

**Community-like Institution and Institutionalized Community:
Reflection on the Implementation of Article 19 of the CRPD in China**

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Abstract

With a major focus on the implementation of Article 19 of the Convention on the Rights of Persons with Disabilities in China, this paper examines the key elements of community that empower people with disabilities to live and, more importantly, participate and be included in the community.

Keywords: disabilities, community living, Convention on the Rights of Persons with Disabilities, China

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Article 19 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) recognizes the equal rights of all persons with disabilities (PwDs) to independent living and inclusive life in the community. Central to Article 19 is the call for empowering support for PwDs to have autonomous choice and control over their lives, advancing the core human rights values of equality and dignity (Committee on the Rights of Persons with Disabilities, 2017).

The last decade has witnessed advancements in implementing Article 19, as well as debate and misunderstanding around it. In particular, given the close relationship between Article 19 and the western discourse on deinstitutionalization, both concepts of “independent” and “community” have been subject to cultural incompatibility in the Asian context, including in China, where institutionalization arguably never existed (Fina et al., 2017; Hayashi & Okuhira, 2008). Apart from the cultural differences regarding deinstitutionalization, existing literature has suggested a common experience shared by PwDs in both Western and Asian contexts: a sense of alienation pervading their lives even after living in the community for quite a long time (Milner & Kelly, 2009; Wang, 2013).

Based on this background, the core research question raised in this paper is what should be the key elements of community that empower PwDs to live and, more importantly, actually participate and be included in the community. This question will be examined by using the “weak cultural relativism” proposed by Donnelly (1999, 2007) as a lens for understanding the potential tension between the universality of Article 19 as a piece of human rights law and the cultural differences that may influence its implementation. The analysis

will mainly focus on the implementation of Article 19 in China, drawing on an extensive review of literature, relevant policies, and publicly available secondary material such as reports of practice, records of conferences, and news accounts.

A brief review of the theoretical and normative framework of this paper will be given in section 2. A comparative study of how community is conceptualized in Western and China's contexts will be given in section 3. An analysis of recent attempts in China regarding the right of PwDs to community living and relevant community-based services will be presented in section 4. Further discussions of the key elements of an empowering and supportive community will be given in section 5, followed by a conclusion and issues for future research in section 6.

Section 2: Theoretical and Normative Framework

Theoretical framework: The universal human rights law in a cultural relative context

The implementation of international human rights law inevitably creates a debate between universalism and cultural relativism (Mertus, 1999; Reichert, 2006). This debate encompasses two key issues: one is how to ensure that international human rights law is understood in the way it should be when interpreted in different sociocultural contexts (Legrand, 1997; Watson, 1983; Zola, 2005). The other is how to strike a balance between human rights law and local cultures to avoid human rights laws becoming hegemonic. (Michaels, 2013; Michele Graziadei, 2006).

The debate between universalism and cultural relativism has pervaded Article 19 discussion since the very beginning of its drafting process, manifested by skepticism and criticism from a cultural perspective. A typical example of this is the concern raised by people from Asian countries as to why living independently should be a human right. In some Asian countries, it is considered preferable for people to always live with their families, and

underlying this is the cultural emphasis on the value of family. Therefore, there was the argument that Article 19 was incompatible with Asian culture (Hayashi & Okuhira, 2008; Yan et al., 2014). As will be discussed later, such an argument is subject to the criticism that Article 19 is misunderstood and shows how Article 19 as an international human rights law is embedded in the debate over universalism and cultural relativism.

There is extensive literature regarding the debate of universalism and cultural relativism regarding international human rights law. However, going deeply into this is beyond the purpose of this paper. Selective arguments from both sides will be reviewed in the following sub-sections to set the theoretical framework for the discussion in this paper.

The universality of international human rights law

Those who argue for the universality of international human rights law have pointed out, first of all, that human rights can be regarded as an abstract concept of rights that one enjoys simply because one is human (Donnelly, 1982; Hastrup, 2001; Shany, 2013). This is a kind of global consciousness reinforced in the process of globalization (Mertus, 1999).

