Paragraphs 85 and 96 of the country report: The Code of Criminal Procedure prescribes that interrogation of the accused or the suspects and their transfer under escort to the court must be completed within 24 hours of their arrest. Article 93-1 of the same code addresses the non-counting of interrogation time and prescribed under Paragraph 6 the non-counting of time spent "waiting for the presence of the interpreter if needed by the accused or suspect, provided that the waiting time shall not exceed six hours". This provision is tantamount to extending the detention time of persons with disabilities who require assistance. At the same time, we have a severe shortage of legal interpretation resources in Taiwan. There are only 17 legal sign interpreter in the country. The court or prosecutor's office only pays a sign interpreter NTD350 for each court session, limiting the number of sign interpreters who are willing to assist. It is also very

difficult to obtain assistance on sign interpretation within the legally allotted time.

15. Although transcription of statements is provided for the purpose of verifying court records, digital format is still unavailable, making it difficult for persons with visual impairment to verify the records on their own.
16. In Taiwan, there is an upward trend in the number of cases requiring forensic psychiatric assessment pertaining to orders of commencement of guardianship and criminal cases. Although the Code of Criminal Procedure provides assistance with criminal defense proceeding to persons with mental or intellectual illnesses, for psychiatric assessment there is still a lack of legal standards around the expert testimony system, legal assessment tools and assessment procedures. At the same time, both prosecutors and judges lack literacy on psychiatric health. They apply "free evaluation of evidence through inner conviction" when it comes to determining which type of defendants or individuals require psychiatric assessment. Even if psychiatric assessment were performed during the trial, the judges, as they apply their inner conviction toward deliberation of a ruling, may also opt not to accept any such report, consequently harming the rights of persons with intellectual or mental disabilities. For example, a family of persons with mental disabilities - argued they qualify for a designated public defender, but the judge decided they do not require a designated public defender because they are able to respond to the judge during the investigation and the trial.
17. Recommendation:
  - (1) The government should provide training to improve understanding about persons with disabilities by law enforcement personnel and the judiciary and review the appropriateness of using "inability to provide complete statements" as the standard for initiating judicial assistance.
  - (2) The government should review the provision in Article 93-1 of the Code of Criminal Procedure, which is tantamount to extending the detention time of persons with disabilities who require assistance. The government should also improve on judicial interpretation resources and raise interpretation fees to ensure judicial protection for persons with disabilities.
  - (3) At least each of the prosecution, law enforcement, investigation and judicial agencies should make available electronic format of statement transcriptions and provide computer assistive devices for the visually impaired so that they may read and verify court records during the transcription or interrogation process.
  - (4) The government should establish a mental health court (MHC).

## **Article 14 Liberty and security of person**

Corrective institutions lack adequate corrective services for prisoners with disabilities

18. In addressing Paragraphs 105 and 106 of the country report, there are no detention centers for the mentally ill in Taiwan. When persons with mental disabilities are detained or imprisoned or when prisoners are diagnosed with mental illnesses, psychiatrists may enter the prison to provide medical services, but there is no treatment available other than medication and it is very difficult to be granted for medical parole.
19. In addressing Para 106 of the country report, existing corrective institutions do not provide the necessary interpretation services or visual assistants to prisoners with disabilities for corrective purpose. Aside from grouping all prisoners with physical disabilities in the same prison to facilitate adjustments and modifications necessary to make the facilities accessible, corrective institutions currently do not provide more comprehensive and proactive corrective services catering to different disability categories. For example, a prisoner with hearing impairment at Taichung Prison was not granted probation because he had difficulties communicating with the prison officials due to a lack of interpretation service.
20. Recommendation:
  - (1) The government should establish detention centers for persons with mental disabilities, or arrange specific detention centers to be equipped with rehabilitation facilities for prisoners with mental disabilities, or allow them to serve their terms alternatively in cooperating healthcare facilities.
  - (2) The government should develop assistive services during the correctional stage and train staff at corrective agencies to help them gain an understanding of the behaviors of prisoners under different disability categories and their intervention

Mandatory treatment and mandatory community treatment of persons with mental disabilities

21. In addressing Paragraphs 98-103 of the country report: Should the State be allowed to detain persons with mental illnesses on account of their mental state? What kind of procedures should be in place? How should the court be given room for intervention and review? There are many related case studies and disputes when it comes to the reinforcement of various human rights conventions. In Taiwan, the Mental Health Act prescribes that psychiatrist may apply to the MOHW for mandatory treatment or community treatment if the following criteria are met: they are "severe" patients (i.e. patients who present queer thoughts and odd behavior detached from

reality and as a result are incapable of managing their own affairs), and they (1) are in danger of harming others or themselves or having the danger of harm; (2) require fullday hospitalization and treatment; (3) refuse to accept mandatory hospitalization or are unable to express their decisions; or (4) do not comply with medical orders and as a result their illness conditions become unstable or there is danger of regression of their daily functions (this point is a criterion for mandatory community treatment). The same Act also prescribes that mandatory community treatment may be implemented without informing severe patients and assistance from the police or firefighting department may be sought when necessary.

