

# 智障人士的現況及面對的挑戰

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# 聯合國殘疾人權利公約

Article 12 - Equal recognition before the law

第十二條 - 在法律面前獲得平等承認

## Article 12 - Equal recognition before the law

### 第十二條 - 在法律面前獲得平等承認

4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law.

四、締約國應當確保，與行使法律權利能力有關的一切措施，均依照國際人權法提供適當和有效的防止濫用保障。

Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body.

這些保障應當確保與行使法律權利能力有關的措施尊重本人的權利、意願和選擇，無利益衝突和不當影響，適應本人情況，適用時間盡可能短，並定期由一個有資格、獨立、公正的當局或司法機構復核。

The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.

提供的保障應當與這些措施影響個人權益的程度相稱。

5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure

五、在符合本條的規定的情況下，締約國應當採取一切適當和有效的措施，確保

the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

殘疾人享有平等權利擁有或繼承財產，掌管自己的財務，有平等機會獲得銀行貸款、抵押貸款和其他形式的金融信貸，並應當確保殘疾人的財產不被任意剝奪。

# 推行支援決策的困難

- 看來不能做決定
- 不夠資源
- 沒有緊密的家人或朋友
- 缺乏訓練進行支援決策
- 不知道其意願及選擇
- 可能出現危險
- 沒有方法保證安全



# 推行支援決策的爭論

- 嚴重認知障礙
- 何時需要支援決策
- 如何處理環境與個人意願的衝突
- 如何決定，當事人意願與支援者想法不同
- 對當事人及支援者的保障

謝謝