

身心障礙者權利公約與庇護工場政策發展的跨國比較分析

周怡君

東吳大學社會學系副教授

中文摘要

身心障礙政策的困境常在於如何能夠既強調障礙者與非障礙者的平等權利、但同時又能夠彰顯障礙者需求的特殊性質。身心障礙者庇護工場是個相當強調障礙者在資本主義勞動市場就業困難的因應制度，但長期以來卻也背負著隔離、低薪的歧視障礙者的負面評價；聯合國在 2006 年通過了「身心障礙者權利公約」（Convention on the Rights of Persons with Disabilities，以下皆簡稱 CRPD），公約當中最重要核心價值之一，就是要求締約國去除對障礙者的歧視（discrimination）制度。但卻不是所有締約國都廢除庇護工場制度。身心障礙者庇護工場政策長期以來都是福利國家的障礙者政策的一部分，此公約之締約國也各自都有著福利國家模式與庇護工場政策特徵、甚至有著自身對於何謂障礙者權利平等與歧視的邏輯論述。本論文的主要研究問題即是在於探討各為不同福利國家類型的主要典範國家，包括瑞典、德國、北國、日本的庇護工場政策，是否以及如何地受到「身心障礙者權利公約」的影響，而這與其原本的福利國家特徵又有何關係。本論文之研究方法包括次文獻分析與歷史比較分析法。迄今主要之研究發現：雖然瑞典、德國、日本都簽署了該公約、而美國則對庇護工場採取批判觀點，但在這四個國家內卻仍然都存在著庇護工場，並且因應公約有著程度不一的政策內容修改，這些修改仍然與其各自的福利國家制度的內部特徵與結構有著即為密切的關係。這同時也顯示各國雖然簽署了公約，但庇護工場政策的存廢與否、政策修正，相當受到各國內的福利政策架構與路徑影響，也呈現了「身心障礙者權利公約」在影響締約國政策上的可能與限制。

關鍵字：庇護工場、身心障礙者權利公約、歧視、福利國家

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Comparison of the Convention on the Rights of Persons with Disabilities and Sheltered Workshop Policies in Sweden, Germany, and the United States

Yi- Chun Chou

(Associate Professor, Department of Sociology, Soochow University, Taiwan)

Abstract

Improving the living conditions and quality of life for persons with disabilities (PWDs) are crucial aspects guiding disability policies in several countries. From the Americans with Disabilities Act (ADA) (1990) to the United Nations Convention on the Rights for Persons with Disabilities (CRPD) (2006), the importance of a rights-based approach to disability policy may be regarded as the most frequently mentioned resolution of the last two decades. The nations participating in the CRPD are required to enforce the content of the convention. However, disability policies have long been seen as an important part of welfare state policies, the characteristics and construction of which are deeply influenced by the financial resources and payment structures of individual countries. Sheltered workshop policies for PWDs are no exception, although these policies do share some similar characteristics across countries, such as a facilities-based working plan and low wages. Thus, it is worth studying how the core values and policy practices identified by the CRPD—such as integration, nondiscrimination, and decision-making with the participation of PWDs—influence the sheltered workshop policies of individual welfare state countries. This article examines the impact of the CRPD on the sheltered workshop policies regarding PWDs in three welfare state nations. Notably, the welfare policy framework and resource allocation patterns of each country affect its sheltered workshop policies more than does their signing the CRPD.

Keywords: sheltered workshops, CRPD, welfare state