All of the above provisions are in breach of the guidelines passed at the 14th CRPD committee meeting for Article 14 of the Convention on the Rights of Persons with Disabilities: no person shall be detained due to actual or perceivable harm; there shall be no exception. The Committee affirmed that detaining persons with disabilities on account of possible or perceivable harm to themselves or others is in breach of Article 14 because such measures are discriminatory in nature and constitute deprivation of liberty. As for non-voluntary or unconsented care by psychiatric institutions, stressed the Committee, the signatories should ensure regulations pertaining to healthcare (including psychiatric treatment) should be founded on free and informed consent by the individuals in question.

22. Furthermore, in Taiwan the "Mental Illness Mandatory Assessment and Community Treatment Review Committee" is tasked with reviewing mandatory hospitalization of persons with mental illnesses. However, is this Review committee run in such a way as to ensure just legal procedure for deprivation of the liberty of persons with mental illnesses? Specifically, can it fully serve the purpose of review and monitoring and filter out applications that do not comply with the criteria for mandatory hospitalization? The answers are probably not affirmative. According to MOHW statistics, the Review Committee's approval ratio on applications by specialist physicians for hospitalization has always been over 90% in recent years. This exceptionally high approval ratio poses the risk that once the review and monitoring functions of the Review Committees have been weakened, decisions on mandatory hospitalization may become arbitrary. As a result, patients diagnosed with mental illnesses or mental disabilities may be automatically assumed and deduced to require hospitalization. The current approach may be in breach of CRPD Article 14.2 and ICCPR Article 9, requiring "legal causes" and "compliance with legal procedures" when seeking to deprive persons of their liberty.
23. In addition, when mandatory hospitalization is carried out on persons with mental disabilities, remedy may be sought through the Habeas Corpus Act or through an appeal application to the court in accordance with the Mental Health Act. However, the Mental Health Act does not provide any channels of judicial remedy for a ruling on mandatory community treatment. Furthermore, mandatory community treatment may be carried out without informing the patients,

preventing them from exercising their right to judicial remedy. Also, the criterion for mandatory community treatment, "do not comply with medical orders and as a result their illness conditions become unstable or there is danger of regression of their daily functions", is defined too loosely. Even criteria unrelated to safety or healthcare, such as natural physiological conditions like aging or illnesses naturally causing possible regression in daily functions, are being used to force persons with mental disabilities into "treatment". This is an obstruction of the rights of individuals with mental disabilities to live in a community and a serious breach of CRPD Article 14.

24. Recommendation:

- (1) The government should amend the law as soon as possible to eliminate the Review Committee system on mandatory hospitalization and community treatment. Instead, a mental health court should be established under the court system for review purpose. There should also be a comprehensive review on alternative treatments to mandatory treatment (including hospitalization and community treatment), and in-community rehabilitation, treatment and living services and support should be provided for persons with mental disabilities.
- (2) The government should review the criteria for mandatory hospitalization and community treatment and amend the Mental Health Act. Over the short term, at least the following two requirements should be abolished: "unable to express their decisions" and "do not comply with medical orders and as a result their illness conditions becomes unstable or there is danger of regression of their daily functions". Relevant regulations should be drafted based on the principles of minimum restriction, minimum harm and maximum well-being. Over the long term, the number of mandatory treatment orders should be gradually reduced.

## **Article 16 Freedom from exploitation, violence and abuse**

25. In addressing Paragraphs 118, 119 and 121 of the country report, the number of persons with disabilities who are victims of domestic violence or sexual assault totals 6,775 and 1,100, respectively. The current system for preventing violence does not take into consideration the needs of persons with disabilities and therefore is ineffective. For example, in 2014 a parents' organization exposed that the superintendent of Miaoli County Home for the Disabled used violence to punish some service users. Because some of the families of the abused did not want to make a transfer, and there are not enough agencies that could provide these services in the municipality, the municipal government could not mandate the Home to suspend services. Another example is a group sexual assault case at the Tainan School for the Hearing Impaired, where over half of the perpetrators were once victims and no appropriate punishment was given to the relevant teachers or administrators, either.

26. Recommendation: The government should probe causes for ineffectiveness in the current system for preventing violence and provide adequate gender- and age-sensitive assistance and support to persons with disabilities. Such services may include providing information and education to explain how to avoid, identify and report cases of exploitation, violence and abuse, adequate placement facilities and consultation and counseling.

