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融合教育行不行？台灣身心障礙權利公約的在地化挑戰
Localization of CRPD and inclusive education in Taiwan

張恒豪
臺灣障礙研究學會 理事長
國立台北大學 社會學系 教授兼台發中心主任

前言/Introduction

- 臺灣的身心障礙公約審查
- Concluding Observation of Taiwan's Initial CRPD Report
  - 抽菸 & 障礙青少年需要個助
  - Smoking in the toilet and Personal Assistant for teenager

- 念碩士還要爸媽陪嗎?
- Parents support for MA student(s) in Taiwan

- Inclusive Education:
  - Concept, Interpretations, Legal reform and Practice in education setting.

第二十四條 教育權

1. 締約國肯認身心障礙者享有受教育之權利。為了於不受歧視及機會均等之基礎上實現此一權利，締約國應確保於各級教育實行融合教育制度及終身學習，朝向：

(a) 充分開發人之潛力、尊嚴與自我價值，並加強對人權、基本自由及人類多元性之尊重

(b) 極致發展身心障礙者之人格、才華與創造力以及心智能力及體能；

(c) 使所有身心障礙者能有效參與自由社會。

- Ensure an inclusive education system at all levels and lifelong learning directed to:
- (a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
- (b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
- (c) Enabling persons with disabilities to participate effectively in a free society.

為什麼要教育?

- 權利還是?
- 工作?
- 生存? 自給自足?

- 2. 為實現此一權利，締約國應確保：

a) 身心障礙者不因身心障礙而被排拒於普通教育系統之外，身心障礙兒童不因身心障礙而被排拒於免費與義務小學教育或中等教育之外

- *Rights or Employment in the market?*

- (a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

國家該做什麼？

- ；

a) 身心障礙者可以於自己生活之社區內，在與其他人平等基礎上，獲得融合、優質及免費之小學教育及中等教育；

b) 提供滿足個人需求的合理調整；

c) 身心障礙者於普通教育系統中獲得必要之協助，以利其獲得有效之教育；

d) 符合完全融合之目標下，在最有利於學業與社會發展之環境中，提供有效之個別化協助措施。

- (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
- (c) Reasonable accommodation of the individual's requirements is provided;
- (d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- (e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

- 零拒絕、平等、正常化與融合、合理調整、個別化支持
- 不能因為障礙而拒絕入學
- 視身心損傷的狀況一調整
- 國家責任，提供個別化支持，而非推給家庭
- 為了參與共融的社會
- 不將支持障礙者受教的責任推給家庭與私人

- Zero-rejection, equity, inclusive education, reasonable accommodation, individualized support
- Supporting disabled students in inclusive eudcation is Not a personal or family responsibilities

3. 締約國應使身心障礙者能夠學習生活與社會發展技能，促進其完全及平等地參與教育及成為社區的一分子。為此目的，締約國應採取適當措施，包括：

a) 促進學習點字文件、替代文字、擴大與替代性溝通模式、方法及形式、定向與行動技能，並促進同儕支持及指導；

b) 確保在最有利於學業及社會發展之環境中，以最適合個別情況之語言與(溝通)方法、模式讓視覺、聽覺障礙或視聽雙障者(特別是兒童)接受教育。

c) 促進手語之學習及推廣聽覺障礙社群之語言認同；

- (a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
- (b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
- (c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

4. 為幫助確保實現該等權利，締約國應採取適當措施，聘用合格之手語或點字教學教師（包括本身有心障礙的教師），並對各級教育之專業人員與工作人員進行培訓。該培訓應包括障礙意識及學習使用適當之擴大替代性溝通模式、方法及形式、教育技能及教材，以協助身心障礙者。

- In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

- 資訊文化無障礙
- 手語與文化

- Accessibility in inclusive education for persons with disabilities
- Physical, visual, Deaf
- Sign langauge and culture

5. 締約國應確保身心障礙者能夠於不受歧視及與其他人平等基礎上，獲得一般高等教育、職業訓練、成人教育及終身學習。為此目的，締約國應確保向身心障礙者提供合理調整。

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- 5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.
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- 全面的教育權利（擴及高等教育、成人教育終生學習
- vocational training, adult education and lifelong learning

UNCRPD 第四號一般性意見書

- 諮詢障礙者本人
- 和CRPD第4條第3項一致，國家必須諮詢（consult）身心障礙者，包括透過代表的團體諮詢身心障礙兒童，並確保他們的積極投入在所有層面的融合教育政策計畫、實行、監督與評估。身心障礙者必須被肯認為伙伴而不只是教育接受者。

- 7. Consistent with article 4 (3), States parties must consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations, in all aspects of planning, implementation, monitoring and evaluation of inclusive education policies. Persons with disabilities and, when appropriate, their families, must be recognized as partners and not merely recipients of education.