In addition, Donnelly (1984, 2007) advances the idea of international legal universality, which means that when human rights' values are codified into international human rights law, it acquires a certain degree of substantive universality. Through ratification, state parties accept that the list of human rights in the law should be universal and implemented at the domestic level. While a violation might not deprive state parties of their legitimacy under international law, it can influence political legitimacy.

These two points partially respond to the concerns of hegemony as they explain that human rights are a kind of consensus formed in the trend of globalization and accepted by the states.

Further, van Dijk (1995) advances the idea of functional universality, which refers to the creation of international monitoring mechanisms, such as the Committee on the Rights of Persons with Disabilities (CRPD Committee), and its accepted competence to ensure that human rights law is universally implemented by state parties. This point partially responds to any misunderstanding of international human rights law by showing that there are monitoring mechanisms responsible for the proper interpretation and implementation.

Cultural relativism and variation

Cultural relativism and universalism are not an absolute dichotomy; hence those who acknowledge the significance of cultural context do not necessarily deny the universality of international human rights law.

Örücü (2002) employs an interesting metaphor which explains the traveling of law in different contexts as a process of transposition, tuning, and fitting. Applying the process of transposition to the implementation of international human rights law means that the sociocultural context at the national level should be well studied and the international human rights law should be adapted in a way that suits the local context. The process of transposition is considered an important step because the cultural context will have an essential influence on how human rights law is understood and applied in domestic legal reasoning. As an arguably more important reason, Merry (2009), based on her empirical study of the implementation of international human rights law in several different sociocultural contexts, points out that the cultural aspect should be seriously considered because human rights law should be translated into the version that local people can understand, accept, and use.

Donnelly (1984, 2007) distinguishes between strong and weak cultural relativism. Strong cultural relativism takes the position that human rights are culturally determined.

Weak cultural relativism proceeds from the presumption of the universality of human rights law, and culture is seen to play a role in checking the potential excesses of universalism. In a similar but more specific view, Merry (2009, 2010) disaggregated human rights into three levels, namely, human rights value, the rights framework, and the expression of human rights ideas. She argues that cultural variation should be weak and happen only at the level of the expression of human rights law and ideas. The values underlying human rights law, on the other hand, should be firmly insisted on rather than altered to fit the local culture. She advances an even stronger argument that when part of the human rights value conflicts with the local condition, human rights law should have the power and capacity to challenge existing social conditions by providing a radically different frame of thinking.

The universality of Article 19 and the socio-cultural context of China

The approach of weak cultural relativism is adopted in this paper. This means, firstly, the discussion proceeds from the assumption that Article 19 of the CRPD should be universal. The meaning, implication, and value underlying Article 19 are universal and shall be firmly adhered to when it is implemented in China at the national level.

Second, the importance of the sociocultural context is recognized in this paper. An in-depth study of China's social-cultural aspects is included in the discussion because repackaging and presenting the universal meaning and value of Article 19 in a culturally sensitive way is regarded as an essential step in implementation at the national level. Only with this step can Article 19 go from paper to practice and be mobilized by local people, especially those most vulnerable and in need of rights protection. In cases where human rights' values conflict with the local context, which may be inevitable, this paper tends to agree with Merry that the human rights values should be upheld and serve as a different frame of thinking for local people.

Normative framework: Article 19 and General Comment No. 5

Article 19's call for living independently and being included in the community is referred to as the normative framework in this paper. The article recognizes the equal right of all persons with disabilities to independent living and community inclusion (Committee on the Rights of Persons with Disabilities, 2017), and calls for empowering different forms of support, including deinstitutionalization strategies, accessible community facilities, community-based and individualized assistance, and raising of public awareness (Committee on the Rights of Persons with Disabilities, 2017).

Informed by the functional universality proposed by van Dijk (1995), General Comment No. 5 issued by the CRPD Committee should be one of the most important sources for understanding Article 19. Two concepts are essential to understanding not only the text but also the meaning, implication, and value of Article 19 regarding independent and community living.