## **Article 19 Living independently and being included in the community**

### **Choices for Living in the Community**

27. In addressing Paragraphs 130 to 132 of the country report, the 2011 "Survey and Assessment of the Living Conditions and Needs of Persons with Disabilities" shows that 92.84% of persons with disabilities live at home, but they do not receive sufficient in-home service and support. For example, there is a case where three family members with minor to moderate intellectual disabilities live together in a rural Tainan village. Their friends and neighbors think they should move to an institution, but the social worker's assessment is the family get along very well together and they should be provided with long-term home support because continuing to live in the community can help maintain the social supportive network. However, most "home services" only focus on physical support and do not suit the needs of families with intellectual disabilities. Besides, there are often calls for help where both the person with disabilities and the caregivers are seniors, or where the caregivers kill the disabled persons out of stress.
28. Recommendation: Municipal governments should provide diverse and continual services to persons with disabilities including ex-offenders according to their lifestyles at different stages of their lifecycles. Currently, only Taichung and Hsinchu City Governments offered "Diversified Service Programs for Community Residents" in 2015 to provide diverse home support such as those for 2-member families (e.g. siblings living together) and home services, as well as home support and independency training.

### **Home Support Services**

29. The payout criteria in the "Rules Governing Subsidies for Home Care" lack considerations that persons with disabilities may be at different stages of independency. They are allowed access to practically only one type of resource, limiting their choice of support service while living in the community and hindering them from the personal assistance necessary to help them live alone in the community. For example, in Taichung one individual with disabilities continued to receive institutional support as he was migrating from institutional care to the community. However, when he was seeking a broader range of community life, he was unable to participate in activities organized for independent clients because he was still receiving institutional services.

30. Recommendation: The government should examine and amend the rules for implementing and providing subsidies for various support services for persons with disabilities wishing to live independently in the community according to their choices and needs.

## Accessible Community Housing

31. In addressing Para 134 of the country report, over 60% of housing in Taiwan are old apartments without lifts, so persons with disabilities run into problems going down the stairs as soon as they step out of their apartment doors. Although the government encourages the installation of lifts and there are accessible lift chairs or stair climbers available for purchase, they are more expensive than can be afforded by individual families and require consent by the majority residents. Although the MOI Construction and Planning Agency has established the "Design Standards and Incentive Rules for Accessible Housing" and has relaxed the relevant requirements, their 2016 pilot initiative only subsidized 11 municipalities to install lifts and accessibility improvements. Only 7 municipalities actually participated, and there was a cap for the subsidy amount and number of cases. °
32. Recommendation: The government should increase subsidy budget and consultation and assistance to reduce the difficulty in making improvements for old apartments without lifts.

## Article 20 Personal mobility

### R&D on Assistive devices

33. In addressing Paragraphs 136 and 138 of the country report: Currently: The Ministry of Science and Technology focuses subsidies for the assistive devices industry on R&D rather than manufacturing. Without commercialization of the R&D results, it is hard to produce real benefit for people with disabilities. In terms of categories of assistive devices, Taiwanese businesses are less engaged in R&D on communication and facial assistive devices. Currently, most communication devices are imported and expensive.
34. Recommendation: The government should set up dedicated initiatives for incentives and subsidies to encourage local involvement in the R&D and material production of assistive devices and help bring the prices for communication and facial assistive devices to a more reasonable level.

### Driving license regulations exclude persons with certain disabilities

35. Article 64.1.1.6 of the Road Traffic Safety Regulations prescribes that no epilepsy patient may apply to sit car or motorcycle driving exams. This is a clear breach of the CRPD and principle of proportionality.

36. Recommendation: The government should explain the grounds for prohibiting all epilepsy patients from sitting driving exams in the Road Traffic Safety Regulations and make full amendments by the end of June 2018.

## **Article 21 Freedom of expression and opinion, and access to information**

### **Accessible websites**

37. In addressing Paragraphs 144, 146 and 148 of the country report, only 70.3% of governments, agencies and schools currently comply with accessible websites requirements, and companies and groups related to disability rights such as state-run enterprises, key financial institutions and private universities have not obtained accessible website certification as required, compromising access to information by persons with disabilities.
38. In addressing Paragraphs 145 of the country report: Current testing mechanisms for accessible websites usually comprise only performing self-checks and then applying for certification, so there is a lack of credibility. There are websites that passed the evaluation but are not readable using computers for the visually impaired. Also, the websites usually use graphic codes for identity verification without an audio alternative, posing a barrier to users with visual impairment.
39. There are no accessibility testing standards for applications developed by public or private parties.
40. Recommendation:
- (1) In addition to establishing testing and auditing standards for accessible websites, the government should also improve manual testing mechanisms for visual impairment provisions and establish testing standards for accessible applications.
  - (2) Governments, institutions and schools should achieve 100% accessible websites in the first quarter of 2018. The government should also require state-run enterprises, financial institutions, private schools and publicly traded companies to do the same by the end of December 2018.

### **Sign language interpretation not fully implemented in the communication of public information**

41. In addressing Paragraphs 152 and 153 of the country report: Sign language interpretation is currently only provided for selected activities like campaigning events held by election

candidates or major festivals but not for information on major disasters, epidemic outbreak, major construction or news reports.