融合教育
UNCRPD 第四號一般性意見書

- 第10段特別指出融合教育的重要性，認為融合教育是：
  - 所有學習者的基本人權。特別是教育是每個學習者的權利，不是家長或是照顧者的權利（就兒童而論）。家長的職責在這樣的考量下會放在兒童的權利之下；
  - 重視所有學生福祉的原則，尊重他們的固有的尊嚴與自主性，同時承認個人有效的被融入並貢獻於社會的需要和能力；
- (a) A fundamental human right of all learners. Notably, education is the right of the individual learner and not, in the case of children, the right of a parent or caregiver. Parental responsibilities in this regard are subordinate to the rights of the child;
- (b) A principle that values the well-being of all students, respects their inherent dignity and autonomy, and acknowledges individuals' requirements and their ability to effectively be included in and contribute to society;
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區別排除（exclusion），隔離（segregation），整（統）合（integration）與融合/共融（inclusion）的差異

- 中國將Integration翻譯為融合，inclusion翻譯為包容
- 排除是學生以任何形式被直接或間接的阻止或是拒絕進入教育體系。
- 隔離代表在分開的環境中提供身心障礙學生教育，該環境是為了特別的損傷或是各種損傷而設計或使用，且孤立於沒有身心障礙的學生。
- 整合是將身心障礙者在現有的主流化教育機構的過程同時認為他們可以適應該機構的標準化要求。
- 。

11.Exclusion occurs when students are directly or indirectly prevented from or denied access to education in any form.

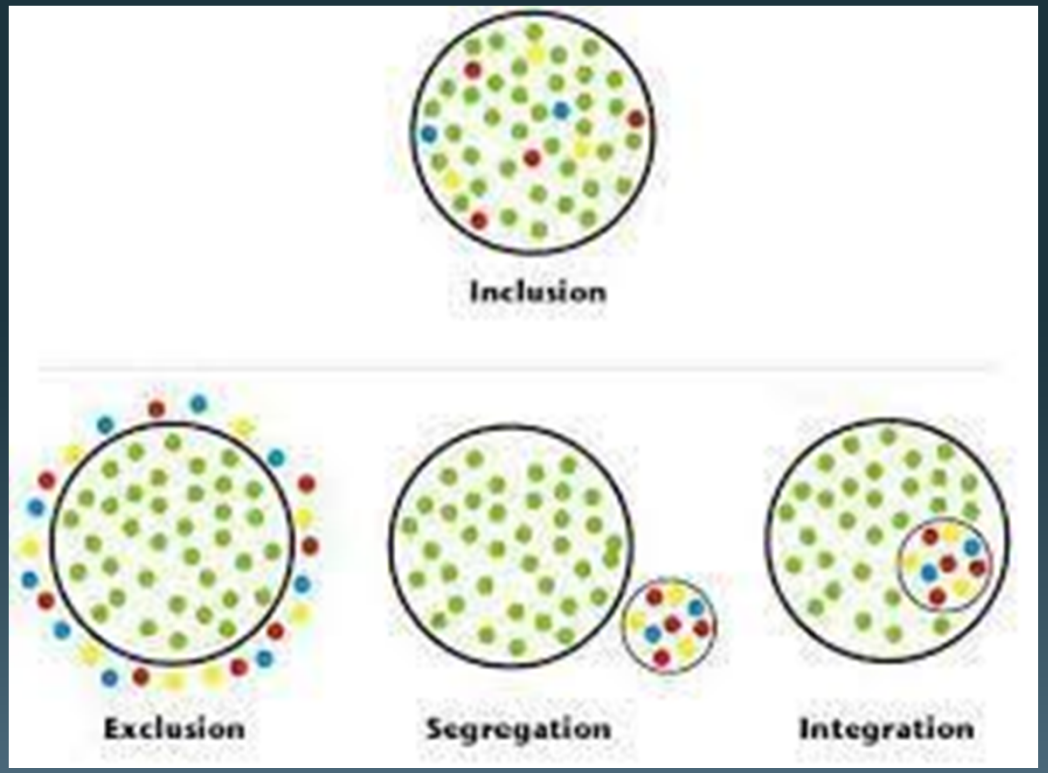
Segregation occurs when the education of students with disabilities is provided in separate environments designed or used to respond to a particular impairment or to various impairments, in isolation from students without disabilities.

