

**On the Road to Equal Enjoyment of Human Rights for Persons with
Disabilities:
The development of domestic laws in Taiwan and their dialogue with
the CRPD**

Nai-Yi Sun
Professor of Law
National Chengchi University, Taiwan

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Abstract

The fundamental rights and freedom of persons with disabilities are guaranteed by the Constitution of Republic of China (Taiwan). Article 155 of the Constitution obligates the state to provide appropriate assistance and relief to the aged and infirm who are unable to earn a living. Paragraph 7, Article 10 of the Additional Articles of the Constitution, amended during the 1990s further obligates the state to assist persons with disabilities to develop and attain independence.

These constitutional state duties are realized mainly in the People with Disabilities Rights Protection Act. Developed over the past 30 years, the Act, through its regulations, provides not only for monetary payments, but also for a diverse range of individualized services to be made available to persons with disabilities. Furthermore, there are detailed legal requirements regarding barrier-free public facilities and transport. However, the fundamental rights of persons with disabilities are often restricted or compromised by laws in other fields, while government agencies tend to handle matters related to disability-based discrimination by private persons in a passive manner.

In 2014, Taiwan incorporated the Convention on the Rights of Persons with Disabilities (CRPD) into domestic law. The Convention furthers the purpose of equal enjoyment of human rights under the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and promotes the full and effective participation in society of people with disabilities. It is meant to be a stimulus for the mainstreaming of human rights of persons with disabilities, a concept that is foreign to our legal system.

This article aims to describe the development of domestic laws related to the rights of persons with disabilities in Taiwan and analyze this type of discrimination behind the façade of legislative progressions. It will further compare the distinct concepts of equal enjoyment of human rights between the domestic laws and the CRPD. With regard to the insufficient awareness of the spirit of the CRPD, as presented in the initial state report of the Government of Taiwan, this article will analyze how the innovative concept of substantial equality, in particular the denial of accessibility and reasonable accessibility is defined as discrimination based on disability by the Convention, challenges and transforms the conventional understanding of equal protection for the rights of persons with disabilities in Taiwan.