The term independent in Article 19 is interpreted quite clearly. According to General Comment No. 5 (Committee on the Rights of Persons with Disabilities, 2017), independent living means exercising choice and control over one's life and making all decisions concerning one's life. Based on this interpretation, the term independent refers to the independence of personality, emphasizing personal autonomy and self-determination, rather than living alone or carrying out daily activities by oneself. The interpretation in General Comment No. 5 also serves as a response to culture-based criticism, as mentioned previously, by clarifying that the recognition of and emphasis on independence does not mean the isolation of a person from their families or others.

The meaning of the term community is relatively less clear. The General Comment No. 5 defines what is being included in the community without defining the term community

itself. The definition of being included in the community is presented from the perspective of accessibility, ranging from the accessibility of various places and facilities to the accessibility of public and specialized support services and political and cultural events (Committee on the Rights of Persons with Disabilities, 2017, para. 16(b)). In addition, community-based independent living arrangements are described as lacking the “defining elements of institute or institutionalization” (Committee on the Rights of Persons with Disabilities, 2017, para. 16(c)). Given such an interpretation, the image of community is arguably drawn by the method of exclusion, i.e., listing the defining elements of an institution first and defining community as not having these elements. Described in this way, the community is still a relatively abstract concept and thus subject to various and arbitrary interpretations in different sociocultural contexts.

Community in different socio-cultural contexts

Current literature and practice illustrate that the image of the community can be very different in different contexts.

Community in the Western context

In the literature of the Western context, the conception of community is usually constructed in the context of deinstitutionalization. The typical institution is usually thought of as places like the asylums described by Goffman (1961), prison-like and totally controlled, with a low quality of life and limited access to the outside world. Community is somehow conceptualized as anywhere outside the asylum walls (Boelé, 2017; Milner & Kelly, 2009).

Defining community in this way has been criticized from several perspectives. The first and most straightforward criticism is that the community is thus reduced to a geographical area. As long as the place does not look like the segregated environment historically experienced by disabled people, it is recognized as the community (Autistic

Minority International, n.d.; Boelé, 2017). The policymakers emphasize spatial presence over other indicators of community inclusion, and services and support provided in line with such policies further entrench the significance of the geographical dimension of the community (Milner & Kelly, 2009). As some critics have pointed out, the battle to move out of institutions has been fought and won, but the personalized needs, aspirations, and quality of life of the person after moving out of the institution have still not been adequately considered (Cummins & Lau, 2003).

Related to this point, another criticism raised is that too much emphasis has been put on the presence of PwDs in ordinary spaces and community life. The value of places shared by PwDs and relationships between peers are always undermined (Amado et al., 2013). Reflected in this practice is that community-based services tend to be steered toward mainstream locations instead of to places chosen or defined by PwDs where they have more psychological safety and a sense of belonging (Boelé, 2017; Milner & Kelly, 2009). The outcome and effectiveness of community-based services are evaluated exclusively by indicators of objective integration and do not address the realm of personal experience. Measures to support the development of social capital or a sense of community for PwDs are largely absent (Cummins & Lau, 2003).

More importantly, as Cummins & Lau (2003) found, PwDs may define community in an abstract way, as the place “out there,” i.e., outside their home or day center. They do not define the community from the perspective of how they belong to it. This further indicates that decades after deinstitutionalization, PwDs remain absent from intimate social and interpersonal relationships. The presence of such relationships is precisely how community integration should be characterized. It is necessary to question whether PwDs should be forced to integrate into the so-called community.

Community in the sociocultural context of China

In comparison with the implementation of Article 19 in the Western context, the most obvious difference with China, as well as most East Asian countries, is that there are not many walls of asylum to fight against. In China, the traditional and culturally justifiable practice is that PwDs are cared for by their families at home. Although changing socio-economic configurations have raised challenges for families, the whole society, including the government, policymakers, and majority of citizens, have shown a consensus to maintain the tradition of family care. Such consensus can partially find its root in Confucian cultural heritage (Chui, 2007). Because of such practice and lasting consensus, most PwDs in China are at least physically in the community with their families rather than in an institution.

It is worth questioning whether the community in such culturally based practice refers conceptually to the same community advocated in Article 19. To answer this question, it is helpful to refer to the meeting of the CRPD Committee on August 17-19, 2022, to review China's state report. During the review, a Chinese representative confirmed to the CRPD Committee that most PwDs in China spend most of their lives in their community, followed by the explanation that they have difficulty moving around. It is not hard to see that the community in this context is not what is advocated by Article 19.