42. Recommendation: There should be clear legal requirements on the types of occasions or information for which various levels of governments need to provide simultaneous sign language interpretation and transcription. TV stations should also be required to broadcast news with sign language and caption for fixed program slots.

## **Article 22 Respect for privacy**

43. In addressing Paragraphs 160 and 300(b) of the country report: Regulations around diversion of personal information by public agencies in the Personal Information Protection Act are very vague, failing to protect the privacy of persons with disabilities. For example, in May 2014 the MOTC Directorate General of Highways obtained from the MOHW a list of refractory epilepsy patients owning a disability booklet and notified them to "return their driver's licenses or have their licenses annulled without further notice". The legal basis used is the Road Traffic Safety Regulations, which prohibits epilepsy patients from taking driving exams. The collection of special personal medical information on epilepsy patients by the Directorate General from the MOHW clearly violates their right to privacy. Article 6 of the Personal Information Protection Act allows public agencies to collect and provide personal medical information when necessitated by their legal job responsibilities. However, the interpretation for this rule is too broad and renders the protection of special personal medical information merely window dressing.
44. In addressing Para 165 of the country report: The prosecutor and law enforcement agencies and the media often infringe on the privacy rights of persons with mental disabilities. When major crimes are committed and suspects are hinted to be persons with mental disabilities, the police often confirm such facts in front of the media. They even ask the health and social departments to provide a list of persons with mental disability so as to provide "care", or compare documents one by one when they don't have the relevant evidence. All these are inappropriate disclosure of the privacy of the disabled persons. For example, on March 28, 2016, a girl was randomly killed on a Taipei street. The perpetrator was immediately arrested on the scene. The police issued a press release right away claiming he had a mental illness, leading to the media reporting the suspect's history of seeing psychiatrists based on information provided by the prosecutor and police. Our government does not take any action toward the frequent and inappropriate disclosure of personal privacy by the prosecutor, police and media.
45. Recommendation:

- (1) Recommendation: The government should amend the Personal Information Protection Act and clearly require consent by the person in question before government agencies may collect or ask other agencies to help collect personal information.
- (2) Whether the suspects have (mental) disabilities or not, the police, prosecutor and judicial agencies should be prohibited from quoting, hinting or revealing to the media the suspects have such disabilities. Neither should the relevant competent authorities (health and social departments) be allowed to provide related information to these agencies.

## **Article 23 Respect for home and the family**

### **Conserve fertility**

46. In addressing Paragraphs 170 and 192 of the country report, the objective of Eugenic Health Law states under its article 1 as “ implement eugenic health, increase the quality of population, protect the health of both mother and child to increase family well-being”. Article 11 under the same law stipulate that when physician has identified patient with heritable and contagious diseases or mental illness which is incurable and can hinder eugenics, tubal ligation should be advised to such patient. Health Promotion Administration also stipulated candidates who are legitimate to receive subsidy for tubal ligation, contraception measurement and artificial abortion under “Procedures of Subsidy on Fertility Adjustment for Special Population”. On top of low income family, it also covers (1) patient with mental illness, (2) patient with eugenic diseases, (3) person who hold disability certificate. Both Eugenic Health Law and relevant sub-law have specifically request persons with disabilities to consider not to conserve their fertility. Such stipulations are rather controversial since they violate clause c, para 1 article 23 of CRPD. Media also published a news in 2011 where staff at local health center advised a low-income mom sterilized her minor son who suffered mental illness without his informed consent. There is no way that we can learn from national statistics regarding how many people were suggested or forced to be sterilized due to their status of disabilities.

47. Recommendation:

- (1) Government should review the objective of Eugenic Health Law, immediately amend the law and relevant sub-law regarding the advice of sterilization to persons with disabilities, while actively advocate the spirit under CRPD article 23 para 1 clause c.
- (2) Government should implement practical policy to ensure that the decisions of sterilization on persons with disabilities are well informed and out of their personal will and best benefit. Substantial practices should be draft by Ministry of Health and Welfare, representatives of disabled persons, family members and relevant professional service organizations together.

## Parenting support

48. In addressing Paragraphs 170 and 192 of the country report, when identifying parenting support, the support should be initiated since the pregnancy of disabled women. There are two parameters that will determine whether disabled women can demonstrate an adequate parenting function. First of all, whether she has adequate knowledge and capability on parenting, for example the skill to take care infant. Secondly, whether external environment matches the principle of accessibility to support parenting. However, the existing support in this regard are very fragile, for example a private medical center in southern part lacks accessible facility, hence disabled women cannot access the prenatal education and workshop for postpartum care, plus the examination room do not have the stage which can adjust the height. The mother's guide and children's health handbook all lacks consideration for the adaptation to disabled persons, such as braille, electronic text file, easy-to-read version etc.
49. Recommendation:
  - (1) Health Promotion Administration should establish multi-media mother's guide and children's health handbook for disabled persons. Healthcare institute should provide delivery stage that can adjust height for disabled women.
  - (2) Public health caregiver should make house call to vaccinate children whose parents are disabled, provide prenatal education and prepare postnatal care in advance, plus develop parenting educational materials with multi-media version.