Integration is the process of placing persons with disabilities in existing mainstream educational institutions with the understanding that they can adjust to the standardized requirements of such institutions.

Inclusion involves a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures and strategies in education to overcome barriers with a vision serving to provide all students of the relevant age range with an equitable and participatory learning experience and the environment that best corresponds to their requirements and preferences.

什麼是共融？What is Inclusion?

- 包容？融合？整合？



- 全系統的改變
  - 教學內容的通用設計
  - 環境、資訊的可及性/無障礙
- 所有人都需要融合教育，不是只有身心障礙者

- Whole systems
  - UDL
  - Accessibility: environment, information
- For all, not only for students with disabilities

在地實踐與挑戰

歧視、反歧視、合理調整/discrimination, anti-discrimination and reasonible accommodation

- 台灣的身權法的反歧視條文，第十六條規定：
  - 身心障礙者之人格及合法權益，應受尊重及保障，對其接受教育、應考、進用、就業、居住、遷徙、醫療等權益，不得有歧視之對待。公共設施場所營運者，不得使身心障礙者無法公平使用設施、設備或享有權利。
  - 公、私立機關（構）、團體、學校與企業公開辦理各類考試，應依身心障礙應考人個別障礙需求，在考試公平原則下，提供多元化適性協助，以保障身心障礙者公平應考機會。。
- Anti-discrimination by law
- But
  - In practice…
  - Reasonable accommodation

- 案例一：
- 新北市有一名聽力障礙的國小二年級男童，上課時需要老師配合，使用發送FM音波的麥克風，才能聽清楚，不過日前，一名謝姓老師，卻拒絕使用這套麥克風，甚至當著全班面前，要求男童拔除助聽器，在現場的班導師看不下去、跟這名老師大吵，而這名小男童受到驚嚇，隔天不想再去上學。
- 配戴助聽器所需的麥克風應該屬於合理調整的範疇
- 涉及歧視該怎麼辦? 比照性評機制?

- Case 1
- Elementary school teacher refused to wear equipment for students using hearing aid
- Discrimination?
- No legal tool and mechanism for disability-based anti-discrimination

107年公務人員特種考試身心障礙人員考試/exam for civil service

- 有視覺障礙應考人事先提出需要試題放大至20號字體的請求，而考選部卻只願提供「固定規格之放大試題」，致影響其平等應考之權利。考選部是否違反身心障礙者權利公約（Convention on the Rights of Persons with Disabilities，CRPD）第2條第2項拒絕提供合理調整，
- Request for large print in exam

整合還是融合?Inclusion or Integration

- 「物理上的融合」
- 選擇？
- 融合作為目的?

- Inclusion in physical environment, isolated in the “inclusive” education sytem
- Choice?