The community without service or support

Although China has and is still building segregated institutions to serve PwDs, the elderly, and unsupported children, it has not experienced a phase of large-scale institutionalization as in the West. On the other hand, the service provided for PwDs and their families to support their community living is underdeveloped (Yamaki & Yamazaki, 2004). Consequently, PwDs are forced into total dependence on their families. The burden of care is thus imposed on families, which may last a lifetime. A lack of services or support has,

directly or indirectly, produced some extremely tragic cases in the superficially ordinary community. Two cases were selected to understand the possible consequences when PwDs live in the community without service or support.

One was first reported in January 2022 by a video blogger, according to a China Daily report (Wei, 2022). A woman who claimed to be diagnosed with mental illness was locked up in a mud hut with a chain around her neck. According to subsequent news reports, she had been chained by her husband for several years. Her husband explained that she had mental health issues and would hurt people. She had given birth to eight children, the oldest one now an adult. The woman's husband and children lived in a room next door. More than one year since the first report on her, many questions, including her real name, where she was originally from, and whether she voluntarily gave birth to eight children, remain unanswered publicly. The government blocked information about her soon after outrage about her case ensued on the Internet.

Many issues were raised, not only regarding the rights of PwDs but also domestic violence, rape, and human trafficking. What is pertinent in the current discussion is that the woman was hospitalized only after her situation became public. Prior to that, she had lived in an apparently ordinary community. Neither was she kept in an inaccessible place, as everyone in the village knew about her; the original video showed that the blogger could talk to her without interference by others. However, no one in her community had helped her. This contrasts with a typical case of institutionalization. In the case of a person in a segregated institution, the straightforward way of support may be to take him or her out of the institution, while in the woman's case there did not seem to be an "out there" for her.

Another case was first reported at the end of January 2020, the beginning of COVID-19 in China. A young man with cerebral palsy died at home after his father, who was his only

caregiver, was infected and quarantined in the hospital for six days. It should be noted that the young man died not in a segregated institution but in the community where he and his father had lived for quite a long time. It should also be noted that he was not abandoned or fully neglected. According to the following reports and information collected from local civil society organizations, people in the community as well as the local government had tried to help him during his last six days. It turned out, however, no one in the community was familiar with him and thus no one knew how to take care of him.

Is institutionalization a desirable response?

Against the social context analyzed above, the large-scale, government-managed institution is sometimes considered the ideal response for care, especially by the families of PwDs. In China, the government has been investing resources in building new institutions for PwDs in recent years. However, the demand for institutional beds far exceeds the supply.

It has been observed that most existing institutions prefer to admit old people or people with physical impairments rather than those with psycho-social or developmental disabilities. Comparing the demand for institutionalized services to the reluctance of the institutions to accept many PwDs suggests that the families and even some PwDs themselves constitute the primary driving force for institutionalization rather than community-living in China. However, such observation does not, and should not, lead to the conclusion that institutionalization is the justifiable and desirable approach to protecting and promoting the rights of PwDs. It is important to note that the attitude of PwDs and their families can be, to a large degree, explained by the lack of access to information regarding either the empowering support of independent and community-living or the dark side of institutionalization.

It is equally important to recall the theoretical framework analyzed in section 2, which

makes clear that the meaning, implication, and value of Article 19 will be firmly adhered to through this discussion. Nor should the cultural context be used to defend a failure or reluctance to implement Article 19 at the national level. Accordingly, the question is not whether the right of PwDs to independent and community living should be promoted in China, but how to do it by considering the existing sociocultural context.

The development of community-based services in China

One question recurring in the literature, especially those by scholars from East Asia, is what can a region without a phase of institutionalization learn from the western version of deinstitutionalization? (Chou, 2019; Hayashi & Okuhira, 2008; Wang, 2013). The major answer in both literature and practice is the importance of developing community-based services to support PwDs as well as their families to live in the community.