## Article 24 Education

### Discrimination against disabled persons and deny their education rights

50. In addressing Paragraphs 178 and 181 of the country report, on the general regulation of college enrollment, some schools have restrictions against students with disabilities, for example it said that "students with hearing impairment should have personal discernment when selecting departments". The response from Ministry of Education is merely apply the principle of "college autonomy" with active remedy. Although there is an ordinance compelling zero rejection and zero discrimination, since there is no penalty on this regard, the rule is existing in name only.
51. In addressing Paragraphs 175 and 176 of the country report, country report should illustrate and analysis the ratio of persons with disabilities in various education levels, the respective registration, transfer and suspension status based on gender and fields. According to the data from Ministry of Interior in 2011 (Table 24.1), 26.43% females over six years old with disabilities are illiterate, while females with middle school education and above are much less than male on the

same level.

Table 24.1 Education level of persons with disabilities

Unit : person ; %

	<b>Total</b>	<b>Illiterate(over 6 years old)</b>	<b>Primary school</b>	<b>Junior high school</b>	<b>High school</b>	<b>College</b>	<b>Graduate school</b>
Total	1,085,001	15.51%	29.34%	18.71%	22.28%	10.01%	1.12%
Male	621,028	7.35%	29.02%	21.24%	25.49%	12.57%	1.42%
Female	463,957	26.43%	29.77%	15.33%	17.99%	6.58%	0.72%

Source: Ministry of Interior, *Report on Physically and Mentally Disabled Citizens Living and Demand Assessment Survey, Republic of China 2011*

## 52. Recommendation:

- (1) Country should eradicate all forms of deny education in all school level while actively promote schools to provide accessible environment, assistive learning devices and supporting measurements.
- (2) Country should collect data and analyze persons with disabilities in terms of their adaptation to school and relevant issues, females encountering education difficulty, including family or social expectation on genders etc to serve as reference for future policy on the education right of females with disabilities and their rights to fulfill themselves.

## Learning and promotion of sign language

53. In addressing Para 181 of the country report, most of hearing impaired students in Taiwan set their priority at oral conversation and hearing capability. We often heard critics regarding not respect sign language and culture of deaf people when Ministry of Education compiling education materials. Hearing impaired students cannot utilize formal system and culturally adapted channel to learn and develop their knowledge and capability of sign language. Not to mention the identify sign language as their culture and language.
54. Recommendation: Country should ensure that hearing impaired student can obtain adaptive and effective support from different levels of education and actively promote a friendly environment for learning sign language.

## Article 25 Health

### Accessible medical resources and services

55. In addressing Para 190 of the country report, the whole healthcare environment lacks accessible design, including: traffic flow at hospital/clinics, out-patient space, medical equipment, toilet, locker room, healthcare information etc. For examples: no accessible toilet, person with wheelchair cannot access out-patient space or locker room, no voice or text panel assistance in the waiting area for persons with hearing or visual impairment, gynecology clinic and delivery room does not put demand of persons with disabilities into consideration, pregnant women sitting on wheelchair has difficult in mobility due to limited space in the clinic, healthcare institute failed to provide guidance system for visual impairment or manual assistance, hospital website does not have accessible design which made persons with visual impairment impossible to browse, popular healthcare education information and medical document does not have easy-to-read version nor braille version.
56. In addressing Para 196 of the country report, the utilization rate of adult preventive healthcare service by persons with disabilities is only 18%~19% (Table 25.1) which is almost less than half of the utilization rate for general adult at 32% (Table 25.2). Country report does not mention how to increase the utilization rate for persons with disabilities nor cover the status of other preventive measurements.

Table 25.1 Utilization rate of adult preventive healthcare service by persons with disabilities  
Source from The League for Persons with Disabilities

Year	Persons with disabilities age between 45-65 (Note 1)	Persons with disabilities utilized preventive healthcare services (Note 2)	Utilization rate of adult preventive healthcare service by persons with disabilities
2011	800,648	153,569	19%
2012	861,741	155,245	18%
2013	831,425	155,881	19%
2014	850,531	162,126	19%

Sources : Note 1:Ministry of Health and Welfare, statistics of persons with disabilities; Note 2: First

CRPD country report 【Attachment】 Table 25.9。

Table 25.2 Health Promotion Administration, MOHW, Implementation of preventive healthcare during 2011~2013      Unit:%

Year	Utilization rate of service of preventive healthcare for children	Utilization rate of service of prenatal care for pregnant women	Utilization rate of service of Pap smear examination	Utilization rate of mammogram examination	Utilization rate of quantitative fecal occult blood test	Utilization rate of oral mucosa examination	Utilization rate of service of teeth fluoride for children	Utilization rate of adult preventive healthcare service
2011(100)	77.6	93.1	27.1	29.7	34.1	46.9	20.1	<b>33.3</b>
2012(101)	81	94	26.5	32.8	33.7	52.7	24.3	<b>32.1</b>
2013(102)	82.1	94.3	26.3	36	38.2	54	40.5	<b>32.6</b>