挑戰/challenge

以融合為目的，卻同時興建特殊學校？

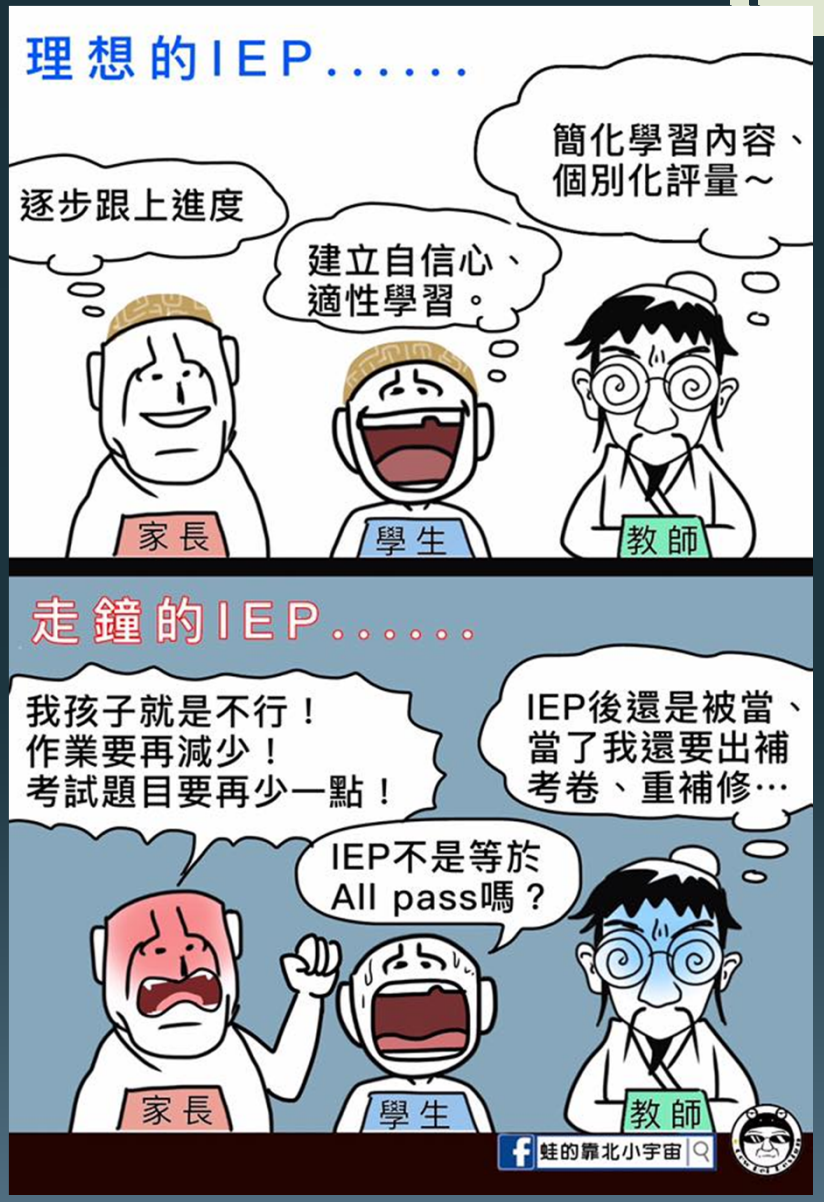
- Promote inclusive education, but build special edu school at the same time?
- Parents, lack of support and chance in the whole system

大學聯考的特殊名額
College entrance exam

- 特殊管道入學
  - 平等原則？
  - 缺乏整體教育系統的可及性與通用設計
- Special quota for disabled students
  - Promote equality or stigma and exlusion?

實務

- 過去的慈善觀點
- 家長的期待



典範的轉移與挑戰/Paradigm shift and the challenages

- 社會觀念、家長觀念、障礙者本人的觀念
- 資源與分配的正義
  - 在學個人助理
  - 沒有請求權
  - 明確的制度安排與整合機制？
- 制度
  - 特殊 vs 全面
  - 不同行政體制之間的溝通

- Social perception, parents' and disabled people's perceptions on human rights and equality
- Resources and redistribution justice
- Legal reform and policies
  - Special cases or whole system
  - Commination between Different sections

國際審查委員會在結論性意見

- 和身心障礙者、他們的家庭以及代表組織針對一般教育系統和特殊教育系統作完整檢視，並發展有時效性的計畫，改革並統整現行系統，以遵守聯合國身心障礙者權利委會第4號一般性意見，轉變為完全融合；
- 立即肯認身心障礙學生在一般學校的普通班接受教育的權利，包括排除身心障礙學生參與職業與專業訓練的限制；
- 如同CRPD第7條與第12條針對兒童的能力及法律能力所述，讓身心障礙學生參與規劃與監測個別教育計畫；

- 確保身心障礙兒童、青少年與成人教育的一般教育場所提供通用設計，UDL以及所有學術和學生生活社會面向的合理調整；
- 在學校提供必要的個人支持，以促使身心障礙兒童能就學，並在學校獲得有效的教育；
- 修改教師的職前培訓與在職專業成長規範，以支持身心障礙學生在普通班的學習；
- 在教育體系介紹並落實推廣台灣手語（自然手語）教學。

謝謝聆聽，請多指教！