Main types of community-based services in China

Currently, there are two main types of community-based services in mainland China. One is the day center. The center is usually located in the community and provides services for adults with disabilities during the day. PwDs can go to the center, participate in some activities or have rehabilitation training. The main intent behind this kind of service is to support PwDs to leave their own homes and have a more normalized daily routine. Some day centers may also claim that they aim to support PwDs in their transition to a more independent life by teaching them skills for work and independent living.

The other is the community living residential service. The residents share an ordinary home or house in the community and assistants are available to support them in their daily lives (Chou et al., 2008). Each home provides accommodations for up to six residents, most with intellectual or mental disabilities. The service aims to help those who used to live with their families become more independent. The service also supports those who had been living

in institutions for a long time return to the community. For the purpose of promoting normalization and community inclusion, the community homes are supposed to be in lively neighborhoods with convenient access to public transportation, public services, and leisure, cultural, and recreational activities. However, recent years have witnessed the difficulties faced by service providers in finding good locations for community homes. One of the reasons is that the rent, especially in large cities, rises every year. To make the community home affordable, some service providers must locate the community homes in relatively isolated neighborhoods away from the city center. Another reason, which raises more concerns, is that public acceptance of PwDs living in the community is still low. According to a report issued by Shenzhen Association of Persons with Psychosocial Disabilities and Their Relatives and Friends (2021), although the majority of the public recognize the right of PwDs to live in the community, only a few of them are willing to live in the same neighborhood with PwDs. Many community homes have shared the same experience of complaining neighbors, exclusion by the neighborhood, or even evictions by landlords. To avoid such situations and the difficulties resulting from frequent relocation, some service providers tend to locate the community homes in relatively remote neighborhoods to ensure that the PwDs do not disturb and are not disturbed by other people.

These types of services are technically categorized as community-based because, first, they are provided within the community rather than in a segregated institution. Second, community-based resources are more or less mobilized. Third, these services at least appear to offer PwDs some degree of choice. In comparison with times when there were no services, these options have brought about some good changes; it is not difficult to highlight individual cases that demonstrate the effectiveness of the services.

Existing research also suggests that such community-based services are better than

traditional institutional service. Shenzhen Association of Persons with Psychosocial Disabilities and Their Relatives and Friends (2021) issued a research report on the needs and status of housing and living services for people with psychosocial disabilities in Shenzhen in 2021. The research team, including eight PwDs, observed both a government-run segregated caring institution and community living residential facilities managed by civil society organizations. The team's report noted that while the fees of these two forms of services are similar, the community living residential services provide PwDs better conditions and more diverse daily supports, and thus perform better in ensuring and improving the quality of life of PwDs than the government-run, segregated caring institution.

However, it is still questionable whether these community-based services lead PwDs to fully participate in independent and inclusive community living. Community living residential services, as observed in both mainland China and Taiwan, can to some degree improve the quality of life for PwDs, especially in comparison to those who used to live in a large institution. However, most PwDs are still not provided with the opportunity to freely engage in various activities or have their own life choices (Chou et al., 2011; Shenzhen Association of Persons with Psychosocial Disabilities and Their Relatives and Friends, 2021; Shenzhen Autism Society, 2021). The lack of freedom of choice is even more obvious in the day centers. The activities and services provided in day centers are similar to each other in terms of content, type, and time arrangement (Shenzhen Autism Society, 2021). Although PwDs are not required to follow a fixed schedule, it turns out that most PwDs in fact follow relatively rigid daily routines, and almost all activities are centered in their homes or day centers. The services do not facilitate their more diverse participation in the broader community.

Community-like institution and institutionalized community

In addition to community living residential services and day centers, some relatively new ideas for PwD community living attempt to reshape the concept of community in China. The first is community-like institutions as advocated and promoted mainly by parents of people with developmental disabilities. A group of parents has already co-funded the purchase of land in an East China suburb and one community-like institution is under construction. Most of the parents aligned with this service model have demonstrated the awareness that living in the community is important to a person's well-being. On the other hand, they hold a strong belief that PwDs, especially those with developmental disabilities, are not capable of living independently in the community. Building a community-like institution would provide an ideal, realistic option. Based on a blueprint described by parent leaders, the institution will occupy a huge space and be equipped with facilities such as special schools, hospitals, supermarkets, parks, restaurants, and cinemas that would be available in a typical community. PwDs and their families can live together and be cared for in the community-like institution, which will be accessible and meet their needs.