Source: Health Promotion Administration, MOHW

57. In addressing Paragraphs 213 of the country report, Government has developed “Braille and icon labels for medicine bag” in 2007, but it has not been applied to institutes nationwide. This league has conducted a survey in 2012 and obtained 21 medicine bags where only three healthcare institutes apply Braille/icon labels, the rest either have no knowledge or have no access to it. Each institutes develop their own iconic labels without consistency, as a result one instruction (i.e. administered in the morning) could have various icons (sun, rooster, clock) which might cause confusion to intellectual disabled and reading disabled persons; "braille medicine bag" is not very popular. Government only promote 27 institutes with accessible medicine bag, which only represent 0.1% of all healthcare institutes (including clinic and pharmacy) in the country. Medicine bags in the healthcare institutes or original medicine packages normally do not have accessibility design, therefore persons with visual impairment, intellectual disability, learning disability etc. still have difficulty to identify medicines by themselves.

58. Recommendation:

- (1) Government should enhance the support to primary hospital/clinics for needed accessible facilities, or add small scale community circuit bus in the rural area and extend the service to reach nearby healthcare institutes, plus provide accessible circuit bus for physical examination.

- (2) Government should help healthcare institutes to establish accessible websites for visual disabled person to make appointment or read healthcare related information.
- (3) Government should promulgate specific healthcare policies for disabilities from physical, mental and social aspect from establish health statistics for long term surveillance and analysis to improve utilization rate of preventive healthcare service for persons with disabilities. Improve health un-equality situation among persons with disabilities from four indexes namely accessibility, affordability, availability and quality.
- (4) Government should make it available for persons with disabilities to receive services relevant to drug safety and medicine affairs. Including: standardize the iconic label on medicine bag and drugs, make QR code available on medicine bag and drug packaging, enlarged font size, readable insert, drug information readable for persons with visual impairment, intellectual disability, and reading disability, provide drug dispensing service for persons with visual impairment and intellectual disability.

## Insurance Contracts

59. In addressing Paragraphs 209 and 210 of the country report, article 107 of Insurance Act stipulated that when prescribing a life insurance, taking person with mental disability or other intellectual defect to the extent cannot distinguish his/her behavior or consequentially cannot perform respective actions as the insured person, then only relevant funeral expenses can be claimed. On top of it, according to Article 7.1.8.3 of Regulations Governing Business Solicitation, Policy Underwriting and Claim Adjusting of Insurance Enterprises, "Treating a specific applicant or policyholder unfairly or treating an insured unfairly because of his or her disability prohibited. The preceding provision does not apply to the special treatment of a specific applicant or policyholder or an insured in the signing of an insurance contract where risk assessment is based on actuarial science and statistical data.". However, in practical cases, persons with disabilities are often overcharged or denied the contract when subscribing personal health insurance, casualty insurance or group insurance. On top of it, the database established by Taiwan Insurance Institute regarding the statistics of experiences on persons with disabilities is still extremely insufficient to the extend it cannot serve as reference for policy underwriting and claim.
60. Recommendation: Government should propose the amendment of Insurance Act article 107, abolish discrimination against persons with "mental disability" and "intellectual defect" to subscribe life insurance or death benefit claim. Meanwhile, apply punitive sanctions against commercial insurance companies who reject persons with disabilities or rare diseases patients the right to hold insurance policy. Establish long term surveillance system to prevent persons with disabilities from being overcharged or unreasonable claim provisions, in order to protect the right

of insurance for persons with disabilities.

## **Article 26 Habilitation and rehabilitation**

Resources for habilitation and rehabilitation: In addressing Paragraphs 219 and 221 of the country report,

61. Currently home care and rehabilitation is not very popular, persons with disabilities who dwelled in the community and less mobile have are not aware of the information to apply such service. On top of it, article 10 of Psychologist Act limit clinical psychologist and counseling psychologist only can practice at the institute where they have registered and cannot provide home care.  
Recommendation: Integrated home care should proactively identify persons with disabilities in the community and provide physical and psychological related rehabilitation at home or in the community.
62. Since mobile service does cover remote area to provide early intervention and rehabilitation at home, as a result children with physical disabilities can only further deteriorated at home or been relocated to institute in the metropolitan area. Although Social and Family Affairs Administration, Ministry of Health and Welfare has already launched “Community healthcare and home care for children with developmental delay program” target at rural area, however it failed to provide the information of such implementation status to general public.  
Recommendation: Social and Family Affairs Administration should compile and publish the utility of such service in the nation and establish a mechanism for surveillance and improvement.