The second concept, as tentatively called in this paper, is an institutionalized community. The idea is that one organization would provide all-inclusive services to PwDs and their families in the community, ranging from the assessment of needs to monitoring and evaluating the quality of the services. The organization would provide a wide variety of substantive services such as day care, residential services, vocational rehabilitation training, personal assistance, and financial management. Such an all-inclusive service is also proposed and advocated for by parents of people with developmental disabilities, together with some insurance companies that are interested in providing financial management services to the families. One leading parent association in China has started a pilot project with the strategic

step of registering several branch organizations or companies with different names that can provide various services. It thus appears that these services are provided by different and unrelated actors. The project also has different facilities in multiple parts of the community to demonstrate that PwDs are given choices in a range of services.

Currently, both attempts at community living are driven by families of PwDs, especially parents of adults with developmental disabilities. Leading parents play key roles in advocacy, fundraising, and policy lobbying. In very few cases, a local government or Disabled People's Federation may provide limited support through, for example, government purchase of services. In general, however, there is no clear, stable government policy or financial support from the top down to back these efforts. Parents of people with severe disabilities and families of those who have already demonstrated capacity to live independently in the community are active in the development of these two ideas. Given both the Chinese culture's emphasis on the collective value of the family and the traditional practice of family care, the endorsement especially of parents has largely established the rationale and legality of these two ideas. As can be argued, the process in shaping and developing these services is paternalistic and excludes elements of personal autonomy and self-determination of PwDs, essentially in contradiction to Article 19.

It is critical to note that both ideas discussed above are proposed and advocated with reference to the human rights-based discourse on community living, although they run counter to the right to community living elaborated in Article 19. Thus, this indicates how the concept of community can be understood or misunderstood given the social-cultural context. Moreover, the ideas illustrate that an asylum in this era can be built without walls if embedded in the community with every service a person receives fully controlled. The oppressive structures and power relations that exclude PwDs from the community can exist

even in a country without a history of institutionalization. From this perspective, a key issue to focus on in implementing Article 19 in China is to actively counter such institutionalizing structures and power relations.

Re-think the relational dimension of the community

The comparison between the right of PwDs to independent and community living in the West and in China reveals one fact: despite the differences in the history of institutionalization and other cultural aspects, PwDs in both contexts share a common experience of social distance in the community. That is, even if PwDs physically stay in a community, some are not included or do not have a sense of belonging in the community. Social distance addresses the core research question of this paper, which is examining the key elements of community that empower PwDs to live and, more importantly, participate and be included.

Geographically, a safe and friendly living environment as well as accessible public facilities and services are undoubtedly essential for PwD community living. The General Comment No. 5 (Committee on the Rights of Persons with Disabilities, 2017) made clear that accessibility of the environment, facilities, and services is one of the defining elements of an inclusive community. The current policy development in China, specifically public consultation in drafting the Law on the Construction of an Accessible Environment by the National People's Congress, manifests some efforts in this regard. This new legislation will provide more clarity regarding the right to an accessible environment, which should enable PwDs to better navigate public facilities and services and potentially spark awareness-raising around the right of PwDs to equally participate and be included in the community with others.

The geographical dimension of community is, however, not sufficient by itself. Based

on the discussions in previous sections, we argue in this paper that the concept of community should include a relational dimension, which is key to empowering and supportive living.

Community-based relationships should, in general, be equal, mutual, and dynamic, and feature at least the following three defining elements. First, the relationship should be person-centered with two interrelated aspects. One is that the relationship should be defined by the PwDs rather than by experts or professionals. Others should not decide which community PwDs will integrate into or what counts for meaningful community inclusion. In particular, the public should avoid devaluing the relationships developed by and between PwDs themselves in assuming that associations with non-disabled people are superior (Cummins & Lau, 2003). The other aspect is that the community relationship should enable PwDs to express their own needs for support or services. Professional assessments of needs or capabilities based on stereotypical scales and indicators reflect a pattern of institutionalized practice and translate into unequal power and control over PwDs (Adams et al., 2015).