## **Article 27 Work and employment**

63. In addressing Para 229 of the country report, the percentage of professional persons with disabilities only account for one third of national average, while the percentage of persons with disabilities working on basic skills and labors is 13.5% higher than national average. Even intellectually challenged and amnesia groups who ranked the highest is excluded, the situation remains the same. Recently more and more persons with disabilities acquired higher education, however employer and colleagues still have insufficient awareness regarding their needs, as a result no proper support can be offered and job security as well as promotion are still limited. It is difficult for person who suffered occupational hazard to resume their normal work.
64. Labor engagement for persons with disabilities is only 33.7% of national average, while unemployment rate is 2.8 times higher than national average, such gaps last for a decade without improvement (Table 27.1). Average regular income of persons with disabilities are lower than

nationwide workers. Employed persons with disabilities have average monthly salary at 24,653 dollars, while regular workers in the country have average monthly salary at 37,433 NT dollars which is 12,780 NT dollars higher and average monthly salary for employed persons with disabilities is only two third of national employed population. Such situation also directly cause significant insufficiency for the labors with disabilities in terms of their protection for retirement.

Table 27.1 Labor engagement rate on persons with disabilities

	2003		2006		2011		2014	
Target	Disabled	Nationwide	Disabled	Nationwide	Disabled	Nationwide	Disabled	Nationwide
Employed	22.5%	55%	20.9%	55.66%	16.77%	54.6%	17.5%	58.5%
Non-labor	73.6%	42.7%	75.2%	42.08%	80.87%	41.8%	80.3%	41.5%
Unemployed	14.7%	4.99%	15.9%	3.9%	12.35%	4.4%	11.0%	3.96%

Source: Ministry of Labor

## 65. Recommendation:

- (1) Ministry of Labor should enhance awareness to business owners: promote occupational matching for persons with disabilities who have college or above education plus designated professional knowledge and redesign their functions in the office.
- (2) With regard to the fact that majority of persons with disabilities works on basic skills and labors, central competent authorities should invest on R&D budgets to improve their tools, avoid occupation hazards, and develop assistive apparatus to accommodate aging and deteriorating physical strength, in order to support persons with disabilities to extend their length of employment. When workers left their job due to hazard or illness, the linkage plus integration services among healthcare, labor administration and social administration should be highlighted specifically under Occupational Accident Labor Protection Act or relevant statutes while provide substantial service planning to assist them secure the jobs and resume the employment.

## Acts for professional occupations discriminate persons with mental disability

66. In addressing Para 227 of the country report, quite a few acts for professional occupations deny the works for persons with mental disability or mental illness. Such as various Acts for Healthcare Personnel, Social Worker Act, Accountant Act, Teacher Act etc. They all obviously violate CRPD. We suggest that government should completely abolish all regulations against persons with mental disability or mental illness to take technical works of professional occupation by the end of June 2018.

## Article 28 Adequate standard of living and social protection

### Public Housing Project

67. In addressing Paragraphs 261 and 262 of the country report, more than 60% of senior citizens dwelt in old apartments, while persons with disabilities are often denied of rental availability plus it is difficult to renovate accessible facilities. Housing Act has stipulated that certain portion of the rental availability should be reserved for special circumstance or status, although it includes persons with disabilities but it does not define the percentage of houses equipped with accessibility design which could cause inconvenience for residents with disabilities.
68. Recommendation: Housing Act should stipulate that all new housing and accessible public (social) housing should comply with the standard of accessibility to promote accessible housing.

### Equal retirement and welfare project

69. According to the statistics from Ministry of Health and Welfare in 2013, persons with disabilities represent 21.82% of overall low income population. The *Report on Physically and Mentally Disabled Citizens Living and Demand Assessment Survey, Republic of China, 2011* published by Ministry of Interior also indicated that only 7% of persons with disabilities have incomes greater than their expenses, which means majority of them are living under poverty.
70. In addressing Para 258 of the country report, the average age of retirement for persons with disabilities in Taiwan is 52.8 years old, while general public retired at 60.7 years old. Comparing these two figures it shows persons with disabilities have an average of 7.9 years of early retirement. However, Labor Insurance Act stipulated that “laborers are eligible to acquire pension only when they are 60 years old plus 15 years of seniority at the work”. As a result many persons with disabilities who cannot work but still cannot obtain pensions. It is obvious that local labor insurance act plus labor pension act are both violate article 28 of the convention.
71. In addressing Para 268 and 269 of the country report, monthly disability pension under national

pension is only 4,872 NT dollars, while published poverty line in 2016 is between 11,448-15,544 NT dollars in Taiwan. It is far below minimum living standard which is even not sufficient to purchase monthly food supply, not to mention ensure the living.

72. Recommendation:

- (1) Government should integrate overarching social security incomes including support for low income family, support for persons with disabilities, medical relief, emergency relief, rental subsidy, provision bank from local government etc. in cash or quota for material objects in order to ensure persons with disabilities can obtain minimum living standards at the city where they dwelled.
- (2) Ministry of Labor should initiate early retirement planning for persons with disabilities as soon as possible while tailored with respective physical functions and adaptation to the nature of the works, in addition to pension system to complement an adequate living standard.
- (3) Annuity reform should consider the reimbursement of pension for persons with disabilities should not be limited to the seniority of the years they have worked while raise their annuity (basic annuity) to ensure a sufficient level.

## **Article 29 Participation in political and public life**

### Measurements to assist voters with disabilities

73. In addressing Para 272 of the country report, about 80% of polling stations across the country have accessible facilities, however disabled persons still have difficulty to commute from their home to polling station. On top of it, ballot booths have different heights which made it even more challenging. For example the station at Taoyuan has a sharp ramp where persons with disability cannot drive the car all the way to the gate for security reason, while the alternative offer of labor carrying disable person is even worse in terms of safety. Since it is impossible to push the wheelchair through that sharp ramp, in the end person with disability has no choice but give up the right to cast the ballot.
74. In addressing Para 273 of the country report, although Central Election Commission has stipulated that when persons with disabilities exercise their right of voting, they can designate a deputy entering the booth for assistance, however their deputy often been denied while enforce a voting staff to assist.
75. In addressing Para 276 of the country report, some public hearings have sign language interpretation less than one third of the screen plus poor sign language interpretation which all

have negative impact to voters with hearing impairment.

76. Recommendation:

- (1) Central Election Commission should arrange the voting booth in such a way to meet the criteria for accessibility with consistency and respect the right of voting for person with disabilities when selecting their helper.
- (2) Central Election Commission should implement respective measurements for voters with disabilities and establish a penalty mechanism for election committees in those city and county who failed to practice it.
- (3) Government should lay out a diversified system for communication vote, cross-constituency vote etc. for persons with disabilities to exercise their voting rights.

## **Article 30 Participation in cultural life, recreation, leisure and sport**

### Cultural life

77. In addressing Paragraphs 285-287 of the country report, there are less than 1,000 digital books for visually impaired persons. Meanwhile, there is a significant gap between regular paper based books to the transcribed acoustic books. Both acoustic books and braille materials are predominantly produced by private sector. Since reproduction of such books require manual transcription and is time consuming, it created a digital gap for visual impaired persons.
78. In addressing Para 280 of the country report, public and private venues such as National Theater, National Concert Hall not only have insufficient facilities for accessibility and seats to accommodate wheelchair, but booking system also does not provide the information for the acoustic zones which makes it more difficult for physically challenged person to enter the venue. Persons with hearing aids often have experienced the seats with poor acoustic effect.

79. Recommendation:

- (1) Public publications should provide an accessible version for persons with visual impairment, while publishers should produce digital copy for persons with legitimate receipts.
- (2) Accessible facilities and wheelchair seats should be available for overarching art and cultural activities. The booking system should be user friendly for intellectually challenged person while persons with hearing impairment can identify the acoustic zones when making the reservation.

## Recreation, leisure and sport

80. There are civil sport centers in every city and county in Taiwan, however currently they still lack facilities for persons with disabilities, for example it is rarely to see ramp to enter the pool or electric seat-lift. Besides hardware, the regulation at sport center often requires persons with disabilities to be accompanied by an adult who shall take all legal liability. Activities such as swimming and diving are often denied due to such excuses. Meanwhile, professional sport staff failed to provide consultation and guidance due insufficient awareness to persons with disabilities.
81. As of now, there are still parks, amusement areas or sport centers openly express their rejection to mentally challenged person to access their facility. Such discrimination has profound impact to the right of mentally challenged persons. The League for Persons with Disabilities, R.O.C has requested four counties and cities to ameliorate such regulations, however mentally challenged persons still are denied the access in Keelung city and Changhua county, whereas public sport centers in Taipei city still deny the access for mentally challenged persons except Songshan and Hsinyi districts.
82. This nation has long been ignoring the need for children with disability to access recreation facilities. Social and Family Affair Administration of Ministry of Health and Welfare published “Guidelines for the safety of recreation site for children” only cover general safety perspectives. National standard (CNS12642-facilities for public recreation sites for children) have touched the issue of accessibility (data for accessible facility), however it is not mandatory. There is no central nor local government who incorporate such regulation. Only Hsinchu city and Taipei city have provided accessibility facilities. Taipei Children’s Amusement Park was renovated and reopened in 2015, however most of the facilities in the park still ignored the need for children with disability.
83. Recommendation:
  - (1) When government organize sport activity, adequate consideration should be made to cover the need of persons with various disabilities including environment, facility and supporting measurements.
  - (2) All levels of public agencies should review the area to be improved for accessible facilities, and complete revoke the discrimination against persons with disabilities. The competent authority should promulgate a comprehensive accessibility for all the sport sites and sport facilities in Taiwan under National Sports Act.
  - (3) Ministry of Interior should promulgate guidelines for accessibility at children’s recreations sites including both mechanic and non-mechanic facilities prior to June 2018 and establish at

least one recreation site for children with disabilities in each city and county before the end of 2018.