Second, meaningful connections and a sense of belonging are even more important features of a community than its geographic location. These connections can be established with other members of a community as well as with those outside a specific location if they share trust, understanding, interests, or common experiences. Such connections are important as it creates a sense of belonging within a community. In cases where PwDs need assistance, meaningful connections can translate into resources of natural support (Wilt et al., 2021). PwDs can autonomously mobilize such support rather than seek help every time from professional services providers. In this way, the community-based resources become the resources of PwDs rather than of the service providers or experts. PwDs are thus empowered to make their own choices about how they want to participate in community life.

Third, community-based relationships should be interactive, co-defined, and

established by PwDs and their supporters. The relationship between PwDs and their supporters in the community can change over time. It may start with a relationship between an assistant and the one being assisted, and then change into either a more formal employer-employee relationship, or a more informal peer and friend connection (Yamaki & Yamazaki, 2004). Considering the dynamics of the relationship, what is important is not what it looks like at a given moment but whether it can lead PwDs to live with autonomy and opportunities for participation in the community.

Conclusion and advice for further research

With a major focus on the implementation of Article 19 in China, this paper examined the key elements of community that empower PwDs to live and, more importantly, participate and be included in the community. The theoretical framework of the discussion was established in section 2 with reference to the debate about universalism and cultural relativism as it relates to international human rights law. Informed by the approach of weak cultural relativism, the discussion assumed the universality of Article 19, and the socio-cultural contexts of China were studied for the purpose of examining the universal human rights values underlying Article 19 in a culturally accessible way. A comparative study of how community is conceptualized in western and China's contexts was offered in section 3. The analysis showed that community without effective support can be dangerous to PwDs. However, institutionalization should not be considered a desirable response. The development of community-based services in China was analyzed in section 4. By illustrating how oppressive institutionalizing structures and power relations that exclude PwDs from the community can be shaped by community-based services, the discussion points out that a key issue in the implementation of Article 19 in China is countering such institutionalizing structure and power relations. Drawing on the discussions in previous sections, this paper

asked a core research question: what elements of a community empower PwDs to live and, more importantly, actively participate and be included in a community? This question is answered in section 5, which examines community-based relationships that are equal, mutual, and dynamic and that characterize an empowering and supportive community.

This paper has several limitations. First, it focused on how Article 19 and the right to community living is interpreted in a human rights law framework and in sociocultural contexts. People with different kinds of disabilities or impairments may have fundamentally different needs when enjoying and practicing their right to community living and this is essential to the comprehensive understanding of both Article 19 and the human rights approach to community. This paper did not explore this aspect in sufficient depth.

Second, given the literature referenced and the practice observed in this paper, the analysis mainly reflects the situation in urban areas in China. There may be significantly different circumstances in rural areas regarding how the concept of community is understood and how the right of PwDs to live in the community is practiced, both of which were not sufficiently explored in this paper. Third, the full implementation of Article 19 requires reflection on and modification of domestic law and policy and practice as well as constructive dialogue among PwDs, practitioners, and policymakers. This paper, however, did not expand on the future direction of relevant domestic policies.

All of these aspects while not adequately explored in this paper should be given more attention in future studies. In addition, this paper pointed out that the future research should go beyond the institution-community dichotomy and put more emphasis on the nature of the relationship underlying the various services provided for PwDs to support their independence and community living. There are three more specific suggestions for future research. First, the implementation of Article 19 in China can still draw from the experience of both western

countries, such as Sweden, Canada, and Denmark that have a long history of promoting independent living, and East Asia neighbors, such as Japan. Second, in recent years some disabled people organizations, especially those co-established by PwDs in their 20s and 30s, have developed various kinds of peer support and online groups for activities, information exchange, and experience sharing. Most of these are not traditionally defined services in geographical communities but may contribute new insights into the relational dimension of community, thereby meriting further exploration. Third, Article 19 and the promotion of inclusive community are intrinsically connected to several other components of human rights, such as the rights to legal capacity, health, education, and employment. Further research is needed from a cross-cutting lens to examine the right of PwDs to community living in conjunction with other important equity issues in other arenas.

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